# THE MUNICIPAL CODE

# OF

# THE CITY OF NEOSHO

---

## THE GENERAL ORDINANCES

---

## PUBLISHED BY ORDER OF THE CITY COUNCIL

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**SULLIVAN PUBLICATIONS DIVISION**
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CHECKLIST OF UP-TO-DATE PAGES

**(This checklist will be updated with the printing of each Supplement)**

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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# ADOPTING ORDINANCE

**BILL NO. 95-41** **ORDINANCE NO. 95-51**

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF NEOSHO; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE OF ORDINANCES; PROVIDING PENALTY FOR THE VIOLATION THEREOF; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEOSHO AS FOLLOWS:

**Section 1.** That the code of ordinances, consisting of Titles I through VII, each inclusive, is hereby adopted and enacted as the "Code of Ordinances of the City of Neosho"; which shall supersede all other general and permanent ordinances of the City passed on or before May 2, 1995, to the extent provided in Section 3 hereof.

**Section 2.** That all provisions of such code shall be in full force and effect from and after the effective date of this ordinance as set forth herein.

**Section 3.** That all ordinances of a general and permanent nature of the City adopted on final passage on or before May 2, 1995, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of this ordinance, except those which may be specifically excepted by separate ordinance, and except the following which are hereby continued in full force and effect, unless specifically repealed by separate ordinance:

a. Ordinances promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds or notes of the City or any other evidence of the City's indebtedness, or authorizing any contract or obligation assumed by the City;

b. Ordinances levying taxes or making special assessments;

c. Ordinances appropriating funds or establishing salaries and compensation, and providing for expenses;

d. Ordinances granting franchises or rights to any person, firm or corporation;

e. Ordinances relating to the dedication, opening, closing, naming, establishment of grades, improvement, altering, paving, widening or vacating of streets, alleys, sidewalks or public places;

f. Ordinances authorizing or relating to particular public improvements;

g. Ordinances respecting the conveyances or acceptance of real property or easements in real property;

h. Ordinances dedicating, accepting, or vacating any plat or subdivision in the City or any part thereof, or providing regulations for the same;

i. Ordinances annexing property to the City;

j. Zoning ordinances not previously repealed and not contained in this code.

k. Ordinances establishing TIF districts or redevelopment districts.

l. Ordinances establishing traffic regulations regarding speed limits, stop locations, parking regulations, one-way streets, school stops and zones, snow routes, turning restrictions, yield intersections, through streets, truck routes, weight limits and closed streets.

m. Any ordinance enacted after May 2, 1995.

That the repeal provided for in this Section shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

That the repeal provided for in this Section shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance, nor shall it affect any prosecution, suit or proceeding pending or any judgement rendered prior to such date.

**Section 4.** That any and all additions and amendments to such Code when passed in such form as to indicate the intention of the City Council to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances of the City of Neosho", shall be understood and intended to include such additions and amendments.

**Section 5.**

a. Whenever in this Code or any other ordinance of the City, or in any rule, regulation, notice or order promulgated by any officer or agency of the City under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding 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; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State, the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the City prison or workhouse instead of the County jail.

b. Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.

c. Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

**Section 6.** That in case of the amendment by the City Council of any Section of such Code for which a penalty is not provided, the general penalty as provided in Section 5 of this ordinance shall apply to the Section as amended; or in case such amendment contains provisions for which a penalty other than the aforementioned general penalty, is provided in another Section in the same Chapter, the penalty so provided in such other Section shall be held to relate to the Section so amended, unless such penalty is specifically repealed therein.

**Section 7.** That a copy of such Code shall be kept on file in the office of the City Clerk, preserved in looseleaf form or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk, or someone authorized by said officer, to insert in their designated places all amendments and all ordinances or resolutions which indicate the intention of the City Council to make the same part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which from time to time may be repealed by the City Council. This copy of such Code shall be available for all persons desiring to examine the same.

**Section 8.** That it shall be unlawful for any person to change or alter by additions or deletions, any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Neosho to be misrepresented thereby. Any person violating this Section shall be punished as provided in Section 5 of this ordinance.

**Section 9.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance or the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance or the Code hereby adopted.

**Section 10.** This ordinance and the Code adopted hereby, shall become effective November 22, 1995.

**PASSED BY THE CITY COUNCIL OF THE CITY OF NEOSHO, THIS 7TH DAY OF NOVEMBER, 1995.**

**APPROVED BY THE MAYOR OF THE CITY OF NEOSHO THIS 7TH DAY OF NOVEMBER, 1995.**

Howard Birdsong
Mayor of the City of Neosho

ATTEST:

James E. Haddock
City Clerk

# ELEMENTARY STATEMENT

This edition of the Municipal Code of the City of Neosho is a recodification of the 1979 Municipal Code. In preparing this Code the editors used as source material portions of 1979 Code, ordinances passed subsequent to that date and modifications agreed upon during the editorial conferences and incorporated herein by the adopting ordinance. In order to trace the evolution of each Section, the reader's attention is directed to the history note appearing in parentheses at the end of that Section. The absence of such a note indicates that the section is new and was agreed upon at the editorial conference and adopted for the first time with the adoption of the Code. Three further sources of reference are to be found at the end of this Code. The first is a cross reference of the old Code Section numbers to the new Code Section numbers. The second is a cross reference of the ordinances of a general and permanent nature that have been retained in this volume. The third is a cross reference of the State Statutes that are of a similar nature or enable the corresponding Section of this Code.

## Format

The Code is divided into seven Titles with Chapters of a like nature grouped therein. Each Chapter is given a three digit location number corresponding to the Title in which it resides. Each Section is given a six digit number corresponding to the Chapter in which it resides. This six digit number is separated by a decimal point. The digits ahead of the decimal point represent the Chapter location and the digits behind the decimal point represent the Section within that Chapter. By allowing intervals between Chapter and Section designations, future additions to the Code have been facilitated. In operating under this format, the City maintains great flexibility in the placement of new material.

## Table of Contents and Alphabetical Index

For those frequent users who become very familiar with the Code, the editors have placed a Table of Contents in the front of the text. Those less familiar with the Code and infrequent users will find an alphabetical index at the end of the Code. Much care is taken to ensure ease of access with this index while maintaining a reasonable size.

## Update Service

As those who use this book are well aware, there is a need for constant revision. The use of a looseleaf binder is meant to facilitate this need. As new ordinances affecting this Code are passed, they should be forwarded to the publisher from time to time for adaptation to the Code. Update pages can then be forwarded to the City for insertion in the Code. It is the ultimate responsibility of the holder of the volume to make sure that his or her book is brought up to date in this manner.

## In Appreciation

The publishers would like to thank the following people for their time and effort during this recodification: City Clerk, Eric Haddock; Councilman, Steve McGinty; City Manager, Jim Cole; City Attorney, Greg Bridges; Chief of Police, Terry Herron; Assistant Chief of Police, Pat Stuart; Fire Chief, Bo Blauert; and Building Inspector, Melvin Kruse. In addition to their help, we are grateful to other department heads and staff members who devoted their time. This combined effort cannot help but end in a Code that the City can be proud of and which will be a useful tool for the entire community for years to come.

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# Chapter C

# THE CHARTER

Editor's note â”  The Home Rule Charter of the City, approved by the voters of the City at the regular election on April 3, 1973, is set out in this Part I as adopted. Amendments have been worked in with the source thereof cited in history notes in parentheses following amended Sections. The absence of such a note indicates that the Section is derived unchanged from the Charter as approved April 3, 1973. It should be noted that Article XIII of the charter is not printed herein since Section 13.04 provided that the Article would cease to be a part of the Charter upon the adoption of the Charter by the citizens of the City.

**PREAMBLE:** We, the people of Neosho, in order to secure the benefits of self-government through home rule as provided in the Constitution of the State of Missouri, do adopt this Charter for the good government of our City.

## ARTICLE I
## The City and Its Powers

**Section 1.01. Incorporation.** [1] [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

The inhabitants of the City of Neosho, Newton County, Missouri, within the corporate limits as now established or as hereafter established in a manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Neosho.

**Section 1.0111. (Reserved)**

**Section 1.01111. (Reserved)**

**Section 1.011111. (Reserved)**

**Section 1.02. Form of Government.**

The plan for the municipal organization provided for under this Charter shall be the Council-Manager form of government.

**Section 1.03. Powers of the City.**

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[1]. **Editor's Note â”  Ord. no. 330-2008 §1, adopted May 6, 2008, amended the charter to simplify the current corporate boundaries of the city by deleting the metes and bounds descriptions and amending the general language set out in section 1.01 of this charter. This language is amended to alleviate the need for unnecessary language and continuing amendments to the charter.**

The City may exercise all powers not denied by the Constitution or Statutes of Missouri or by this Charter.

**Section 1.04. Construction.**

The powers of the City shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this Article.

**Section 1.05. Intergovernmental Relations.**

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of Missouri, any one or more political subdivisions or agencies thereof, or with the United States or any agency thereof.

## ARTICLE II
## The City Council

**Section 2.01. Where Powers Vested.**

All powers of the City of Neosho shall be vested in the City Council except as otherwise provided by law or this Charter.

The Council shall provide for the exercise of such powers and for the performance of all duties and obligations imposed on the City by law or this Charter of all duties and obligations imposed on the City by law or this Charter.

**Section 2.02. Composition of Council.**

The City Council shall consist of five (5) members elected at large by the voters of the City. Members of the Council shall be the elective officers of the City. Said members shall be nominated and elected as provided in Article IX of this Charter.

**Section 2.03. Eligibility — Term of Office.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

Any voter of the City who has reached the age of twenty-one (21) years prior to taking office shall be eligible to hold office on the Council. Members of the Council shall be elected for a term of three (3) years commencing on the third (3rd) Tuesday in April following their election and continuing until their successors are duly elected and qualified, or until their offices are vacated. Before assuming the duties of office, each Council member shall take an oath of office.

**Section 2.04. Compensation — Expenses.**

Each member of the Council shall receive ten dollars ($10.00) for each meeting of the Council attended, not to exceed twenty-five dollars ($25.00) per month. In addition, members shall receive the necessary actual expenses incurred in the performance of their duties of office.

**Section 2.05. Mayor and Mayor Pro Tempore.** [Ord. No. 472-2011 §1 (Proposition 1), 5-3-2011; passed in election 4-5-2011]

*Selection.* The Council, at the time of organization within twenty-one (21) days of County Clerk Certification, shall elect one (1) of its members as Mayor and another as Mayor Pro Tempore for a term of one (1) year. In case the members of the Council are unable to agree upon a Mayor or a Mayor Pro Tempore, or both, within five (5) days of the organizational meeting, said official shall be selected by lot from all the members of the Council.

*Duties.* The Mayor shall preside at all meetings of the Council and shall have a voice and vote in all proceedings, but no veto. This official shall appoint all committees, the appointment or election of which is not otherwise provided. The Mayor shall have no administrative duties but shall be recognized as the official head of City for civil, military, and ceremonial purposes, and shall perform such other duties imposed by this office or as may be assigned by the Council.

*Mayor Pro Tempore.* The Mayor Pro Tempore shall perform the duties of Mayor during the absence or disability of the Mayor. In the absence of both the Mayor and the Mayor Pro Tempore, the Council shall elect one (1) of their members to perform the duties of Mayor.

**Section 2.06. Council Member Prohibitions.**

*Holding Other Office.* No former Council member shall hold any compensated appointive City office or employment until one (1) year after the expiration of the term for which elected to the Council.

*Appointments and Removals.* Neither the Council nor any of its members shall dictate the appointment or removal of any City Administrative Officer or employee whom the Manager or subordinates of the Manager are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

*Interference with Administration.* Except for the purpose of inquiries and investigations under provisions of Section 2.11, the Council or its members shall deal with City Officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

*Coercion by Council Members.* No member of the Council shall in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the City Manager in the making of purchases of supplies or equipment for the City.

**Section 2.07. Vacancies — Forfeiture of Office.**

*Vacancies.* The office of a Council member shall become vacant upon the death, resignation, removal from office in any manner authorized by law, or forfeiture of office of a member.

*Forfeiture of Office.* The office of a Council member shall be forfeited if the member:

(1) Lacks at any time during the term any qualification for the office prescribed by this Charter or by law;

(2) Violates any express prohibition of this Charter;

(3) Is convicted of a crime involving moral turpitude;

(4) Remains in default to the City after notice of such default;

(5) Moves residency from the City;

(6) Fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council;

(7) Fails to attend fifty percent (50%) of the meetings of the Council held during the preceding six (6) months.

**Section 2.08. Filling of Vacancies** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

By resolution passed by a majority vote, the remaining members shall fill any vacancy on the Council. A Council member so appointed shall hold office until the next regular City election, at which time a member shall be elected to serve the unexpired term, if any. The requirement for a quorum, as provided in Section 2.14 of this Charter shall govern only if sufficient members remain on the Council. If the Council fails to fill said vacancy within thirty (30) days following its occurrence, the City Clerk shall call a special election to fill the vacancy. Said election shall be held on the next available election date following the occurrence of the vacancy, except that no election shall be called for such purpose within ninety (90) days preceding the regular City election.

**Section 2.09. Judge of Qualifications.**

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office, as provided in Section 2.07 and Article XI, and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall, upon request, be entitled to a public or private hearing before the Council.

**Section 2.10. Independent Audit.**

The Council shall provide for an independent audit of all City accounts at least annually. Such audit shall be made by a certified public accountant or by a public accountant who shall attest to his independence in regard to the fiscal affairs of the City Government. A copy of the audit report shall be available in the office of the City Clerk for public inspection.

**Section 2.11. Investigations.**

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in exercise of these powers by the Council shall be guilty of a misdemeanor and shall be punishable as provided by ordinance.

**Section 2.12. Ethics.** [2] [Ord. No. 03-2014 §§1 — 4, 1-21-2014[3]]

*Ethic prohibitions.* Council shall enact code provisions identifying prohibited conduct of its members including, but not limited to, Improper Use of Public Property; Conflicts of Interest; Influencing the City's business relationships with a business of which a council member has an interest in and/or is so employed; Appearing in a proceeding adverse to the City unless under subpoena; Disclose or use confidential information gained by reason of the members position on the Council; Having a financial or personal interest in pending legislation and participating in discussion unless such interest is disclosed on the record; Holds, directly or indirectly, any interest in real estate situated within the City and participates in discussion regarding the regulation or zoning of such real estate unless such interest is disclosed on the record; and Representing individual opinions as that being the opinion of the Council unless Council affirmatively voted and passed an ordinance, resolution or motion that states the expressed policy.

*Ethics Board.* Council shall establish by code an Ethics Board for the purpose of insuring the proper implementation of the code of ethics, determining violations of the code and advising the Council of appropriate penalties thereof. The board shall operate as a board only during the review of a specific complaint. No anonymous complaint shall be reviewed. Any complaint filed within fifteen (15) days of the general municipal election shall be reviewed subsequent to the election. Nothing in this Section shall limit any Missouri statutorily provided remedy for the filing of a frivolous complaint.

*Penalty.* Any councilmember who willfully violates any provision of this Section may thereby be admonished, reprimanded and/or forfeit his or her office or position with the City and unless otherwise punishable, may be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not more than five hundred dollars ($500.00) or by imprisonment for not more than thirty (30) days, or both.

**Section 2.13. City Clerk.**

The Council shall appoint a City Clerk who shall hold office at the pleasure of the Council and receive compensation as determined by it. The Clerk shall keep the journal of the proceedings of the Council and perform such other duties as may be assigned by Statute, this Charter or the City Council.

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2. **Editor's Note — Ord. no. 330-2008 §1, adopted May 6, 2008, abolished the position of "city treasurer" and the city clerk may perform the same duties as the city treasurer. As the city does not levy real or personal property tax, the requirement of this position is not necessary. The city has and will continue to utilize city officers to manage and account for city monies, all of which is reviewed annually by an independent auditor.**

3. **Editor's Note: Ord. No. 18-2014 §§1 — 4, 5-6-2014, stated that the qualified voters of the City of Neosho, at a municipal election held 4-8-2014, passed the Charter amendment adopted by Ord. No. 03-2014.**

The Council may provide for the assignment or performance of duties by the Clerk under the supervision of the City Manager.

**Section 2.14. Meetings of the Council.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995; Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

*Regular Meetings.* The Council shall meet regularly at least once each month at such times and places as the Council may prescribe by rule. All meetings of the Council shall be open to the public, except as provided by the Statutes of Missouri.

*Special Meetings.* The Mayor may, or at the request of two (2) members of the Council, shall call a special meeting of the Council for a time not earlier than twelve (12) hours after notice is given to all members of the Council then in the City. Special meetings of the Council may also be held at any time by the consent of all the members of the Council. The City Manager shall receive notice of all special meetings of the Council.

*Quorum.* A majority of the Council (three (3) members) shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as the Council may provide.

**Section 2.15. Council Journal and Rules.**

The Council shall provide for the keeping of a journal of its proceedings which shall be open to public inspection. Except as herein provided, the Council shall by ordinance determine its own rules and order of business.

**Section 2.16. Voting.** [Referendum of 11-5-1991]

Unless otherwise provided by Statute or this Charter, all actions of the Council shall require an affirmative vote of three (3) members. Voting, except on procedural matters, shall be by roll call. In all roll call votes the names of the members of the Council shall be called in alphabetical order and the name to be called first (1st) shall be advanced one (1) position alphabetically in each successive roll call vote. Upon final passage of every ordinance or resolution, the "ayes" and "nays" shall be recorded in the journal.

**Section 2.17. Ordinances.** [4] [Ord. No. 96-17 §2, 5-21-1996; Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

*Introduction.* Those legislative acts of the Council, permanent in nature, shall be by ordinance. An ordinance may be introduced by any member of the Council at any regular meeting, or at a special meeting, wherein said proposed ordinance appears on the agenda for the meeting. Every ordinance shall be by bill in written or printed form with the subject of the ordinance clearly expressed in its title. The enacting clause shall be "BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI."

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4. **Note — Ord. no. 96-17 was passed by the voters in the election of August 6, 1996.**

*Standard Codes.* The Council may adopt any standard code of technical regulations by reference thereto without the necessity of setting forth the same in detail, provided however, the code of technical regulations shall be attached to the ordinance adopting the same and copies of the technical code adopted shall remain on file in the office of the City Clerk and shall be available for public inspection by all interested persons.

*Reading of Bills.* All bills shall be read three (3) times before final passage, with no more than two (2) readings (except readings of appropriation and emergency measures) at the same session. The readings of bills may be by title only unless reading in full is required by State Statute or court decision or requested by one (1) or more members of the Council. Except for appropriation ordinances for payment of obligation incurred by the City and emergency measures, at least seven (7) days shall elapse between the introduction and final passage of any bill. Appropriation ordinances and emergency measures may be read three (3) times and finally passed at the meeting at which presented.

*Filed with Clerk.* Every bill introduced shall be filed with the City Clerk, and shall be available in that office for public inspection until acted upon by the Council.

*Public Hearings.* Prior to the final passage of any bill, except as hereafter provided, all persons interested therein may be heard before the Council at regular or special meetings in accordance with such rules or regulations as the Council may establish.

*Final Passage.* After the third (3rd) reading of any bill and compliance with other provisions herein, the Council may pass a bill with or without amendment. If the bill is amended in such manner as to constitute a change in substance, as determined by the Council, final action shall be taken at a subsequent meeting.

Any ordinance, when passed by the Council, shall be signed by the Presiding Officer, attested by the City Clerk, properly indexed in a book kept for the purpose, filed and preserved as a public record in that office.

*Effective Date.* Unless an alternative date is specified therein, every ordinance shall become effective immediately after its final adoption.

*Subject to Referendum.* Except as otherwise provided in this Charter, any ordinance legislating a change in policy for the City, as distinguished from one administrative in nature, shall be subject to referendum as prescribed in Article X.

**Section 2.18. Emergency Measures.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

An ordinance may be passed as an emergency measure on the day of the introduction of the bill if it contains the statement that an emergency exists and specifies distinctly the facts and reasons constituting the emergency. No ordinance granting, enlarging, or affecting any franchise shall be passed as an emergency measure. The emergency procedure shall be restricted to the following:

1. Bills concerning the immediate preservation of public peace, property, health, safety, or morals.

2. An appropriation for payment of principal or interest of the public debt.

3. An appropriation for the payment of current expenses of the city government or payment of compromise settlement of damage claims upon recommendation of the city attorney.

4. Calling an election or providing for the submission of a proposal to the people.

5. Any ordinance fixing any tax rate or assessment.

6. Any ordinance relating to the public improvement to be paid for by special assessment.

A majority vote of the members of the council shall be required to pass an ordinance as an emergency measure.

**Section 2.19. Resolutions.**

The Council may act on matters of a transitory nature by resolution. A resolution may be adopted at the meeting at which it is presented following the first (1st) reading.

**Section 2.20. Other Actions.**

The Council may, without the constraints imposed by this Charter for the enactment of an ordinance, act on such other incidental matters as it may see fit, with the "ayes" and "nays" to be recorded in the journal.

**Section 2.21. Codification of Ordinances.**

Within five (5) years after the effective date of this Charter, and thereafter as the Council may determine, all ordinances and resolutions having the force and effect of law shall be revised, codified and promulgated according to a system of continuous numbering and revision as specified by ordinance.

## ARTICLE III
## The City Manager

**Section 3.01. Appointment — Requirements.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

The Council shall appoint a City Manager who shall devote full time to the duties of this office. Said Manager shall be chosen on the basis of executive and administrative qualifications with special reference to knowledge of, and experience in, municipal administration. The City Manager shall reside within the City limits of the City of Neosho.

**Section 3.02. Term of Office — Compensation.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

The Manager shall hold office at the pleasure of the Council. The compensation for the Manager shall be fixed by the Council, but shall not be diminished during the service of an incumbent without the written consent of the Manager.

**Section 3.03. Duties of the City Manager.**

Subject to rules and regulations established by the Council, it shall be the duty of the City Manager:

(1) To see that all ordinances are enforced;

(2) To appoint all officers, heads of departments, and employees of the departments under the control of the Manager, and remove the same for cause, and have general supervision and control over the same;

(3) To attend all meetings of the Council unless excused therefrom by the Council, to have a seat with the Council, and to have the right to take part in discussion, but may not vote;

(4) To act as ex officio member of all Boards and Commissions;

(5) To keep the Council advised on the needs of the City;

(6) To prepare and submit to the Council an annual budget estimate for all departments under the control of the Manager, together with the budget estimates prepared by the heads of the several other departments, and such reports as the Council may require, including the annual reports of all departments of the City;

(7) To prepare, or cause to be prepared, plans and specifications for work which the Council may order; and to provide such plans and specifications in sufficient number and in ample time to give full opportunity for all contractors who desire to bid thereon to do so;

(8) To have general control of all public utilities owned or operated by the City;

(9) To exercise general supervision over all privately owned utilities operated within the City so far as the same are subject to municipal control;

(10) To see that the provisions of all franchises, leases, contracts, permits and privileges granted by the City are fully observed, and upon information of any violation thereof to take such steps as may be necessary to stop or prevent further violation of same;

(11) To maintain an inventory of City property and equipment and to have general supervision over its use for the public or by City employees;

(12) To coordinate the work of personnel administration in the Departments of the City under the control of the Manager;

(13) To facilitate the prompt, economical and efficient dispatch of City business, the City Manager may from time to time organize the work of the departments responsible to the Manager, assign assistants, deputies and employees from any

office or department of the City Government under the Manager to perform work or service in connection with any other office or department thereof, or to work in more than one (1) of said offices or departments;

(14) To examine, or cause to be examined, without notice, the official conduct of any officer, assistant, deputy, clerk, or employee in any of the departments of the City Government under the control of the Manager;

(15) To appoint or act as the purchasing agent for the City and to contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department, board or any other agency of the City;

(16) To engage in and to coordinate long-range planning activities for the City;

(17) To appoint such committees as may be deemed desirable to advise and assist in the work of the office, provided the members of such committees shall serve without compensation;

(18) To perform such other duties as may be required by the Council, this Charter, or as may be necessarily inferred from it.

**Section 3.04. Removal of Manager.**

The Council may remove the Manager from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must State the reasons for removal and may suspend the Manager from duty for a period not to exceed thirty (30) days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five (5) days after a copy of the resolution is delivered to the Manager, the Manager may file with the Council a written request for a public or private hearing. This hearing shall be held at a Council meeting not earlier than ten (10) days nor later than twenty-five (25) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if the Manager has not requested a hearing, or at any time after the hearing if one has been requested.

The Manager shall continue to receive the salary due until the effective date of a final resolution of removal. The action of the Council in suspending or removing the Manager shall not be subject to review by any court or agency.

**Section 3.05. Acting City Manager**

The Manager shall designate, subject to approval of the Council, a qualified City Official or employee to exercise the powers and perform the duties of City Manager during the temporary absence, suspension or disability of the Manager. The Council may revoke such designation at any time and appoint another person to serve during such absence or disability.

## ARTICLE IV
## Administrative Services, Agencies and Personnel

**Section 4.01. Creation of Departments, Offices and Agencies.**

By ordinance, the Council may establish and prescribe the functions of such departments, offices and agencies as it may deem necessary to provide essential City services. The Council may further reorganize, alter, abolish or discontinue any department, office or agency so created.

**Section 4.02. Direction By Manager.**

Unless otherwise specified in the ordinance, all departments, offices or agencies created by the Council shall be under the direction and supervision of the Manager, and directors of such departments or agencies shall be appointed by and responsible to the Manager. Two (2) or more departments may be headed by the same person, and the Manager may serve as director of one (1) or more departments.

**Section 4.03. Boards, Etc., Continued.**

Existing boards, agencies, authorities and offices shall be continued as now constituted and with the same powers and duties, subject however to the power of the Council to eliminate, revise, consolidate, change or alter the same by ordinance as it may deem necessary.

**Section 4.04. Comprehensive Planning.**

The Council shall engage in planning.

**Section 4.05. Competitive Bidding.**

Subject to such rules, procedures and exceptions as the Council may prescribe by ordinance, before the City makes any purchase or contract, or lets any contract for improvements, opportunity shall be given for competitive bidding. With authorization of the Council, contracts for services of a specialized, professional, or technical character may be entered into without competitive bids.

**Section 4.06. Employee Personnel.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

The Council shall, by ordinance, adopt such personnel policies as it may deem appropriate, providing a comprehensive personnel system for City Officers and employees. The personnel ordinance shall authorize the City Manager to promulgate

regulations dealing with personnel matters. The personnel ordinance and any regulations promulgated pursuant thereto shall be consistent with this Charter.

**Section 4.07. Merit Principle.**

All appointments and promotions of the City Officers and employees shall be on the basis of merit and fitness demonstrated by examination or other evidence of competence.

**Section 4.08. City Attorney.** [Referendum of 11-5-1991; Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

The City Attorney shall be appointed by the City Council and receive compensation as provided by ordinance. The City Attorney shall be a member of the Missouri Bar Association. Said Attorney shall serve as chief legal advisor to the Council, the Manager, and all City departments, officers and agencies; shall represent the City in all legal proceedings; and shall perform such other duties as prescribed by ordinance.

**Section 4.09. Residence and Oath Required.**

The following City Officers-City Clerk, City Treasurer, Municipal Judge, City Attorney and Chief of Police may reside outside the City during their term of office only with the consent of the Council. Before assuming their duties, all officers of the City shall take an oath of office.

**Section 4.10. Disclosure of Corruption or Wrong Doing.** [Ord. No. 472-2011 §1 (Proposition 2), 5-3-2011; passed in election 4-5-2011]

All head of departments who become aware of City-related information that such employee reasonably believes evidences a violation of any law, promulgated rule or regulation; substantial and specific danger to public health or safety; gross mismanagement and/or waste of funds; or verifiable abuse of authority, shall reveal such information to the City Council and shall be protected from adverse personnel actions of the City Manager for the disclosure thereof.

## ARTICLE V
## Financial Procedures

**Section 5.01. Fiscal Year.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

The fiscal year of the City, unless otherwise provided by ordinance, shall begin on the first (1st) day of October and end on the last day of September.

**Section 5.02. Submission of Budget and Budget Message.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995)

On or before the forty-fifth (45th) day prior to the last day of the fiscal year, the Manager shall submit to the Council a proposed budget for the ensuing fiscal year with an accompanying message.

**Section 5.03. Budget Message.**

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes; summarize the City's debt position; and include such other material as the Manager deems desirable.

**Section 5.04. Budget.**

The *"budget"* shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year, and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. The total of proposed expenditures shall not exceed the total estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year.

**Section 5.05. Capital Program.**

*Submission to Council.* The Manager shall prepare and submit to the Council, along with the budget, a capital program planned ahead for at least three (3) years.

*Contents.* The capital program shall include:

(1) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(2) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

**Section 5.06. Council Action on Budget.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

The budget of the City and necessary tax levies shall be adopted by ordinance, with consideration of the budget ordinance to take place at no less than two (2) Council meetings wherein action on the budget is included on the agenda for the meetings. At least one (1) of said meetings shall be designated by the Council as a public hearing on the budget, and interested citizens shall be given the opportunity to be heard.

*Adoption.* The Council shall adopt the budget on or before the last day of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal

year on a month-to-month basis, with all items in it pro-rated accordingly, until such time as the Council adopts a budget for the ensuing year. Adoption of the budget shall constitute authority to incur obligations in the amounts specified therein as expenditures from the funds indicated.

**Section 5.07. Public Records.**

Copies of the budget and the capital program, as adopted, shall be public records and shall be made available to the public at suitable places in the City.

**Section 5.08. Amendments After Adoption.**

*Supplemental Appropriations.* If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council, by ordinance, may amend the budget providing for supplemental appropriations for the year up to the amount of such excess.

*Emergency Appropriations.* To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such emergency appropriations, the Council may, by emergency ordinance, authorize the issuance of emergency notes, which may be renewed from time to time; provided however, the emergency notes and renewals of the same shall be paid not later than the last day of the calendar year in which the emergency appropriation was made.

*Reduction of Appropriations.* If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount budgeted, the Manager shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may, by ordinance, reduce the budget in one or more departments, as it shall deem advisable.

*Transfer of Budget Balances.* At any time during the fiscal year the City Manager may transfer part or all of any unencumbered budget balance among programs within a department, office or agency and, upon written request by the Council may, by ordinance, transfer part or all of any unencumbered budget balance from one (1) department, office or agency to another.

*Limitations — Effective Date.* The amounts budgeted for debt service shall not be reduced or transferred except in accordance with provisions of the outstanding bonds or obligation requiring such debt service. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this Section may be made effective immediately upon adoption.

**Section 5.09. Lapse of Appropriations.**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An

appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

**Section 5.10. Administration of Budget.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

No payment shall be made, or obligation incurred, against any amount budgeted, except in accordance with applicable City ordinance and unless the Manager or a designee first certifies that there is a sufficient unencumbered balance in the budget of the department, office or agency affected to permit such payment, and that sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and said officer shall also be liable to the City for any amount so paid. However, except where prohibited by law nothing in this Charter shall be construed to prevent the making or authorizing of payments in performance of contracts for capital improvements financed in whole or in part by the issuance of bonds, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

**Section 5.11. Taxation.**

The Council shall, by ordinance, set the tax rates and levy on the various classes of property and the levy so established shall be certified by the City Clerk to the appropriate official who shall cause the tax to be computed, and extended upon the tax rolls.

Real estate and personal property taxes shall become due and payable to the City on the first (1st) day of November of each year and shall become delinquent after the thirty-first (31st) day of December following.

**Section 5.12. Sale of Bonds.** [Referendum of 12-28-1976]

All bonds issued by the City shall be sold at public sale upon sealed proposals or at public auction if required by law.

**Section 5.13. Official Bonds.**

Officers and employees receiving, disbursing or responsible for City funds, and such other persons as the Council may determine shall give bond to the City as determined by ordinance. Premium on such bond shall be paid by the City.

## ARTICLE VI
## **Franchises**

**Section 6.01. Granting of Franchises.**

All public utility franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted within less than thirty (30) days after application therefor has been filed with the Council, nor until a full public hearing has been held thereon. No exclusive franchise shall ever be granted, and no franchise shall be granted for a longer term than twenty (20) years. No such franchise shall be transferable directly or indirectly, except with the approval of the Council expressed by ordinance after a full public hearing.

**Section 6.02. Right of Regulation.**

All public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the Council to:

(1) Repeal the same for misuse or non-use, or for failure to comply therewith;

(2) Require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standards of efficiency;

(3) Establish reasonable standards of service and quality of products;

(4) Make an independent audit and examination of accounts at any time, and require reports annually;

(5) Require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(6) Control and regulate the use of the City streets, alleys, bridges, and public places, and the space above and beneath them;

(7) Regulate rates, fares and charges and make readjustments thereof from time to time if the same are not regulated by the State;

(8) Impose such other regulations from time to time as it may determine to be conducive to the safety, welfare and accommodation of the public.

**Section 6.03. Revocable Permits.**

Temporary permits for the operation of public utilities, or like permits for a period not to exceed two (2) years but subject to being renewed for a period not to exceed one (1) year and subject to amendment, alteration or revocation at any time at the will of the Council, may be granted only by ordinance on such terms and conditions as the Council shall determine. Such permits shall in no event be construed to be franchises, or extensions or amendments of franchises.

**Section 6.04. Operation Beyond Franchise Period.**

Any operation of a public utility by a franchise holder, with the tacit permission of the City, beyond the period for which the franchise was granted, shall under no circumstances be construed as a renewal or extension of such franchise. Any such operation shall at most be regarded as a mere temporary permit, subject, like other permits, to amendment, alteration or revocation at any time at the will of the Council.

## ARTICLE VII
## Licensing, Taxation and Regulatory Provisions

**Section 7.01. Objects of Licensing, Taxation and Regulation.**

The Council shall have power, by ordinance, to license, tax and regulate all businesses, occupations, professions, vocations, activities or things whatsoever set forth and enumerated by the Statutes of this State now or hereafter applicable to constitutional Charter cities, or cities of the first, second, third or fourth class, or of any population group, and which any such cities are now or may hereafter be permitted by law to license, tax and regulate.

**Section 7.02. (Reserved)** [5]

## ARTICLE VIII
## Municipal Court

**Section 8.01. Jurisdiction of Court.**

There shall be a Municipal Court which shall have jurisdiction to hear and determine all cases arising under this Charter or the ordinances of the City, and to assess punishment as therein provided. The Municipal Court may punish contempt of Court by fine not exceeding fifty dollars ($50.00) or by imprisonment not exceeding ten (10) days, or both. It may enforce its orders and judgments as a court of record may, and render final judgment on any forfeited bond or recognizance returnable to such Court, subject to appear as in other cases.

**Section 8.02. Municipal Judge.**

Municipal Court shall be presided over by a judge who shall be a member of the Missouri Bar Association. The Municipal Judge shall be appointed by and shall serve at the pleasure of the City Manager. Compensation shall be as provided by ordinance.

## ARTICLE IX
## Nominations and Elections

**Section 9.01. Elections.** [Referendum of 11-5-1991; Ord. No. 472-2011 §1 (Proposition 3), 5-3-2011; passed in election 4-5-2011]

The regular election for the choice of members to the City Council and to vote on such other propositions as may be presented by the Council shall be held annually in accordance with guidelines as are from time to time codified by the Missouri Secretary of State's office.

The Council may, by resolution, call, fix the time, and provide for the conduct of special elections.

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5. **Editor's Note — Ord. no. 330-2008 §2, adopted May 6, 2008, repealed section 7.02 "voters approval of certain alcoholic beverage license provisions required" in its entirety. Former section 7.02 derived from Referendum of 11-5-1991.**

Except as to the methods and procedures established by ordinance, the applicable election laws of the State of Missouri shall govern the conduct of all elections.

The Council shall have the power to provide for the use of mechanical or other devices for voting or counting of votes not inconsistent with State law.

All election times and dates shall be as specified by State law.

**Section 9.02. Legal Voters.**

Those residents of the City who have registered to vote in City elections according to the Constitution and laws of the State of Missouri shall be legal voters of the City.

**Section 9.03. Non-Partisan Election.**

The names of candidates for the Council shall be printed on ballots without party designation, and all election campaigns shall be conducted on a non-partisan basis.

**Section 9.04. Election Official.**

Unless otherwise provided by Statute, the election official for the City shall be the City Clerk, or if absent or disabled, an alternate appointed by the Council, or in the event of its failure to act, by the Mayor. Said election official shall be responsible for the conduct of City elections in accordance with the Constitution and applicable laws of the State of Missouri, and ordinances as may be adopted by the Council.

**Section 9.05. Rotation of Council Terms** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

With the effective date of this Charter, all members of the Council shall continue in office until the expiration of their respective terms and thereafter will be elected in accordance with the following rotation:

Cycle 1 — Two (2) members

Cycle 2 — One (1) member

Cycle 3 — Two (2) members

**Section 9.06. Nominations.** [Ord. No. 980, 12-6-1977; Referendum of 2-7-1978; Referendum of 11-6-1979; Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

Nominations of candidates for City Council shall be by petition. For the name of a candidate to appear on the printed ballot, a petition, signed by not less than thirty-five (35) legal voters of the City, shall be presented to the City Clerk pursuant to the time constraints in Section 115.125, RSMo., 1986.

Persons signing the petitions of candidates seeking election to the Council shall designate their residential street, and house number within the City. Such petitions in a form approved by ordinance shall be available upon request from the City Clerk.

**Section 9.07. (Reserved)** [6]

**Section 9.08. Canvass of Vote.** [Referendum of 2-7-1978; Referendum of 11-6-1979]

The designated election authority shall provide for the counting of absentee ballots and regular ballots. Election returns shall be canvassed as provided by State law and the candidates receiving the most votes cast for each office shall be elected.

**Section 9.09. Tie Vote.** [Referendum of 2-7-1978]

Should there be a tie vote in any special or general election, the winner shall be determined by lot, in a Council meeting open to the public to which all candidates affected are invited.

## ARTICLE X
## Initiative, Referendum and Recall

**Section 10.01. Initiative.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

The voters of the City shall have power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, to adopt or reject it at a City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money or levy of taxes or changing the master zoning ordinance. Any initiated ordinance may be submitted to the Council by petition signed by at least twenty-five percent (25%) of the voters as shown by the registration records at the time of the last regular City election.

**Section 10.02. Referendum.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

The voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at an election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes or the zoning ordinances of the City. Within fifteen (15) days after the date on which the Council has adopted an ordinance which is subject to referendum, a petition, signed by at least twenty-five percent (25%) of the voters as shown by the registration records at the time of the last regular City election, must be filed with the City Clerk, requesting that such ordinance be either repealed or submitted to a vote of the people.

**Section 10.03. Recall.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

Any member of the City Council may be removed from office through a recall election. A petition requesting the removal of an incumbent shall be signed by at least twenty-five percent (25%) of the registered voters as shown by the registration records at the time of the last regular City election.

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6. **Editor's Note — Ord. no. 472-2011 (proposition #3), 5-3-2011, passed in election 4-5-2011 repealed this charter section 9.07 "primary elections" which derived from referendum of 2-7-1978 and referendum of 11-6-1979.**

**Section 10.04. Petitioners' Committee.** [Referendum of 11-5-1991]

Any five (5) voters may commence initiative, referendum or recall proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the person and address to whom all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance reciting the ordinance sought to be reconsidered, or Council member to be removed.

Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Petitioners have sixty (60) days from the date of the filing of the affidavit to return the petitions to the Clerk. If the petitions are not returned within sixty (60) days of the filing of the affidavit, then that petition shall be void. If the last day falls on a weekend or holiday, then the petition must be filed on the first (1st) business day following said weekend or holiday.

**Section 10.05. Petitions.**

All papers comprising an initiative, referendum or recall petition shall be assembled and filed with the City Clerk as one (1) instrument. Every initiative petition shall contain the full text of the measure proposed; every referendum petition shall contain the full title of the ordinance referred; and every recall petition shall contain a general statement of the grounds for removal.

Signers of the petition shall identify their places of residence by street and number, or by any other description sufficient to identify their residences. The signatures to any petition need not all be appended to one (1) paper. In addition, there shall be attached to each such paper a signed statement of the circulator thereof, stating the number of signers of such paper, that each signature appended thereto was made in the circulator's presence and is the genuine signature of the person it purports to be, and that each signer is believed to be a registered voter of the City.

**Section 10.06. Filing and Certification of Petitions.**

Within ten (10) days after a petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by fewer persons than the number certified; the signatures shall be accepted unless void on other grounds. After completing the examination of the petition, the City Clerk shall certify the result thereof to the Council not later than its next regular meeting. If certified that the petition is insufficient, the Clerk shall set forth in a certificate the particulars in which it is defective, and shall at once mail a copy of the certificate to the person designated by the petitioners' committee to receive notices.

**Section 10.07. Amended Petition.**

An initiative, referendum or recall petition may be amended at any time within ten (10) days after the notification of insufficiency has been mailed by the City Clerk, by filing a

supplementary petition executed as provided in the case of an original petition. The City Clerk shall, within five (5) days after such an amended petition is filed, make examination thereof and if it is then found to be sufficient shall so certify to the Council at its next regular meeting. If the petition be still insufficient, the Clerk shall file a certificate to that effect and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

**Section 10.08. Effect of Initiative Petition.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

When an initiative petition has been certified to the Council as sufficient by the City Clerk, the Council shall proceed at once to consider the proposed ordinance. If the ordinance proposed by the initiative has not been finally adopted within thirty (30) days after certification, the Council shall call a special election to be held at the next available election date, unless a general election is to be held within such period. At such special or general City election, such proposed ordinance shall be submitted without alteration to the vote of the voters of the City. The enacting clause of such proposed ordinance shall be: "BE IT ORDAINED BY THE PEOPLE OF NEOSHO, MISSOURI."

**Section 10.09. Effect of a Referendum Petition.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

When a referendum petition has been certified to the Council as sufficient by the City Clerk, the ordinance specified in the petition shall be suspended unless and until approved by the voters as hereinafter provided. The Council shall proceed at once to reconsider the referred ordinance. If the ordinance specified in any referred petition shall not be finally repealed within thirty (30) days after such certification, the Council shall call a special election to be held at the next available election date, unless the regular City election is to be held within such period. At such a special or regular election, such ordinance shall be submitted without alteration to the voters upon the question: "SHALL THE ORDINANCE SPECIFIED IN THE REFERENDUM PETITION BE APPROVED?"

**Section 10.10. Withdrawal of Petition.**

An initiative, referendum or recall petition may be withdrawn any time prior to the fifteenth (15th) day preceding the day scheduled for the election by filing with the Clerk a request for withdrawal signed by at least three (3) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

**Section 10.11. Voting.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

Ordinances submitted to the voters in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title which shall be prepared by the City Attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice,

descriptive of the substance of such ordinance. The ballot used in voting upon any such ordinance shall have below the ballot title the following proposition, one above the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of initiated or referred ordinances may be voted on at the same election and may be submitted on the same ballot.

**Section 10.12. Effect of Vote.**

If a majority of those voting on an initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. No such ordinance shall be amended or repealed by the Council for at least six (6) months, and for the next twelve (12) months thereafter only by unanimous vote. If a majority of those voting on a referred ordinance shall vote against the ordinance, it shall thereupon be repealed. If conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail. No election under the initiative or referendum procedure shall be set aside because of any defect in the petition.

**Section 10.13. Recall Election.** [Ord. No. 95-3 §2, 1-17-1995; passed in election 4-4-1995]

When a recall petition has been certified to the Council as sufficient by the City Clerk, the Council shall hold an election at the next available election date, except that no Council member shall be subject to recall within six (6) months of induction into office, nor during the last six (6) months of the term. If such office becomes vacant prior to the election, said election shall be cancelled, and the vacancy shall be filled as provided in Section 2.08 of this Charter.

**Section 10.14. Recall Ballot.** [Ord. No. 330-2008 §1, 5-6-2008; passed in election 4-8-2008]

The ballot shall be in the following form or in such form as approved by the Newton County election official as prescribed by Missouri State law.

SHALL _____(name) Council member _____ BE REMOVED FROM OFFICE?

_____ YES

_____ NO

**Section 10.15. Effect of Recall Election.**

If a majority of those voting in a recall election shall vote in favor of the recall, then a vacancy shall exist, regardless of any defect in the recall petition. Such vacancy shall be filled as provided in this Charter. If a majority of those voting in such an election shall vote against the recall, the officer in question shall continue in office. Any such person who has been recalled shall be ineligible to serve the City in any capacity during the remainder of the term for which elected. A Council member retained in office upon any recall election shall not again be subject to recall during that term of office.

**Section 10.16. Resubmission of Initiative and Referendum Petitions.**

Under provisions of this Article, initiative or referendum petitions having the same general subject or the same general import of a measure once defeated by the voters, shall not again be circulated until a lapse of one (1) year from the date of the election when first submitted.

**Section 10.17. Conduct of Elections.**

Notice of initiative, referendum and recall elections shall be given, the elections conducted, the returns canvassed and the results declared in all respects as are other City elections.

## ARTICLE XI
## General Provisions

**Section 11.01. Standard Forms.**

Any standard form required for any purpose under this Charter, or by ordinance enacted pursuant thereto, shall be available through the office of the City Clerk.

**Section 11.02. Personal Financial Interest.**

Any City Officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in the capacity of a City Officer or employee in the making of such sale or in the making or performance of such contract. Any City Officer or employee who wilfully conceals such a substantial financial interest or wilfully violates the requirements of this Section shall be guilty of malfeasance in office or position and shall forfeit such office or position. Violation of this Section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City Manager or Council.

**Section 11.03. Prohibitions.**

*Nepotism.* No official or employee of this City shall, by virtue of such office or employment, name or appoint to public office or employment any relative within the fourth (4th) degree, by blood or marriage.

*Discrimination.* No person or group in the City shall be, on grounds of race, sex, color, creed, religion or national origin, denied benefits or in any way discriminated against by the City of Neosho or its agents in the performance of his or their duties, nor shall any officer or employee of the City be the subject of discrimination as herein provided.

*Political Activity.* No paid employee of the City, while so employed, shall be a candidate for the City Council.

*False Affirmations.* No person shall wilfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions, rules and regulations made pursuant to this Charter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

*Improper Inducements.* No person who seeks appointment or promotion, with respect to any City position or appointive City administrative office, shall directly or indirectly give, render or pay any money, service, or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

*Penalty.* Any person who wilfully violates any provision of this Section shall thereby forfeit any office, position or employment with the City and, unless otherwise punishable, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than thirty (30) days, or both.

**Section 11.04. Illegal Acts.**

Under this Charter, the City Council or any of its agents shall have no authority to consummate any illegal ordinance or act or to otherwise engage in any illegal activity, and all such actions shall be null and void. Any party contracting with or otherwise engaging in such activities with the City or its agents does so at his peril.

**Section 11.05. Notice of Suits.**

No action shall be maintained against the City for or on account of any injury growing out of alleged negligence of the City unless notice shall first have been given in writing to the City Manager within ninety (90) days of the occurrence for which said damage is claimed, stating the place, time, character and circumstances of the injury, and that the person so injured will claim damages therefor from the City.

**Section 11.06. Public Improvements.**

*Improvements.* The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance, consistent with applicable State law.

*Special Assessments.* The procedure for levying, collecting and enforcing the payment of special assessments for public improvements or special tax bills evidencing such assessments shall be governed by general ordinance, consistent with applicable State law.

**Section 11.07. Proof of Ordinance.**

Any ordinance may be proved by a copy thereof certified by the City Clerk under the Seal of the City; or, when printed and published by authority of the City, it shall be received in evidence in all courts, or other places, without further proof of authenticity.

**Section 11.08. Severability.**

If any provision of this Charter be held invalid, other provisions of the Charter shall not thereby be affected.

**Section 11.09. Supreme Municipal Authority.**

Final authority on all matters arising under this Charter, in accordance with procedures as may be established by ordinance, shall be vested in the Council, subject to appeal or review by courts of competent jurisdiction.

**Section 11.10. Amendment of Charter.**

Amendments to this Charter may be framed and submitted to the voters by a Commission in the manner provided by law and the Constitution for framing and submitting a complete Charter. Amendments may also be proposed by the Council or by petition of not less than ten percent (10%) of the voters of the City, filed with the City Clerk, setting forth the proposed amendment. The Council shall at once provide by ordinance that any amendment so proposed shall be submitted to the voters at the next election held in the City not less than sixty (60) days after its passage, or at a special election held as provided by law and the Constitution for a Charter. Any amendment approved by a majority of those voting thereon shall become a part of the Charter at the time and under the conditions fixed in the amendment; Sections or Articles may be submitted separately or in the alternative and determined as provided by law and the Constitution for a complete Charter.

**Section 11.11. Continuation of Government.**

The Council shall, by ordinance or resolution, provide for the preservation and continuation of government in the event of disaster which renders unavailable all or a majority of the Council.

**Section 11.12. Review of Charter.** [Referendum of 11-5-1991]

The Council shall review the Charter every five (5) years from the date of the last amendment to the Charter.

## ARTICLE XII
## Transitional Provisions

**Section 12.01. Past Actions Continued.**

*Acts.* Any ordinance, regulation, resolution, contract, franchise, tax or assessment now in force, or any part thereof not in conflict with this Charter, shall not in any manner be affected by adoption of this Charter until altered, modified or repealed.

*Bodies.* Agencies, departments, offices, Boards, Commissions or authorities now in existence shall be continued until such time as reorganized, altered, abolished, or discontinued as hereinabove provided in Article IV.

*Persons.* All officers and employees of the City at the time this Charter is adopted shall continue in office until their successors have been selected and qualified, or until such offices have been abolished or the duties thereof otherwise provided for under the provisions of this Charter.

*Proceedings.* Actions or proceedings pending, fines, or penalties imposed, debts or other obligations incurred, or public improvements authorized or under way at the time this Charter shall take effect, shall not be affected, abated, cancelled or otherwise terminated by adoption of this Charter.

*C Attachment 1*

**City of Neosho**

## CHARTER COMPARATIVE TABLE

The original Charter, §§1.01 through 12.01 is set out as adopted on April 3, 1973. The following table shows the disposition of subsequently enacted amendments.

| Ordinance Number | Disposition/Date of Adoption | Section of Ordinance | Section of This Code |
|---|---|---|---|
| | 12-28-1976(Ref.) | 5.12 | |
| | 8-2-1977(Ref.) | 1.0111 | |
| 980 | 12-6-1977 | 1 | 9.06 |
| | 2-7-1978(Ref.) | 9.06—9.09 | |
| | 4-4-1978(Ref.) | 1.01111, 1.011111 | |
| | 11-6-1979(Ref.) | 9.06—9.08 | |
| | 11-5-1991(Ref.) | 2.16, 4.08, 7.02, 9.01, 10.04, 11.12 | |
| 95-3 | 1-17-1995 passed in election 4-4-1995 | 2 | 2.03, 2.08, 2.14, 5.02, 5.06, 9.06, 10.01, 10.02, 10.03, 10.08, 10.09, 10.13 |
| 330-2008 | 5-6-2008 passed in election 4-8-2008 | 1 | 1.01—1.011111, 2.12, 2.14, 2.17—2.18, 3.01—3.02, 4.06, 4.08, 5.01, 5.10, 9.05, 10.11, 10.14 |
| | | 2 | 7.02 |
| 472-2011 | 5-3-2011 passed in election 4-5-2011 | 1 (Proposition 1) | 2.05 |
| | | (Proposition 2) | 4.10 |
| | | (Proposition 3) | 9.01, repealed 9.07 |

# Chapter 100

# GENERAL PROVISIONS

## ARTICLE I
## General Code Provisions

**Section 100.010. How Code Designated and Cited.** [Code 1962 §1-1; CC 1979 §1-1]

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

**Section 100.020. Definitions and Rules of Construction.** [Code 1962 §1-2; CC 1979 §1-2]

In the construction of this Code and of all ordinances of the City, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council or the context clearly requires otherwise:

CITY — The words *"the City"* or *"this City"* shall be construed as if followed by the words "of Neosho, Missouri."

CODE — The words *"the Code"* or *"this Code"* shall mean the "Code of Ordinances, City of Neosho, Missouri."

COMPUTATION OF TIME — The time within which an act is to be done shall be computed by excluding the first day and including the last. If the last day is Sunday it shall be excluded.

COUNCIL — The City Council of the City of Neosho.

COUNTY — The words *"the County"* or *"this County"* shall mean the County of Newton.

DAY — The period of time between any Midnight and the Midnight following.

DAYTIME — The period of time between sunrise and sunset; *NIGHTTIME:* The period of time between sunset and sunrise.

GENDER — Words importing the masculine gender include the feminine and neuter.

IN THE CITY — Shall mean and include all territory over which the City now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

JOINT AUTHORITY — Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of the persons, unless otherwise declared in the law giving the authority.

MONTH — A calendar month.

NUMBER — The singular number includes the plural, and the plural the singular.

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

OFFICERS, DEPARTMENTS, ETC. — Officers, Departments, Boards, Commissions and employees referred to in this Code shall mean Officers, Departments, Boards, Commissions and employees of the City of Neosho, unless the context clearly indicates otherwise.

OFFICIAL TIME — Whenever certain hours are named in this Code, they shall mean Central Standard Time or Daylight Saving Time, as may be in current use in the City.

OR; AND — *"Or"* may be read *"and"* and may be read *"and/or"*, if the sense requires it.

OWNER — Applied to a building or land, shall include any part-owner, joint-owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of 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. Whenever the word *"person"* is used in any Section of this Code prescribing a fine or penalty, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the Officers, agents or members thereof who are responsible for any violation of such Section.

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

PRECEDING, FOLLOWING — *"Preceding"* and *"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.

PROCESS — Includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

PROPERTY — Shall include real and personal property.

REAL PROPERTY — Shall include lands, tenements and hereditaments.

SHALL — Is mandatory; MAY — Is permissible.

SIGNATURE OR SUBSCRIPTION BY MARK — *"Signature"* or *"subscription"* includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his/her own name near the

signer's or subscriber's name; but, a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two (2) witnesses so sign their own names thereto.

STATE — The words *"the State"* or *"this State"* shall be construed to mean the State of Missouri.

TENANT OR OCCUPANT — The word *"tenant"* or *"occupant,"* applied to a building or land, shall include any person holding a written or an oral lease of, or who occupies the whole or a part of such building or land, either alone or with others.

TENSES — The present tense includes the past and future tenses, and the future includes the present.

WEEK — A week consists of seven (7) consecutive days.

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, except where otherwise provided.

**Section 100.030. Provisions Considered as Continuations of Existing Ordinances.** [Code 1962 §1-3; CC 1979 §1-3]

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

**Section 100.040. Effect of Repeal, Etc., of Ordinances.** [Code 1962 §1-4, CC 1979 §1-4]

A. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

B. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

C. Whenever any ordinance or part of an ordinance shall be revised, repealed or modified by a subsequent ordinance, the ordinance or part of ordinance thus revised, repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying the same, where publication is required by law.

**Section 100.050. Severability of Parts of Code.** [Code 1962 §1-5; CC 1979 § 1-5]

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 invalid by the valid judgment or decree of a Court of competent jurisdiction, such

unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this Code.

**Section 100.060. Catchlines of Sections.** [Code 1962 §1-6; CC 1979 § 1-6]

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 Sections, 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.

**Section 100.070. Amendments to Code.** [1] [CC 1979 §1-7]

A. All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein, or in the case of repealed Chapters, Sections and Subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby, and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the City Council.

B. Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the Section of this Code in substantially the following language: "That Section _____ of the Code of Ordinances of the City of Neosho, Missouri, is hereby amended to read as follows: . . . . (Set out new provisions in full) .

C. In the event a new Section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances of the City of Neosho, Missouri, is hereby amended by adding a Section (or Article, Chapter or other designation, as the case may be), to be numbered _____, which reads as follows: . . . . (Set out new provisions in full) . . . ."

D. In lieu of the foregoing Subsection when the Council desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the Council desires to incorporate into the Code, a provision in substantially the following language may be made a part of the ordinance: "It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances of the City of Neosho, Missouri, and the Sections of this ordinance may be renumbered to accomplish such intention."

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1. **Cross Reference — City Clerk's duties regarding indexing of ordinances, resolutions, etc., §110.420.**

E. All Sections, Articles, Chapters or other provisions of this Code desired to be repealed should be specially repealed by Section number, Article number, Chapter or other number, as the case may be.

**Section 100.080. Altering Code.** [CC 1979 §1-8]

It shall be unlawful for any person in the City to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Neosho to be misrepresented thereby. Any person, firm or corporation violating this Section shall be punished as provided in Section 100.130 hereof.

ARTICLE II
**Miscellaneous Provisions**

**Section 100.090. Corporate Boundaries.** [Code 1962 §1-7; CC 1979 §1-9]

The corporate boundaries of the City shall be as designated by the Official Map of the City on file in the office of the City Manager.

**Section 100.100. Applicability of Ordinances to City-Owned Property.** [Code 1962 §6-12; CC 1979 § 1-10; Ord. No. 591 §1, 10-6-1964]

All ordinances of the City shall be effective as to any property owned by the City and being used for any lawful municipal purpose, whether or not such property lies within or without the City limits, including, but not to the exclusion of any property not mentioned, the swimming pool, industrial park, municipal golf course, Neosho Memorial Airport and adjacent areas thereto.

**Section 100.110. Official City Seal.** [Code 1962 §1-8; CC 1979 § 2-1]

A. The Seal of the City shall have on the face and around its margin the words "City of Neosho, Newton County, Missouri," and the inscription in the innermost circle "Organized January 7, 1879." Such seal shall be the Official Seal of the City.

B. Any person using the City Seal without official authority shall be deemed guilty of a misdemeanor.

**Section 100.120. Records Manual Adopted.** [2] [CC 1979 §2-4; Ord. No. 89-2 §1, 1-17-1989]

There is hereby adopted by the City that certain manual known as the Missouri Municipal Records Manual as approved by the Local Records Board January, 1989, Roy D. Blunt, Secretary of State, Chairman of Missouri Local Records Board.

ARTICLE III
**Penalties**

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[2]. **Cross Reference — Taking, retention or mutilation of public records, §215.360.**

**Section 100.130. General Penalty — Continuing Violations.** [3] [Code 1962 §21-26; CC 1979 § 1-11; Ord. No. 973 §1, 10-4-1977]

A. Where, by any provision of this Code or any other ordinance of the City, or any rule or regulation promulgated pursuant thereto, the doing of or the failure to do any thing or act is prohibited, declared to be a misdemeanor, an offense or unlawful, and no other penalty or punishment is provided therefor, the same shall be punishable by a fine not to exceed five hundred dollars ($500.00) or a jail sentence not to exceed three (3) months, or by both such fine and jail sentence unless a lessor penalty be required by law, in which event the punishment shall not exceed such lesser penalty required by law, any provision of this Code or other ordinance to the contrary notwithstanding. *"Misdemeanor"* shall be construed to mean a violation of any ordinance of the City.

B. Except as otherwise provided, every day any such violation shall continue shall constitute a separate offense.

**Section 100.140. Parties to an Offense.** [CC 1979 §1-13]

Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act declared herein to be unlawful or an offense or a misdemeanor, whether individually or in connection with one or more other persons or as principal, agent or accessory, shall be guilty of such unlawful act or offense or misdemeanor, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision hereof shall likewise be guilty.

**Section 100.150. Prisoners May Be Required to Work on Streets, Etc.** [Code 1962 §21-59; CC 1979 § 1-14; Ord. No. 973 §1, 10-4-1977]

Any person who has been convicted in the Municipal Court of the City, and sentenced by the Municipal Judge, whether the sentence be for a fine or imprisonment, or both, may be put to work and required to perform labor on the streets, alleys, highways, walks or upon any public work or building of the City. The Chief of Police and Street Superintendent are hereby given the authority to require all such persons to work out the full amount of the fine, or fine and costs, if not paid.

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[3]. **Cross References — Municipal court, ch. 135; police provisions, ch. 200; offenses and miscellaneous provisions, ch. 215; nuisances, ch. 220; motor vehicles, Title III.**

# Chapter 105

## CITY COUNCIL

Charter Reference — City council, art. II.

**Section 105.010. Qualifications of Councilmen Generally.** [1] [Code 1962 §2-10; CC 1979 § 2-14]

No person shall be eligible to the office of Councilman who is not a voter of the City.

**Section 105.020. Form of Petitions for Nominations.** [2] [CC 1979 §2-15; Ord. No. 860 §II, 1-22-1974; Ord. No. 1225 §1, 6-19-1984]

The form of petition for nomination of candidates for City Council shall be the following:

PETITION FOR NOMINATION OF
CANDIDATE FOR CITY COUNCIL

We, the undersigned legal voters of the City of Neosho, Missouri, respectfully petition and request the name of _____, residing at _____, be placed on the ballot as a candidate for the office of City Council, for a term of _____ year(s), to be voted for at the election to be held on the _____ day of _____, 19___; and we individually signify that our names appear on the roll of registered voters within the last year and that we are qualified to vote for this candidate:

*Name* *Street and Number* *Date*

Statement of Circulator

The undersigned is the circulator of the foregoing paper containing _____ signatures (at least 35). Each signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be. I am a registered voter qualified to vote for this candidate, and I believe each signer is a registered voter qualified to vote for this candidate.

_____ _____

(Signature of Circulator) (Address of Circulator)

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1. **Charter Reference — Qualifications, §2.03.**

2. **Charter Reference — Council to provide for form of petition, §9.06.**

I, the undersigned, hereby certify that the within petition for nomination of candidate for City Council has been circulated with my knowledge and consent. If nominated and elected, I agree to qualify and serve.

_____

**Section 105.030. Selection of New Council in Case of Disaster.** [CC 1979 §2-16, Ord. No. 949 §§1, 2, 2-1-1977]

A. In the event of a disaster which renders unavailable all of the City Council, a new City Council shall be selected as hereinafter set out in order that Government of the City may continue uninterrupted until a new Council is selected according to law.

B. The City Clerk shall keep at her office a list of all former Council members who have served in the preceding five (5) years, and in the event of a disaster which renders all of the Council unavailable the City Clerk shall swear in as new members of the City Council, persons available for service who so indicate that they will serve, those persons having served last on the City Council being selected first.

**Section 105.040. Meetings — Regular Meetings.** [Code 1962 §2-11; CC 1979 §2-17]

Regular meetings of the City Council shall be held at least once each month.

**Section 105.050. Meetings — Special Meetings.** [3] [Code 1962 §2-12; CC 1979 §2-12]

Special meetings may be called by the Mayor at his/her own instance or upon written application of two (2) members of the Council. Notice of such meeting shall be given in conformance with Section 610.020, RSMo., provided that no business other than that specified in such written notice shall be transacted at such special meeting.

**Section 105.060. Composition — Terms of Councilmen.** [4] [Code 1962 §2-13; CC 1979 § 2-13]

The Council shall consist of five (5) members elected at large by the voters of the City. The terms of Councilmen shall be three (3) years.

**Section 105.070. Vacancies.** [5] [Code 1962 §2-14; CC 1979 § 2-20]

Should a vacancy occur in the office of Councilmen by death, resignation or otherwise, the remaining members shall fill the vacancy by resolution passed by a majority vote. The appointee shall hold office until the next regular City election at which time a member shall be elected to fill the unexpired term, if any.

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3. **Charter Reference — Special meetings, §2.14.**

4. **Charter Reference — Composition, §2.02.**

5. **Charter Reference — Filling of vacancies, §2.08.**

**Section 105.080. Councilmen to Be Elected at Large — Voting Precincts.** [Code 1962 §2-15; CC 1979 § 2-21]

All Councilmen shall be elected at large, but for voting purposes the Council shall divide the City into voting precincts.

**Section 105.090. Quorum — Passage of Ordinances Generally.** [6] [Code 1962 §2-16; CC 1979 § 2-22]

Three (3) members of the Council shall constitute a quorum to do business; but no action thereof shall be valid unless at least three (3) members shall vote in favor of such action. Upon every vote the "ayes" and "nays" shall be called and recorded and every motion, resolution and ordinance shall be reduced to writing before the vote is taken thereon. Every resolution and ordinance passed by the Council must be signed by the Mayor or in his/her absence by the Mayor Pro Tem, or by two (2) members of the Council before the same shall be effective.

**Section 105.100. Councilmen Not to Vote on Certain Measures.** [7] [Code 1962 §2-19; CC 1979 § 2-23]

No member of the City Council shall be permitted to vote for or against any ordinance appropriating money, or for the allowance of any account or claim, or for the award or approval of any contract in which such member is directly or indirectly interested.

**Section 105.105. Conduct of Public Officials — Establishment of an Ethics Board.** [Ord. No. 435-2010 §1, 7-20-2010]

A. *Definitions.* For the purposes of this Section the following definitions shall apply:

BUSINESS — Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, self-employed individual, consultant, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

BUSINESS WITH WHICH THE OFFICIAL IS ASSOCIATED

1. Any business in which the official, or a member of the official's immediate family is a director, officer, shareholder of ten percent (10%) or more of the aggregate number of shares issued, or owner of ten percent (10%) or more of the total beneficial ownership interest.

2. Any business with which the official has a contractual relationship, except contracts involving obligations of five hundred dollars ($500.00) or less, commercially reasonable loans made in the ordinary course of business, or contracts for commercial retail sales.

OFFICIAL — Every individual elected or appointed to the City Council.

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6. **Charter Reference — Ordinances, §2.17.**

7. **Charter Reference — Personal financial interests, §11.02.**

IMMEDIATE FAMILY — The husband, wife, son, daughter, father, mother, brother, sister, father-in-law, mother-in-law or any other relative or significant other living in the official's household.

INTEREST — Any direct or indirect monetary or material benefit accruing to a City Official as a result of contracts or transactions which are or may be the subject of an official act or action by or with the City, except contracts or transactions which confer similar benefits to all other persons and/or property similarly situated.

B. *Prohibited Conduct.*

1. *Improper use of public property.* No City Official, except when acting on the behalf of the City, shall use or possess any property unless such use is available to the public generally.

2. *Conflict of interest.* No City Official shall engage in any act which is in conflict with the performance of official duties. No official or immediate family member shall:

   a. Receive, acquire or possess any financial interest in the sale of any service or property to the City when the financial interest was acquired with prior knowledge that the City intended to purchase such property or obtain such service;

   b. Solicit or receive any gift, loan, favor, entertainment or other thing of monetary value if the gift, loan, favor, entertainment or other thing of monetary value was solicited, received or given with the intent to give or obtain special consideration or influence as to any job-related action by the official. Provided, this Section shall not apply to:

      (1) Attendance at a hosted meal provided in conjunction with a meeting, seminar, conference, etc., which relates directly to City business, or which is attended as a staff representative,

      (2) An award publicly presented in recognition of public service, or

      (3) Any gift which would have been offered or given to the official regardless of City position.

   c. Influence the City's selection of, or its conduct of business with which the official is associated as an officer, director, official, agent or stockholder or has an ongoing contractual relationship;

   d. Engage in, accept private employment or render services for a private interest when such employment or service is incompatible with the proper discharge of the official's duties, or tends to impair his or her independence of judgment or action in the performance of official duties;

   e. Appear on behalf of any other private person or business, except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding directly adverse to the City or in

which the City or a City Officer in an official capacity is a party. This Section shall not apply to any proceeding in which the official has a personal interest which is disclosed to the City at a regular or special meeting of the City Council on the record;

f. Disclose or use any information gained by reason of position for the immediate or anticipated benefit of the official, or any other person; or advance a private interest with respect to any contract or transaction which is or may be the subject of official action of the City. Provided, nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request;

g. Have a financial or personal interest in any legislation pending before the City Council and participate, discuss or give an official opinion to the City Council, or any committee of the Council, unless the nature and extent of such interest is disclosed, on the record, to the Council;

h. Hold, directly or indirectly, for the purpose of personal financial gain, investment or speculation, any interest in real property situated within the City, if such official performs any function requiring the exercise of discretion on behalf of the City in regard to the regulation of land use or development pertaining to that property, unless the nature and extent of such interest is disclosed, on the record, to the Council;

i. Represent that opinions stated by a Council member are those of the Council unless the Council has voted and passed an ordinance, resolution or motion that so states the expressed policy or opinion;

j. Deliberate in a matter when such matter is determined to be a conflict of interest. To avoid the appearance of impropriety, after an official is determined to have a conflict of interest or a potential conflict of interest in any matter, and once all questions relating to the conflict of interest have been answered, the official shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the official may remain in the area of the room occupied by the general public. If an official who has a conflict of interest in a matter is present as a member of a body which is to consider the matter, the public servant shall leave his or her regular seat as a member of the body, and not return to it until deliberation and action on the matter is completed;

k. Divulge to any unauthorized person confidential information acquired in the course of holding his or her position in advance of the time prescribed by the Governing Body, administrators, or other applicable law for its release to the public.

3. *Former Officials.* No former official shall, during the period of one (1) year after leaving City office:

a. Disclose, divulge or use any information gained by reason of his or her City employment for his or her gain or anticipated gain, or for the gain or anticipated gain of any person, unless the information is a matter of public knowledge or is available to the public on request;

b. Assist any person in proceedings involving any department of the City with which the former official was officially involved while a City Official; or

c. Represent any person as an advocate in any matter in which the former official was officially involved while a City Official.

4. *Political activities.* No official or his or her immediate family shall solicit funds on City property.

C. *Ethics Board.*

1. *Ethics Board created.*

a. There is created an Ethics Board for the purpose of insuring the proper implementation of the conduct of ethics, determining violations of this Code and recommending appropriate penalties. The Board shall operate as a Board only during the review of a specific complaint.

b. The Board shall be composed of three (3) citizen members at large who are appointed by the Mayor and confirmed by a majority vote of the City Council.

c. The initial Board shall be appointed for the following term: one (1) Board member shall be appointed for a three (3) year term, one (1) Board member for a two (2) year term and one (1) Board member for a one (1) year term. Thereafter, Board members shall be appointed for two (2) year terms.

d. *Removal.* Board members may be removed from office by the City Council for cause. Absence from three (3) consecutive meetings of the Board shall be deemed a resignation of the absent Board member and said Board position shall be deemed vacant by the Board and a new Board member appointed by the Mayor and confirmed by a majority vote of the City Council.

2. *Board authority/duties.* The Board shall:

a. Adopt, amend and rescind rules and regulations necessary to carry out the provisions of this Section and govern the conduct of the Board. The Board may authorize investigations and hold hearings in accordance with such administrative rules and proceedings as may be adopted by it in furtherance of its purposes;

b. Make expenditures in accordance with the annual budget adopted by the City Council and utilize the services of the City Attorney as the Board

may deem necessary or advisable for assistance in carrying out its duties;

c. Make recommendations to the City Council for amendments to this Section and such other legislation affecting the subject matter of this Section as the Board may deem necessary or desirable.

3. *Complaints and investigations.*

a. Any person may file a complaint alleging a violation of this Code. If such complaint is filed by a member of the Ethics Board, he or she is then disqualified from participating in any proceeding that may arise from the complaint.

b. The complaint shall be in writing and shall be signed by the complainant. The written complaint shall state the nature of the alleged violation(s), the date(s), time and place of each occurrence, and the name of the person(s) charged with the violation(s). The complaint shall be filed with the Board that shall provide a copy to the person charged with the violation(s). The complaint shall provide the Board with all available documentation or other evidence to demonstrate a reason for believing that a violation has occurred.

c. Within thirty (30) days after receipt of a complaint, the Ethics Board shall conduct a preliminary investigation.

d. If the Ethics Board determines, after preliminary investigation, that there are no reasonable grounds to believe that a violation has occurred, the Ethics Board shall dismiss the complaint. If the complaint is dismissed, it shall be done in writing, setting forth the facts and the provisions of this Section upon which the dismissal is based, and shall provide a copy of the written dismissal to the complainant, to the official charged with the violation and to the City Council members.

e. If, after a preliminary investigation, the complaint is not dismissed, the Ethics Board shall set the matter for hearing within thirty (30) days.

4. *Conduct of hearings — oath — subpoenas.*

a. *Hearings.*

(1) Within thirty (30) days from the date a complaint is set by the Ethics Board for hearing, the Board shall hold a hearing and issue a written determination stating whether the Code has been violated and setting forth the facts and the provisions of law upon which this determination is based. A copy of said determination shall be delivered to the complainant, to the official charged with the violation and to the City Council members.

(2) All hearings that are held to determine whether the provisions of this Section have been violated shall be conducted in conformance

with Ethics Board rules and regulations except as otherwise provided in this Section.

b. *Oaths.* In the performance of the duties imposed upon the Board by this Code, the Chairperson shall have the power, and is authorized, to administer oaths and affirmations and examine witnesses.

c. The Board or the Chairperson thereof may request that the City Council issue administrative subpoenas to compel the attendance of persons, and the production of documents, papers, books, accounts, letters and records.

d. *Counsel.* Any person summoned to appear before the Board to give evidence shall have the right to be represented by counsel, at his or her expense.

5. *Decisions — violations.*

a. If the Board determines that a City Official has violated the provision of this Code, the Board may recommend to the City Council that the official be subject to disciplinary action. In addition to any other penalty herein or otherwise provided by law, a violation shall be cause for suspension, discharge or removal of office or such other disciplinary action as may, by the appropriate City authority, be deemed necessary and proper, and consistent with the City Charter, Code and/or State law. A written report of the disciplinary action taken as a result of the Board's recommendation shall be made by the appropriate City authority to the Board within fourteen (14) calendar days after receipt of the Board's recommendation.

b. Upon receipt of the written report of the disciplinary action taken, or in the event no report is received, the Board shall review such matter and make such further recommendations as may be appropriate.

D. *Penalties.* Violation of a provision of this Section is an infraction. Any person who knowingly violates any provision of this Section shall be punished by a fine not to exceed five hundred dollars ($500.00).

**Section 105.110. Resignations.** [Code 1962 §2-20; CC 1979 §2-24]

Resignations of Councilmen shall be in writing, and addressed to the Mayor.

**Section 105.120. Order of Business.** [8] [Code 1962 §2-21; CC 1979 §2-25; Ord. No. 907 §1, 9-16-1975]

A. *Regular Meetings.* After the minutes of the preceding meeting shall have been read and approved, the business of regular meetings shall be disposed of in the following order:

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8. **Charter Reference — Authority to establish order of business, §2.15.**

1. Visitors recognized for the purpose of stating the subject of business before the Council.

2. Unfinished business.

3. Reading and hearing petitions and other communications.

4. Introduction of new ordinances.

5. Introduction of new resolutions.

6. New business.

7. Visitors' business.

8. Reports of City Officers.

9. Allowance of accounts and claims.

B. *Special Meetings.* At special meetings the order of business shall be as follows:

1. Message or statement from the Mayor as to the cause of convening the Council in special session.

2. Consideration and disposition of the business mentioned in the Mayor's message or statement.

3. Motion to adjourn.

C. *Communications From Mayor.* Communications from the Mayor may be read at any time, but no business shall be taken up or considered until the class to which it belongs shall be declared in order.

**Section 105.130. Powers and Duties Generally.** [9] [Code 1962 §2-17; CC 1979 §2-26]

A. Except as otherwise provided by this Chapter, the Council of the City shall have all of the powers not denied by the Constitution or Statutes of the State or the City Charter.

B. It shall be the duty of the City Council to pass all ordinances and other measures conducive to the welfare of the City and to the proper carrying out of the provisions of law. It shall appoint a suitable person not a member of the Council to be the administrative head of the City Government whose official Title shall be "City Manager." The Council shall also provide for all offices and positions in addition to those specified by this Article which may become necessary for the proper carrying on of the work of the City, and shall fix the salary and compensation of all Officers and employees of the City not herein provided for. All Officers of the City shall be paid in equal monthly installments for their services and all employees of the City shall be paid monthly or at such shorter periods as the Council shall determine. The creation of all offices and salaries attached thereto, which may be provided for by the Council shall be by ordinance, and shall be for an indefinite term. The Council

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9. **Charter Reference — Council's powers, §1.03.**

shall also provide office rooms at the City Hall or at some other convenient and suitable place in the City for the transaction of the business of the City and for the convenience of its Officers.

**Section 105.140. Appointment of Certain Officers.** [Code 1962 §2-18; CC 1979 §2-27; Ord. No. 556 §2, 8-20-1963; Ord. No. 92-48 §§1, 2, 10-20-1992]

The Council shall appoint a City Manager, a City Clerk, a City Treasurer and a City Attorney. Once appointed, the Officers so appointed shall continue to serve at the pleasure of the Council. The Council shall evaluate the Officers so appointed at the first (1st) regularly scheduled Council meeting in September, or whenever the Council deems appropriate.

**Section 105.150. Bills — Title.** [Code 1962 §2-22; CC 1979 §2-28]

The title of every bill shall indicate the purpose or objects sought to be accomplished thereby.

**Section 105.160. Bills — Reconsideration.** [Code 1962 §2-23; CC 1979 §2-29]

When a bill is put upon its final passage and, failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the Council proceeds to any other business.

# Chapter 110

# OFFICERS AND EMPLOYEES

## ARTICLE I
## Generally [1]

**Section 110.010. Qualifications Generally.** [2] [Code 1962 §2-1; CC 1979 §2-41]

All Officers elected or appointed to offices under the City Government shall be qualified voters under the laws and Constitution of this State and shall be residents of the City, except that, when approved by the Council, the Manager, Clerk, Treasurer, Municipal Judge, Attorney and Chief of Police may reside outside the City. No person shall be elected or appointed to any such office who shall at the time be in arrears for unpaid City taxes, or forfeiture or defalcation in office.

**Section 110.020. Oath of Office and Official Bonds Generally.** [Code 1962 §2-2; CC 1979 §2-42]

Every Officer of the City and his/her assistants, and every Councilman, 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; that he/she will support the Constitution of the United States, and of this state, the provisions of all laws of this State affecting this City, the provisions of this Code and other ordinances of this City, and faithfully demean himself/herself in office; which official oath or affirmation shall be filed with the City Clerk. Every Officer of the City, when required by law, shall, within fifteen (15) days of 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 sureties as shall be designated by this Code or by ordinance, conditioned for the faithful performance of his/her duty, and that he/she will pay over all monies belonging to the City, as provided by law, that may come into his/her hands. If any person elected or appointed to any office shall fail to take and subscribe such oath or affirmation, or to give bond as herein required, his/her office shall be deemed vacant. For any breach of condition of any such bond, suit may be instituted thereon by the City, or by any person in the name of the City for the use of such person.

**Section 110.030. Corrupt Allowances of Claims.** [Code 1962 §2-3; CC 1979 §2-43]

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1. **Cross References — Golf course committee, ch. 130, art. II; municipal court, ch. 135; airport planning commission, ch. 145, art. II; police department, ch. 200; fire department, ch. 205; mutilation of public records, §215.360; emergency management, ch. 240; administration and enforcement of motor vehicle traffic regulations, Title III; planning and zoning commission, ch. 400; electrical inspector, ch. 505, art. II; street superintendent, §535.010.**

2. **Charter Reference — Qualifications, §§3.01, 4.09.**

Any member of the City Council, or any other Officer of the City who shall, in an official capacity, or under color of his/her office, knowingly, willfully or corruptly vote or assent to or report in favor of or allow and certify for allowance any claim or demand against the City, which claim or demand shall be on account of or under color of a contract or agreement not authorized by law, the provisions of this Code or other ordinances of the City, shall be deemed guilty of a misdemeanor.

**Section 110.040. Neglect of Duty, Etc.** [Code 1962 §2-4; CC 1979 §2-44]

Any Officer of the City who shall fail, neglect or refuse to personally devote his/her time to the duties of his/her office, or who shall be guilty of any wilful or corrupt violation or neglect of any official duty enjoined upon him/her by this Code or other ordinances of the City or the laws of the State, or who shall be intoxicated in the performance of any official act or duties, or who shall be so intoxicated as to be incapacitated to perform any official act or duty at the time and in the manner required by him/her in the discharge of the duties of his/her office, shall be subject and liable to suspension or removal from office for cause.

**Section 110.050. Suspension — Presentation of Charges, Hearing, Etc.** [Code 1962 §2-5; CC 1979 §2-45]

Suspension of Officers elected by the voters or appointed by the Council shall be effected by an order filed by the Mayor in the office of the City Clerk accompanied by a statement of charges upon which the same is founded, a copy of which shall be forthwith made by the Clerk and delivered to the Chief of Police who shall forthwith deliver the same to the Officer suspended. Such charges shall be presented before the Council at its first (1st) meeting after such charges are made, and the Council shall, without unnecessary delay, proceed to investigate such charges in such manner as it may determine, and at such hearing the accused or suspended Officer shall be entitled to be heard by himself/herself and his/her counsel in his/her defense, and the City Attorney or person acting as such shall attend the hearing and act in behalf of the City. At such hearing the Council shall meet and proceed according to such rules as it may adopt, to hear evidence in favor and against such suspended Officer, and, after all evidence has been heard, the Council shall, within three (3) days, notify the suspended Officer of their decision in the matter. The City Council shall have authority to issue subpoenas for witnesses on behalf of the City and the accused shall have authority to issue subpoenas for witnesses in his/her behalf.

**Section 110.060. Interest of Officers and Employees in City Contracts, Etc. — Obtaining Free Services, Etc.** [Code 1962 §2-6; CC 1979 §2-46; Ord. No. 253-2006 §1, 7-18-2006]

A. No officer or employee elected or appointed in the City shall be interested directly or indirectly in any contract or job for work or materials or the profits in any contract or job or services to be furnished or performed for the City unless and until each such contract, job or service has been subjected to the City's fiscal bidding process, is found to be the lowest received and said interested party has no association with the passage or acceptance of said contract, job or service; and no such officer or employee shall be interested directly or indirectly in any contract or job for work or material or the profits thereof or services to be furnished or

performed for any person operating interurban railway, gas works, electric light or power plant, telegraph line, telephone exchange or any other public utility which is to be supplied, furnished or performed for the City unless and until each such contract, job or service has been subjected to the City's fiscal policy as it relates to the franchise process and said interested party has no association with the passage or acceptance of said contract, job or service. No such officer or employee shall accept or receive, directly or indirectly, from any person operating within the territorial limits of the City any interurban railway, gas works, waterworks, electric light or power plant, telephone exchange or telegraph line or other business using or operating under a public franchise any monetary fund, frank, free ticket or free service or accept or receive, directly or indirectly, from any such person any other service upon terms more favorable than is granted to the public generally. Any violation of the Section and every such contract or agreement shall be void.

B. Any officer or employee elected or appointed in the City who profits directly or indirectly in any contract, job or service shall make full disclosure in accordance with standards and mandates of the State of Missouri or its designee.

**Section 110.070. Administration of Oaths, Etc. — Generally.** [Code 1962 §2-7; CC 1979 §2-47]

A. The Mayor, or in his/her absence the Chairman Pro Tem of the City Council, the Police Judge, the City Clerk and the City Assessor, are hereby authorized and empowered to administer oaths and affirmations in the following cases:

1. *Mayor, etc.* The Mayor or Chairman Pro Tem of the City Council, to witnesses or other persons touching any subject under consideration by the Council in which the interest of the City is involved.

2. *Municipal Judge.* The Municipal Judge, to witnesses, jurors or other persons relating to any trial or other proceedings within the jurisdiction of his/her Court or to any elective or appointive officer to his/her official oath.

3. *City Clerk.* The City Clerk, to any person certifying to any demand or claim against the City, touching the correctness of the same, or any elective or appointive Officer to his/her official oath.

**Section 110.080. Procedure to Disclose Potential Conflicts of Interest and Substantial Interests.** [CC 1979 §2-48; Ord. No. 93-35 §§1 — 5, 9-7-1993; Ord. No. 94-23 §§1 — 4, 8-16-1994; Ord. No. 223-2005 §§1 — 5, 8-16-2005; Ord. No. 306-2007 §§1 — 5, 7, 9-4-2007; Ord. No. 413-2009 §§1 — 5, 9-1-2009; Ord. No. 436-2010 §§1 — 5, 8-17-2010; Ord. No. 509-2012 §§1 — 5, 8-7-2012]

A. *Declaration Of Policy.* The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these

goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the City.

B. *Conflicts Of Interest.* Any member of the City Council who has a substantial personal or private interest, as defined by State law, in any bill shall disclose on the records of the City Council the nature of his interest and shall disqualify himself from voting on any matters relating to this interest.

C. *Disclosure Reports.* Each elected official, the Chief Administrative Officer, the Chief Purchasing Officer and the general counsel (if employed full-time) shall disclose the following information by May first (1st), if any such transactions were engaged in 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; and

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 and the Chief Purchasing Officer also shall disclose by May first (1st) for the previous calendar year the following information:

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

   b. The name and address of each sole proprietorship that he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or 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.

D. *Filing Of Reports.* The reports, which are on file in the City offices, shall be filed with the City Clerk and with the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

E. *When Filed.* 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. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment;

2. Every other 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 City 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.

**Section 110.085. Code of Ethics for Employees and Council — Appointed Board and Commission Members.** [Ord. No. 446-2010 §1, 10-19-2010]

A. *Code Of Ethics Policy.* The Code of Ethics is intended to provide ethical guidelines for employees and Council-appointed Board and Commission members that are responsive to the public needs and preclude even the appearance of impropriety in the performance of their duties. All employees and Council-appointed Board and Commission members have an obligation to conduct their official duties in a manner that serves the public interest, upholds the public trust and protects the City's resources. To this end employees and Council-appointed Board and Commission members have a responsibility to:

1. Perform their duties to the very best of their abilities, treating the public and each other in a courteous manner that is fair and equitable, without regard to race, color, gender, age, religion, national origin, disability, political affiliation, or any other factor unrelated to the impartial conduct of City business.

2. Demonstrate integrity, honesty, and ethical behavior in the conduct of all City business.

3. Ensure that their personal interests do not come into conflict with their official duties, resulting in a real conflict of interest or the appearance of a conflict of interest. This shall apply to employees and Council-appointed Board and

Commission members when dealing with vendors, customers, and other individuals doing business or seeking to do business with the City.

4. Ensure that they do not accept any gift, favor or thing of value that may tend to influence the discharge of their duties, or grant any improper favor, service or thing of value in the discharge of their duties. This is a zero tolerance policy. This shall include the acceptance of a gift from a person who has interests that may be substantially affected by the performance of the employee's official duties under circumstances where timing and nature of the gift would cause a reasonable person to question the employee's impartiality in the matter affecting the donor. This prohibition shall not apply to the acceptance of any gift, favor or thing of value that benefits the City and/or the community as a whole.

5. Ensure that information concerning the property, government or affairs of the City is held confidential, disclosed only with proper legal authorization, and never to advance the financial or other special interest of themselves or others.

6. Ensure that all City resources, including City funds, equipment, vehicles and other property, are used in strict compliance with City policies and solely for the benefit of the City. To ensure that City employees do not receive unauthorized or conflicting directives, Board and Commission members shall not give direction to City employees and departments except as directed by the City Manager.

7. Avoid any behavior that could fall under the definitions of misconduct in Section 61 "Discipline" of the City's Handbook.

B. Board and Commission members, department heads and supervisors must take a leadership role in the promotion and execution of the Code of Ethics. All City Officials and employees have a responsibility to place cooperation, trust, and respect at the head of all they do.

**Section 110.090. Certain Relatives Declared Ineligible for City Employment or to Hold City Office — Exception.** [3] [CC 1979 §2-2; Ord. No. 564 §§1, 2, 1-21-1964]

A. No person shall be appointed or hired by the City as a City employee or Officer who, at the time of his/her appointment, is a relative of any City Official or employee by blood or marriage, within the fourth degree.

B. Provisions of this Section shall not apply to any City employee or Officer who was in the employ of the City on January 21, 1964.

**Section 110.100. Forfeiture-of-Office Rules for City Board and Commission Members.** [CC 1979 §2-3; Ord. No. 1124 §§1 — 3, 11-17-1981]

A. The office of any member of any Board or Commission of the City of Neosho, Missouri, shall be forfeited if the member:

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[3]. **Cross Reference — For similar provisions, see §115.080.**

1. Fails to attend three (3) consecutive regular meetings of the Board or Commission without being excused by the Board or Commission; or

2. Fails to attend fifty percent (50%) of the meetings of the Board or Commission held during the preceding six (6) months.

B. It shall be the duty and responsibility of the Chairman of the Board or Commission to inform the City Council at the following regular City Council meeting of said non-attendance.

C. The Council may remove the member from the respective Board or Commission by adopting a resolution of removal by affirmative vote of a majority of all its members.

## ARTICLE II
## **City Manager** [4]

**Section 110.110. Residency Requirement — To Be Full-Time Employee.** [Code 1962 §2-24; CC 1979 §2-54]

The City Manager shall be a resident of the City at the time of his/her appointment, except when approved by the Council, and shall devote his/her entire time to the duties of his/her office.

**Section 110.120. To Be Administrative Head of City — Term of Office.** [Code 1962 §2-25; CC 1979 §2-55; Ord. No. 92-48 §§1, 2, 10-20-1992]

The City Manager shall be the administrative head of the Government subject to the direction and supervision of the Council and shall hold office at the pleasure of the Council.

**Section 110.130. Appointment and Discharge of Certain Officers and Employees.** [Code 1962 §2-26; CC 1979 §2-56]

All Officers and employees of the City, other than those provided for by Section 105.140, shall be appointed and discharged by the City Manager; provided, that the Council shall have power to make rules and regulations governing the same.

**Section 110.140. Duties Generally.** [Code 1962 §2-27; CC 1979 §2-57]

A. It shall be the duty of the City Manager:

1. To make all appointments to offices and positions specified in Section 110.130.

2. To see that the laws of the State, the provisions of this Code and other City ordinances are enforced.

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4. **Charter Reference — Manager, §§3.01 — 3.05.**

3. To exercise control of all departments and divisions that may be created by the Council.

4. To see that all terms and conditions, imposed in favor of the City or its inhabitants in any public utility franchises are faithfully kept and performed, and upon information of any violation thereof to take such steps as will be necessary to stop or prevent the further violation of the same.

5. To attend all meetings of the Council with the privilege of taking part in the discussion but having no vote.

6. To recommend to the Council for adopting such measures as he/she may deem necessary or expedient.

7. To prepare and submit the annual budget and to keep the City Council fully advised as to the financial conditions and needs of the City and to perform such other duties as may be prescribed by this Article or be required of him/her by any provision of this Code or other ordinance or resolution of the Council.

**Section 110.150. Compensation.** [5] [Code 1962 §2-28; CC 1979 §2-58]

The City Manager shall receive an adequate salary to be fixed by the Council which shall not be diminished during the service of an incumbent without his/her written consent.

**Section 110.160. Oath and Bond.** [Code 1962 §2-29; CC 1979 §2-59]

Before entering upon the duties of his/her office, the City Manager shall take the official oath required by law and shall execute a bond in favor of the City for the faithful performance of his/her duties which sum shall be determined by the City Council.

**Section 110.170. Quarterly Report.** [Code 1962 §2-30; CC 1979 §2-60; Ord. No. 884 §1, 11-5-1974]

Every three (3) months the City Manager shall prepare and file with the Council a quarterly report showing receipts and expenditures of the City and a summary of the business transacted for the quarter preceding. Such report shall be published in pamphlet form and copies thereof shall be furnished to the City library, the various newspapers of the City and the citizens applying therefor at the office of the City Clerk.

**Section 110.180. Assistant City Manager.** [CC 1979 §2-61; Ord. No. 847 §1, 2-17-1973]

There is hereby created the office of Assistant City Manager, such office to continue until further action of the City Council.

## ARTICLE III
## **Mayor** [6]

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5. **Charter Reference — Compensation, §3.02.**

**Section 110.190. Selection.** [Code 1962 §2-31; CC 1979 §2-68]

The City Council shall at the time of organizing elect one (1) of its members as Mayor and another as Mayor Pro Tem, for a term of one (1) year. In case the members of the City Council, within five (5) days after the time herein fixed for their organization meeting, are unable to agree upon a Mayor or a Mayor Pro Tem or both, as the occasion may require, he/she shall be selected from all the members of such Council by lot and a record thereof shall be made upon the journal of the Council.

**Section 110.200. Powers and Duties — Generally.** [Code 1962 §2-32; CC 1979 §2-69]

A. The Mayor shall be recognized as the official head of the City by the Courts for the purpose of service of civil process, by the Governor for the purpose of military law, and for all ceremonial purposes.

B. The Mayor shall preside at all meetings of the Council and perform such other duties consistent with his/her office as may be imposed by it; and he/she shall have a voice and vote in its proceedings, but no veto.

**Section 110.210. Powers and Duties — Duties as Presiding Officer of Council.** [Code 1962 §2-33; CC 1979 §2-70]

At the hour designated for Council meetings the Mayor shall call the Council to order and after roll call, if a quorum be present, he/she shall cause the minutes of the last preceding meeting to be read for correction and approval. He/she shall preserve order and decorum and decide all questions of order, subject to an appeal to the Council. He/she shall appoint all committees, the appointment or election of which is not otherwise provided for by this Code or by ordinance.

**Section 110.220. Powers and Duties — Duty to Sign Commissions, Etc. — Approval of Bonds.** [Code 1962 §2-34; CC 1979 §2-71]

The Mayor shall sign the commissions and appointments of all Officers elected or appointed, except those Officers appointed by the City Manager, and shall approve all official bonds.

**Section 110.230. Absence or Disability.** [Code 1962 §2-35; CC 1979 §2-72]

If the Mayor shall be temporarily absent from the City, or become temporarily disabled from any cause, his/her duties shall be performed during such absence or disability by the Chairman Pro Tem. In the absence of both the Mayor and Chairman Pro Tem, the other members of the City Council shall elect one of their number to perform the duties of Mayor.

ARTICLE IV

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6. **Charter Reference — Mayor, §2.05.**

## City Attorney [7]

**Section 110.240. Qualifications.** [Code 1962 §2-37; CC 1979 §2-80]

No person shall be eligible to the office of City Attorney who is not a qualified voter of the State, and a resident of the City and who is not learned in the law and a licensed and practicing attorney under the laws of the State at the time of his/her appointment. He/she shall at the time of his/her appointment be over the age of twenty-one (21) years.

**Section 110.250. Duties — Generally.** [Code 1962 §2-38; CC 1979 §2-81]

The City Attorney shall draft all contracts relating to the business of the City. He/she shall draft all legal forms to be used in the business of the City, and shall give his/her opinion without fee, in matters of law in which the City is interested, and shall give such opinion in writing when demanded by the City Manager, the Mayor, or the City Council, and, in addition thereto, shall perform such duties as shall be prescribed by ordinance from time to time. He/she shall also, without fee, give his/her opinion to any other Officer of the City respecting the duties of such Officer, or respecting questions of law in which the City is or may be interested, and such opinion shall be in writing when so demanded by the City Council.

**Section 110.260. Duties — to Prosecute Suits and Defend Actions.** [Code 1962 §2-39; CC 1979 §2-82]

A. It shall be the duty of the City Attorney to prosecute all violations of the provisions of this Code or other City ordinances in the Municipal Court; to prosecute and defend in behalf of the City all actions by or against the City begun in any Court of law or equity and to take appeals to the appropriate Appellate Courts in such cases as he/she shall deem the interest of the City requires such action. In any complaint made before the Municipal Judge, except when made by an Officer of the City in the discharge of his/her official duty, the City Attorney may, if in his/her judgment the interests of the City demand it, require the complainants or party at whose instance the complaint is made, to give security for costs to be approved by the Municipal Judge, before proceeding further with such cause.

B. The City Attorney shall represent the City in all cases in the Magistrate Courts and in the Circuit Court whether brought originally or by appeal from the inferior Courts; and in the proper Court of appeals in the State; and in the Supreme Court of the State. In all changes of venue that may be taken to some County other than Newton, it shall be his/her duty to follow and prosecute or defend as the case may be; and for attending all such cases in addition to the salary otherwise allowed, he/she shall receive his/her actual expenses for transportation and lodging.

**Section 110.270. Duties — Attendance of Council Meetings — Advising Manager and Council.** [Code 1962 §2-42; CC 1979 §2-83; Ord. No. 774 §1, 1-5-1971]

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7. **Charter References — Manager to appoint officers, §3.03(2); city attorney generally, §4.08. Cross Reference — Duties of city attorney as regards dangerous buildings, §525.070.**

The City Attorney shall attend regular and special meetings of the Council when his/her presence is requested by the City Manager or Mayor. Such attendance shall be without any additional fee over and above his/her regular salary. The City Attorney shall advise the Council or City Manager on any question of law that may arise.

**Section 110.280. Duties — Condemnation Proceedings.** [Code 1962 §2-41; CC 1979 §2-84]

In all proceedings for the condemnation of private property for public use, it shall be the duty of the City Attorney to exercise a supervision over the same, prepare all legal papers connected therewith, and see that all notices, returns of services thereon, verdicts of juries and all other proceedings are in proper form, and in accordance with the laws of the State governing this City, the provisions of this Code and other ordinances of the City.

**Section 110.290. Duties — Report of Pending Suits.** [Code 1962 §2-40; CC 1979 §2-85]

The City Attorney shall report to the City Council, in writing, the condition of all suits pending in any Court, at the next meeting of the Council succeeding the adjournment of the Court in which the same is pending.

**Section 110.300. Duties — To Make Affidavits on Behalf of City.** [Code 1962 §19-23; CC 1979 §2-86; Ord. No. 973 §1, 10-4-1977]

When an affidavit on the part of the City is required in any cause which has originated in the Municipal Court, it shall be made by the City Attorney, or in case of his/her inability, by any person to whom the facts are known.

**Section 110.310. Notices Directed to the City To Be Served on City Attorney.** [Code 1962 §19-22; CC 1979 §2-87; Ord. No. 973 §1, 10-4-1977]

All processes and notices necessary to be served on the City in any suit before the Municipal Judge shall be served on the City Attorney, or any person acting in his/her stead.

**Section 110.320. Interest in Proceedings Involving City.** [Code 1962 §2-43; CC 1979 §2-88]

If the City Attorney shall be interested in or a party to any suit or proceeding involving the City, he/she may withdraw, and the City Manager may appoint a temporary Acting City Attorney to represent the City, and such Acting City Attorney shall be entitled to receive a reasonable fee for his/her services.

**Section 110.330. Additional Counsel.** [Code 1962 §2-44; CC 1979 §2-89]

Upon the recommendation of the City Attorney, the City Manager may appoint additional counsel who shall be entitled to receive a reasonable fee for his/her services.

**Section 110.340. Substitute.** [Code 1962 §2-45; CC 1979 §2-90]

In case of sickness or absence from the City or other temporary inability of the City Attorney to discharge the duties of his/her office, he/she may, with the approval of the

City Manager and at his/her own expense, appoint some competent attorney to act in his/her stead. If such appointment is not made as aforesaid, then the City Manager shall appoint some competent attorney to represent the City, at the cost of the regular City Attorney.

## ARTICLE V
## **City Clerk** [8]

**Section 110.350. Appointment.** [Code 1962 §2-46; CC 1979 §2-96; Ord. No. 556 §1, 8-20-1963]

It shall be the duty of the City Council to appoint some suitable and competent person to the office of City Clerk, who shall discharge such duties as are prescribed by this Article.

**Section 110.360. Term of Office.** [Code 1962 §2-47; CC 1979 §2-97]

The person elected to the office of City Clerk shall be a qualified voter of the City and shall hold his/her office at the pleasure of the Council.

**Section 110.370. Duties — Generally.** [Code 1962 §2-48; CC 1979 §2-98]

A. The duties of the City Clerk shall be as follows:

1. *Record of minutes of council meetings.* The City Clerk shall keep an accurate record of the minutes of all regular and special meetings of the City Council, and shall report same at the proper meeting.

2. *Attestation of ordinances, etc.* The City Clerk shall attest all ordinances and resolutions which the Council may from time to time adopt.

3. *Acknowledgments generally.* Upon proper request, the City Clerk shall acknowledge the oath of office of any City Officer or employee.

4. *Quarterly financial statement pamphlets.* The City Clerk shall supply without charge a copy of the pamphlet containing the quarterly financial statement of the City, which the City Council shall have caused the City Manager to prepare and file with the Council, to any citizen applying for such pamphlet at the office of the City Clerk.

**Section 110.380. Filing and Publication of Ordinances, Etc.** [Code 1962 §2-50; CC 1979 §2-99]

The original roll of all ordinances and resolutions passed by the Council shall be filed in the office of the City Clerk, and when the Council shall order the publication of an ordinance, due proof of such publication by affidavit of the printer or publisher shall be procured by the City Clerk, and attached thereto or written and attached upon the face of the record of such ordinance. All ordinances passed by the City Council with additions

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8. **Charter Reference — City Clerk, §2.13.**

and amendments thereto, shall be plainly and neatly recorded by the City Clerk in a suitable book to be procured for that purpose.

**Section 110.390. To Be Custodian of Public Records, Etc.** [Code 1962 §2-51; CC 1979 §2-100]

The City Clerk shall have the custody of and shall safely keep the public records, the original rolls of ordinances and resolutions of the City Council, and such other records, documents and papers of a public nature as may be delivered into his/her custody.

**Section 110.400. Affixing City Seal; Attesting to, Etc., Documents, Etc.** [Code 1962 §2-52; CC 1979 §2-101]

The City Clerk shall affix the City Seal to all public instruments and official acts of the Mayor and Council which by law or ordinance are required to be so attested and he/she shall countersign the same. He/she shall affix the City Seal to and certify any record, document, copies of papers or ordinances that may be required for evidence in any State or federal Court by any individual, or that may be required for the use of any Officer of the City. He/she shall furnish to the City Attorney any record or document in his/her office necessary to be used in any proceeding to which the City is a party.

**Section 110.410. Preparation, Issuance, Etc., of Commissions, Certificates of Election, Etc.** [Code 1962 §2-53; CC 1979 §2-102]

The City Clerk shall prepare all certificates of election, commissions, appointments and other official documents required by this Code or by other City ordinance to be used, or which the Mayor in the discharge of his/her duty is required to issue. He/she shall countersign and affix the City Seal thereto and keep a record of all certificates of election, commissions, appointments and documents.

**Section 110.420. Indexing of Ordinances, Resolutions, Etc.** [9] [Code 1962 §2-54; CC 1979 §2-103]

The City Clerk shall properly index all records of ordinances, resolutions and other documents required by law, the provisions of this Code or other City ordinance to be recorded in his/her office.

**Section 110.430. Temporary City Clerk.** [Code 1962 §2-55; CC 1979 §2-104]

Whenever for any reason the City Clerk is unable to perform the duties of his/her office, the City Council may, by resolution, appoint a Temporary City Clerk, who shall have the power and perform all the duties of the regular Clerk, and shall receive the same salary for the time he/she so acts, but in no event shall both the regular and temporary Clerk receive pay at the same time nor shall the regular Clerk receive any pay for the time he/she fails to perform the duties of his/her office as provided by this Article.

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9. **Cross Reference — Amendments to code of ordinances, §100.070.**

ARTICLE VI

## City Treasurer [10]

**Section 110.440. Appointment — Term of Office.** [Code 1962 §2-77; CC 1979 §2-110]

The City Treasurer shall be appointed by the City Council and shall hold office at the pleasure of the City Council.

**Section 110.450. Duties Generally.** [Code 1962 §2-78; CC 1979 §2-111; Ord. No. 1129 §2, 1-5-1982]

The City Treasurer shall receive and safely keep all monies of the City which come into his/her hands. He/she shall keep in a set of books provided for that purpose a full and accurate account of all monies received or disbursed by him/her on behalf of the City; specifying the date of receipt or disbursement, from whom received, to whom disbursed and upon what account received and 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 warrants paid into the Treasury describing such warrants by their date, number, name of the payee and amount, specifying the time of the receipt therefor, from whom received and on what account. He/she shall cancel all bonds, coupons, warrants and other evidence of debt against the City whenever paid by him, by writing or stamping across the face thereof the words "Paid by the City Treasurer," with the date of payment written or stamped thereon. He/she shall issue duplicate receipts for all sums of money which may be paid into the Treasury, specifying in such receipts the date of payment and upon what account paid. One of the receipts shall be given to the person making the payment, and the other he/she shall file with the City Collector, who thereupon shall credit the person named in the receipt with the amount of his/her payment, and charge the Treasurer with the same. By the fifteenth (15th) working day of each month, he/she shall furnish the City Council with a written statement showing the balance in the Treasury of the preceding month, the amount received during the preceding month, the amount disbursed during the preceding month, and on what account disbursed, the balance remaining in the Treasury to the credit of each fund and constituting the general balance in the Treasury at the close of business on the day on which such statement is made. he/she shall receive and safely keep all warrants, bonds and obligations of the City entrusted to his/her care, and shall dispose of the same only upon proper authority from the Council, or as provided by ordinance. he/she shall give information, in writing, to the Council whenever required, upon any subject relating to his/her office or the fiscal affairs of the City, and shall perform all such other duties as may be required of him/her by law, the provisions of this Code, or by any other ordinance.

**Section 110.460. Annual Report.** [Code 1962 §2-79; CC 1979 §2-112]

The City Treasurer shall report to the Council at its first (1st) regular meeting in July of each year the amount of receipts and disbursements of the Treasurer during the preceding year, the balance remaining to the credit of each fund and constituting the general balance

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10. **Charter Reference — Treasurer, §2.12.**

in the Treasury on the first (1st) day of July, also the amount of bonds maturing in the succeeding year for the redemption of which provisions must be made, and the amount of money required to pay interest falling due on the indebtedness of the City during such year.

**Section 110.470. Unauthorized Use of Money, Etc.** [Code 1962 §2-80; CC 1979 §2-113]

The City Treasurer is hereby expressly prohibited from using, either directly or indirectly, for his/her own benefit or that of any other person, any money, warrants or obligations of the City in his/her custody and keeping.

## ARTICLE VII
## City Finance Director [11]

**Section 110.480. Appointment — Term.** [CC 1979 §2-119; Ord. No. 1062 §2, 12-4-1979]

The City Finance Director shall be appointed by the City Manager and shall hold office at the pleasure of the City Manager.

**Section 110.490. Oath and Bond.** [CC 1979 §2-120; Ord. No. 1062 §2, 12-4-1979]

Before entering upon the discharge of his/her duties, the City Finance Director shall take the proper oath of office and in addition shall execute to the City a bond with corporate sureties in the sum of twenty-five thousand dollars ($25,000.00). The bond when executed shall be approved by the City Manager and Mayor and safely filed and recorded.

**Section 110.500. Duties Generally.** [CC 1979 §2-121; Ord. No. 1062 §2, 12-4-1979]

The City Finance Director shall be the general accountant of the City and keeper of all public account books, accounts, vouchers, documents, bonds and coupons paid or redeemed, and all papers relating to accounts and contracts of the City, and its revenues, debts and fiscal affairs, not required by law, this Code or other City ordinance to be placed in some other office or kept by some other person. He/she shall keep in a set of books provided for that purpose accurate accounts between the City and all Officers charged with the collection, custody or disbursement of public monies and enter thereupon all receipts and payments, from what sources derived and on what accounts paid. He/she shall keep a complete record of all branches of the City revenue, opening an account with every appropriation of fund which by law or ordinance, is made a separate fund, crediting the same with all monies paid into the City Treasury on account thereof, and charging such appropriation or fund with all warrants drawn thereof. The City Finance Director shall keep a register of all warrants drawn upon the City Treasurer specifying the number, date, to whom payable, on what fund or appropriation drawn, and the amount of each warrant. He/she shall keep a record of all bonds and obligations of the City, date of issue, for what purpose issued, rate of interest, time when principal and interest become due, amount of principal, to whom payable and the registered number of

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11. **Charter Reference — Creation of offices, §4.01.**

each bond and coupon. The City Finance Director shall be responsible for the payroll and related payroll records. He/she shall be responsible for the processing of all purchase orders, claims and accounts payable items in general, the processing of expenditures for payment, maintaining all of the accounting books, preparation of the financial statements, cash reports and budget reports.

**Section 110.510. To Attend Council Meetings.** [CC 1979 §2-122; Ord. No. 1062 §2, 12-4-1979]

The City Finance Director shall be present at all regular meetings of the Council.

## ARTICLE VIII
## City Collector [12]

**Section 110.520. Appointment — Term.** [CC 1979 §2-123; Ord. No. 1062 §2, 12-4-1979]

The City Collector shall be appointed by the City Manager and shall hold office at the pleasure of the City Manager.

**Section 110.530. Oath and Bond.** [CC 1979 §2-124; Ord. No. 1062 §2, 12-4-1979]

Before entering upon the discharge of his/her duties, the City Collector shall take the proper oath of office and in addition shall execute to the City a bond with corporate sureties in the sum of twenty-five thousand dollars ($25,000.00). The bond when executed shall be approved by the City Manager and Mayor and safely filed and recorded.

**Section 110.540. Duties Generally.** [CC 1979 §2-125; Ord. No. 1062 §2, 12-4-1979]

The City Collector shall be responsible for the collection of all monies coming into the City, including water fees, sanitation fees, sewer charges and taxes. The City Collector shall be responsible for the processing of the water billing and the maintenance of the customer accounts receivable records. He/she shall be responsible for the preparation of the tax bills and the maintenance of the related taxes receivable. The City Collector shall be responsible for the maintenance of the meter deposit records. The City Collector shall prepare blank licenses for all purposes for which licenses are required to be issued and when required shall cause the same to be issued, signing his/her name and affixing the Seal of the City thereto, and the amount of license fee thereon.

**Section 110.550. To Attend Council Meetings.** [CC 1979 §2-126; Ord. No. 1062 §2, 12-4-1979]

The City Collector shall be present at all regular meetings of the Council.

## ARTICLE IX
## Purchasing Agent [13]

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12. **Charter Reference — Creation of offices, §4.01.**

13. **Charter Reference — Council's authority to create offices, §4.01.**

**Section 110.560. Office Established.** [Code 1962 §26-1; CC 1979 §2-128]

There is hereby established for the City the office of City Purchasing Agent.

**Section 110.570. City Manager To Be Purchasing Agent.** [14] [Code 1962 §26-2; CC 1979 §2-129]

The City Purchasing Agent shall be the City Manager.

**Section 110.580. Powers and Duties Generally.** [Code 1962 §26-3; CC 1979 §2-130]

The City Purchasing Agent shall have the power and it shall be his/her duty to purchase all supplies and contractual services (including telephone, gas and electric service and the rental, repair and maintenance of equipment, machinery and other City-owned personal property) needed by any department, agency, board or commission which derives its support wholly or in part from the City (but excluding the City Library Board and the City Free Public Recreation Board) in accordance with the purchasing procedures prescribed by this Chapter and in accordance with such rules and regulations as may be prescribed by the City Council and the City Manager.

**Section 110.590. Powers and Duties — Additional Duties Enumerated.** [Code 1962 §26-4; CC 1979 §2-131]

A. In addition to the authority conferred in Section 110.580 and in addition to any other powers and duties conferred by this Chapter, the City Purchasing Agent shall:

1. Discourage uniform bidding and endeavor to obtain open competition on all purchases.

2. Establish and amend all rules and regulations necessary to implement the provisions of this Chapter.

3. Prescribe and maintain such forms as he/she shall find reasonably necessary to the operation of this Chapter.

4. Declare vendors who default in their quotations irresponsible bidders and disqualify them from receiving any business from the City.

5. Prepare and distribute to the several departments of the City and the employees thereof a list of persons in default on the payments of taxes, licenses and other monies owing the City, and he/she may prohibit any purchase on behalf of the City from such persons during such time as they may remain in default.

ARTICLE X

**Personnel Director** [15]

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14. **Cross Reference — As to city manager generally, see §§110.110 — 110.180 of this Code.**

15. **Charter Reference — Creation of offices, §4.01.**

**Section 110.600. Office Created — Appointment, Etc.** [Code 1962 §2-81; CC 1979 §2-137]

There is hereby created the office of Personnel Director. The Personnel Director shall be appointed by the City Manager or may be the City Manager.

**Section 110.610. Powers Generally.** [Code 1962 §2-82; CC 1979 §2-138]

In order to carry out his/her duties, the Personnel Director shall be empowered to promulgate and enforce rules and regulations in accordance with and subordinate to the provisions of this Article and to prepare and prescribe the use of such forms as are necessary.

**Section 110.620. Duty to Recruit, Etc., Personnel.** [Code 1962 §2-83; CC 1979 §2-139]

It shall be the duty of the Personnel Director to recruit by suitable means qualified personnel for appointment to positions in the City Government. The Director shall accept applications which may be made by persons seeking employment and shall maintain a file of such applications.

**Section 110.630. Responsibility for Personnel Examination.** [Code 1962 §2-84; CC 1979 §2-140]

The Personnel Director shall be responsible for the selection, preparation, administration and scoring of such examinations as he/she may deem helpful in determining the relative fitness of applicants for employment in the City Government.

## ARTICLE XI
## Emergency Services Director

**Section 110.640. Office Created %%'entity-mdash'%% Appointment, Etc.** [CC 1979 §2-145; Ord. No. 91-9 §2-145, 3-5-1991]

There is hereby created the office of Emergency Services Director. The Emergency Services Director shall be appointed by the City Manager.

**Section 110.650. Powers Generally.** [CC 1979 §2-146; Ord. No. 91-9 §2-146, 3-5-1991]

In order to carry out his/her duties the Emergency Services Director shall have all the powers, duties and responsibilities of the Police Chief and the Fire Chief as those positions are defined by the Code of Ordinances of the City of Neosho, unless those offices are filled individually.

**Section 110.660. Duties.** [CC 1979 §2-147; Ord. No. 91-9 §2-147, 3-5-1991]

A. It shall be the duty of the Emergency Services Director to supervise and coordinate the Police and Fire Departments of the City of Neosho. He/she shall recommend suitable subordinates such as captains, lieutenants, and sergeants, to the City Manager. The City Manager may appoint these positions if he/she deems it in the best interest of the City.

B. The Emergency Services Director can delegate duties and authority to the subordinates as he/she deems advisable.

**Section 110.670. Salaries.** [CC 1979 §2-148; Ord. No. 91-9 §2-148, 3-5-1991]

The City Manager shall set the salaries of the Emergency Services Director and all subordinates such as captains, lieutenants and sergeants so long as the total amount of said salaries is within the limits of the budget approved by the City Council.

# Chapter 115

## PERSONNEL

Editor's Note — Ord. no. 352-2008 §1, adopted September 16, 2008, repealed ch. 115 "personnel" and set out new provisions which can be found on file in the city offices. Former ch. 115 derived from Code 1962 §§2-115 — 2-118; CC 1979 §§2-250 — 2-253; ord. no. 95-35 §§1 — 3, 6-6-1995; ord. no. 96-53 §1, 10-15-1996; ord. no. 97-16 §§1 — 2, 5-6-1997; ord. no. 145-2003 §1, 7-1-2003.

# Chapter 120

# FINANCES

## ARTICLE I
## Generally

**Section 120.010. Fiscal Year.** [Code 1962 §10-1; CC 1979 §2-202; Ord. No. 91-33 §§1, 2, 6-18-1991]

The Fiscal Year of the City shall commence on the first (1st) day of October and terminate on the thirtieth (30th) day of September in each year. The books, accounts and reports of Officers shall be made to conform thereto.

**Section 120.020. City Depositories.** [Code 1962 §10-2; CC 1979 §2-203]

The City Council shall designate the depositories for the various funds of the City as provided by State law.

**Section 120.030. Expenditures to Be Approved by City Council — Exceptions.** [1] [CC 1979 §2-203.1; Ord. No. 1054 §1, 11-6-1979]

There shall be no expense appropriation checks issued on behalf of the City of Neosho, unless said expense items are approved by the City Council or unless said items are paid from the petty cash account authorized in this Section.

**Section 120.040. Required Signatures on Checks Drawn on City Funds.** [Code 1962 §10-3; CC 1979 §2-204; Ord. No. 342-2008 §1, 6-20-2008]

A. All checks drawn on City funds shall require two (2) signatures.

B. The City Council shall authorize signatories of checks drawn on City funds by resolution.

**Section 120.050. (Reserved)** [2]

**Section 120.060. Appropriation Bills, Etc.** [Code 1962 §10-5; CC 1979 §2-206]

Every bill proposing to appropriate money shall clearly and distinctly specify the object, purpose or service rendered for which the appropriation is required to be made.

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1. **Cross Reference — Petty cash fund, §120.240 et seq.**

2. **Editor's Note — Ord. no. 342-2008 §2, adopted June 20, 2008, repealed section 120.050 "city treasurer to countersign city checks — signature by manager in absence of treasurer". Former section 120.050 derived from Code 1962 §10-4; CC 1979 §2-205.**

**Section 120.070. Periodic Reports.** [CC 1979 §2-207; Ord. No. 580 §§1 — 6, 9-1-1964]

A. The City Manager shall be responsible for preparing and filing with the City Council and City Clerk monthly financial reports of the City to include detailed revenue item accounts as shown in the annual budget, and to include expenditures by Department and character classification.

B. There shall be included in each annually published financial statement a full and complete list of the names, positions, wages, salaries, car and travel allowances of all persons in the employ of the City.

C. Copies of the periodic financial statements required by this Section shall be supplied to all Council members, the City Manager, the City Attorney, City and County libraries, and all interested parties, if requested.

D. A permanent and secure file of all periodic reports shall be kept at the City Hall for inspection by the general public at all times; provided however, the permanent file of such reports shall not be removed from the City Hall for any purpose.

E. The financial statements herein provided for shall be the responsibility of the City Manager, who shall certify the same to be correct.

**Section 120.080. (Reserved)** [3]

ARTICLE II
**Purchases and Sales**

**Section 120.090. Definition.** [CC 1979 §2-218; Ord. No. 86-24 §1, 10-21-1986]

As used in Sections 120.090 through 120.220 inclusive:

SUPPLIES — All items of tangible personal property except any such item offered for sale as surplus property by the State of Missouri. Neither shall such term include real property.

**Section 120.100. Unauthorized Purchases, Etc.** [4] [CC 1979 §2-219; Code 1962 §26-5]

Except as otherwise provided by this Article, it shall be unlawful for any City Officer or employee to purchase or order any supplies or make any contract within the purview of this Chapter other than through the office of the City Purchasing Agent and any purchase ordered contrary to the provisions hereof shall not be approved by the City and the City shall not be bound thereby.

**Section 120.110. Rebates, Etc.** [Code 1962 §26-6; CC 1979 §2-220]

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[3]. **Editor's Note — Ord. no. 99-20 §1, enacted June 15, 1999, repealed section 120.080: City's Responsibility For Recreation Department Accounting Practices, without provisions for replacement. Former said section derived from CC 1979 §2-208 and ord. no. 91-50 §§1 — 5, 12-17-1991. This section has been left reserved for the city's future use.**

[4]. **Cross Reference — Interest of officers and employees in city contracts, etc. §110.060.**

The City Purchasing Agent and every officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the City.

**Section 120.120. Purchases Exceeding Fifteen Hundred Dollars and Purchases Exceeding Five Thousand Dollars; Generally.** [Code 1962 §26-7; CC 1979 §2-221; Ord. No. 885 §1, 11-5-1974; Ord. No. 91-29 §2, 6-4-1991]

All purchases of supplies and contractual services exceeding fifteen hundred dollars ($1,500.00) shall, except as otherwise provided, be based on competitive bids; and all such purchases involving an amount greater than five thousand dollars ($5,000.00) shall be made only upon the authorization of the City Council; provided, that in the event the City Council has in a current budget authorized the purchase of supplies or services exceeding five thousand dollars ($5,000.00) to be paid for out of the General Revenue Fund of the City, the Purchasing Agent may purchase such authorized supplies or services without the necessity of again obtaining Council approval of such purchase.

**Section 120.130. Purchases, Sales, Etc. Over Five Thousand Dollars — to Be by Written Contract With Most Favorable Bidder.** [Code 1962 §26-8; CC 1979 §2-222; Ord. No. 885 §1, 11-5-1974; Ord. No. 91-29 §2, 6-4-1991]

All supplies and contractual services for the City, except as otherwise provided, when the estimated cost thereof shall exceed five thousand dollars ($5,000.00), shall be purchased by formal, written contract from the lowest responsible bidder, after notice inviting proposals. All sales of personal property of the City which has become obsolete and unusable, when the estimated value thereof shall exceed fifteen hundred dollars ($1,500.00), shall be sold by formal written contract to the highest responsible bidder, after due notice inviting proposals.

**Section 120.140. Purchases, Sales, Etc. — Sealed Bids to Be Solicited — "Bidders List".** [Code 1962 §26-9; CC 1979 §2-223]

Sealed bids shall be solicited by the City Purchasing Agent from all responsible bidders who have requested that their names be added to a "bidders' list" which the Purchasing Agent shall maintain, and from such other prospective bidders as the City Purchasing Agent may elect to notify, by sending them such notice as will acquaint them with a proposed purchase or sale pursuant to Section 120.120.

**Section 120.150. Purchases, Sales, Etc. — Bid Deposits.** [Code 1962 §26-10; CC 1979 §2-224]

When deemed necessary by the City Purchasing Agent, bid deposits may be prescribed in the notices inviting bids pursuant to Section 120.130 and each unsuccessful bidder shall be entitled to refund of his/her bid deposit. A successful bidder shall forfeit any deposit required upon his/her failure to enter a contract within ten (10) days after the award.

**Section 120.160. Purchases, Sales, Etc. — Submission, Identification, Opening, Tabulation and Posting of Bids.** [Code 1962 §26-11; CC 1979 §2-225]

Bids pursuant to Sections 120.130 through 120.150 shall be submitted sealed and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the notice provided for by Section 120.130. A tabulation of all bids received shall be posted for public inspection.

**Section 120.170. Purchases, Sales, Etc. — Rejection of Bids by Council — Contractor in Default on Taxes, Etc.** [Code 1962 §26-12; CC 1979 §2-226]

The City Council shall have authority to reject all bids submitted as required by Sections 120.130 through 120.200 when the public interest will be served thereby. In no event shall there be accepted the bid of a contractor who is in default on the payment of taxes, licenses or other monies due the City.

**Section 120.180. Purchases, Sales, Etc. — To Whom Contract Awarded — Determination of "Lowest Responsible Bidder".** [Code 1962 §26-13; CC 1979 §2-227]

Contracts pursuant to Sections 120.130 through 120.200 shall be awarded to the most favorable responsible bidder. In determining the "most favorable responsible bidder," in addition to price, there shall be considered the ability of the bidder to perform the contract or service, the promptness with which the bidder can perform the contract, the character, reputation and experience of the bidder, the quality of performance of previous contracts or services and the sufficiency of the financial resources of the bidder.

**Section 120.190. Purchases, Sales, Etc. — Procedure When Bids Are Equal.** [Code 1962 §26-14; CC 1979 §2-228]

If bids pursuant to Sections 120.130 through 120.200 are for the same total amount, quality and service being equal, the contract shall be awarded to the local bidder; provided, that if both of such low bidders are local or if both are non-local, the contract shall be awarded by drawing lots in public.

**Section 120.200. Purchases, Sales, Etc. — Subdividing Purchases and Contracts.** [Code 1962 §26-15; CC 1979 §2-229]

No contract or purchase may be subdivided to avoid the requirements of Sections 120.130 through 120.190.

**Section 120.210. Purchases, Sales, Etc., Over Five Hundred Dollars but Less Than Fifteen Hundred Dollars.** [Code 1962 §26-16; CC 1979 §2-230; Ord. No. 885 §1, 11-5-1974; Ord. No. 91-29 §2, 6-4-1991]

All purchases of supplies and contractual services for the City and all sales of the City personality which has become obsolete and unusable, of an estimated value of more than five hundred dollars ($500.00) and less than fifteen hundred dollars ($1,500.00), shall be made by the City Department heads in the open market subject to the provisions of the approved purchasing manual.

**Section 120.220. Purchases, Sales, Etc., Under Five Hundred Dollars and More Than One Hundred Fifty Dollars.** [Code 1962 §26-17; CC 1979 §2-231; Ord. No. 91-29 §2, 6-4-1991; Ord. No. 92-36 §1, 7-7-1992]

All purchases and all sales of the City personality which has become obsolete and unusable of an estimated value of more than one hundred fifty dollars ($150.00) and less than five hundred dollars ($500.00) shall be made by the City Department heads in the open market subject to the provisions of the approved purchasing manual.

**Section 120.230. Purchases, Sales, Etc., of Less Than One Hundred Fifty Dollars.** [CC 1979 §2-232; Ord. No. 885 §1, 11-5-1974; Ord. No. 91-29 §2, 6-4-1991; Ord. No. 92-36 §1, 7-7-1992]

All purchases and all sales of the City personality which has become obsolete and unusable of an estimated value of less than one hundred fifty dollars ($150.00) will be made by the Department heads in the open market subject to the provisions of the approved purchasing manual.

**Section 120.240. through Section 120.250. (Reserved)** [5]

**Section 120.260. Emergency Purchases.** [6] [Code 1962 §26-22; CC 1979 §2-236; Ord. No. 885 §1, 11-5-1974; Ord. No. 91-29 §2, 6-4-1991]

In case of an apparent emergency which required the immediate purchase of supplies or contractual services for the City, the City Purchasing Agent may secure, at the lowest obtainable price, any supplies or service to the value of five thousand dollars ($5,000.00) without obtaining competitive bids as required by Sections 120.210 and 120.220 and, in the event of such emergency and upon the authorization of the City Council, the Purchasing Agent may secure at the lowest price obtainable any supplies or services exceeding in value the sum of five thousand dollars ($5,000.00) without observing the procedure prescribed by Sections 120.140 through 120.200. The Purchasing Agent shall prescribe by rules and regulations the procedures under which emergency purchases by heads of using Departments may be made.

**Section 120.270. Routine Departmental Purchases.** [Code 1962 §26-23; CC 1979 §2-237]

The City Purchasing Agent shall prescribe by rules and regulations the procedures under which routine purchases may be made by the heads and employees of the several Departments of the City.

**Section 120.280. Cooperative Purchase Plans.** [Code 1962 §26-24; CC 1979 §2-238]

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5. **Editor's Note — Ord. no. 498-2012 §1, adopted April 17, 2012, repealed sections 120.240 "petty cash fund — established" and 120.250 "petty cash fund — reimbursement" in their entirety. Former sections 120.240 — 125.250 derived from Code 1962 §26-20; CC 1979 §§2-233 — 2-234 ; ord. no. 1054 §§2 — 3, 11-6-1979; ord. no. 88-25 §2, 5-17-1988; ord. no. 93-38 §§1 — 2, 9-23-1993; ord. no. 96-66 §1, 1-7-1997.**

6. **Cross Reference — Procurement of services, supplies, etc. in connection with civil defense emergencies §240.120.**

The City Purchasing Agent shall have the authority to join with other units of Government in cooperative purchasing plans when the best interests of the City would be served thereby.

**Section 120.290. Sale of Unclaimed Personal Property Recovered by Police Department.** [CC 1979 §2-239; Ord. No. 989 §§1 — 3, 3-7-1978; Ord. No. 1096 §§1 — 3, 11-4-1980]

A. *Authority to Sell — Holding Period.* The City Manager or his/her designated representative shall be authorized to sell all unclaimed personal property, except guns, recovered by the Police Department. Items shall be retained by the Police Department for at least sixty (60) days from the date of initial possession. If the property is not claimed by its owner within sixty (60) days, the Chief of Police may sell the property at public auction as herein provided.

B. *Public Auction — Notice of Sale.* All sales of personal property shall be at public auction. The City Clerk shall cause notice of said sale to be published in a local newspaper at least seven (7) days prior to the sale, said publication to contain a list of all items to be sold at said sale.

C. *Disposition of Proceeds From Sale — Lists of Expenses, Articles Sold, Price and Purchaser.* The proceeds of said sale, after deducting the expenses of the sale, shall be deposited in the General Revenue Fund of the City of Neosho, and shall be accompanied by an itemized list of expenses of the sale, and a verified list identifying the Article sold, the sale price and name of the purchaser.

**Section 120.300. Purchases of Unique Items.** [CC 1979 §2-240; Ord. No. 86-24 §1, 10-21-1986]

For the purpose of this Section real property and items of tangible personal property offered as surplus property by the State of Missouri shall be considered unique in that no similar item could be substituted nor could competitive bids be obtained. All purchases of such unique items shall be approved by the affirmative vote of no less than three (3) Councilmen after formal discussion and vote at a special or regular Council meeting.

## ARTICLE III
## Professional Consulting Services

**Section 120.310. Definitions.** [CC 1979 §2-241; Ord. No. 1214 §1, 4-17-1984]

As used in this Article, the following words shall have the meanings set out herein:

CITY ENGINEER — A firm designated by the City Council to act as City Engineer under contract with said City subject to other provisions of this policy.

FIRM — Any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice architecture, engineering, or land surveying in the State of Missouri.

PROFESSIONAL SERVICES — Services within the scope of practice of architecture, engineering, or land surveying, as defined by the laws of the State of Missouri, or those

performed by any architect, professional engineer, or registered land surveyor in connection with his/her professional employment for practice.

**Section 120.320. Classes of Service.** [CC 1979 §2-242; Ord. No. 1214 §6, 4-17-1984]

A. Projects will be divided into two (2) classes as follows:

1. *Class A.* Services for projects where the estimated professional services cost is less than five thousand dollars ($5,000.00). At the discretion of the City Manager, all projects with an estimated professional services fee of under five thousand dollars ($5,000.00) may be performed by the City Engineer.

2. *Class B.* Services for projects where estimated professional services cost exceed five thousand dollars ($5,000.00). The City Council will act as a screening and selection committee to appoint a firm and develop an appropriate contract for the City for said services. The firm selected may or may not be the City Engineer but shall be determined on the basis of the provisions set forth in this policy for the hiring of a firm.

**Section 120.330. Roster of Consultants.** [CC 1979 §2-243; Ord. No. 1214 §2, 4-17-1984]

A. The City will maintain a roster, classified by category of professional service, of qualified firms interested in performing professional services for the City. Names of firms may be placed on the roster upon the request of the City Council; or when recommended by the City staff.

B. Each firm meeting the minimum qualifications shall be deemed to be a qualified firm meeting the qualifications of the City:

1. Duly authorized to conduct business in the State of Missouri.

2. Professional registration by the State of Missouri.

3. At least one (1) full-time staff professional assigned to each project. Adequacy of personnel will be determined on a contract by contract basis against the City's estimate of manpower required to perform the work in the desired time frame.

**Section 120.340. Resumes and Data for Consultants' Roster.** [CC 1979 §2-244; Ord. No. 1214 §3, 4-17-1984]

A. Each person or firm listed on the roster shall be responsible for maintaining a current resume describing their qualifications and experience with the City office.

B. Data which shall be included is as follows:

1. Firm name, address, telephone numbers.

2. Year established and former firm names.

3. Types of services for which it is qualified.

4. Names of principals of the firm and states in which they are registered.

5. Names of full-time key personnel, with experience of each and length of time in the organization.

6. Number of full-time staff available for assignment.

7. Outside consultants and associates, usually retained.

8. List of completed projects on which the firm was principal engineer.

9. Current projects under way and estimated cost of each.

10. Data gathering methods (if appropriate).

11. Evaluation techniques (if appropriate).

**Section 120.350. Designation of City Engineer.** [CC 1979 §2-245; Ord. No. 1214 §4, 4-17-1984]

A. The City may, at its sole discretion, appoint a firm to act in the capacity of City Engineer. The City Engineer shall be appointed on the basis of the following:

1. Qualifications and experience in the type of engineering projects commonly encountered by City Departments.

2. The number and type of staff which would be available to the City upon request for engineering services.

3. Past performance on City projects.

4. The firm's geographic location in relation to the City.

B. The City Council may appoint the City Engineer to serve the City under an annual contract. The contract with the City Engineer shall specifically delineate the scope of services to be performed and a schedule of hourly charges for performing professional services. The scope of services may be extended or expanded to suit the needs of the City. The City Engineer shall agree to provide error/omission and liability insurance coverage, naming the City as co-insured. The limits on said coverage shall not be less than one million dollars ($1,000,000.00).

**Section 120.360. General Procedures and Responsibilities.** [CC 1979 §2-246; Ord. No. 1214 §7, 4-17-1984]

A. *Project Initiation.* When an official of the City identifies a project for which professional services will be necessary, when said project has an estimated professional services cost of less than five thousand dollars ($5,000.00) the City Manager may authorize the work to be performed by the City Engineer. When an official of the City identifies a project for which professional services cost are in excess of five thousand dollars ($5,000.00), the City Manager will draft a scope of service for the specific project. This scope of services will then be submitted to the City Council to act as a screening and selection committee for the retention of

professional services. When in the judgement of the City Council it is best to re-employ a firm to complete or provide on-going services for a phased or segmented project, such a contract may be negotiated with the firm presently under contract.

B. *Expressions of Interest.* Should none of the above apply, the City may contact those firms on the roster for a written expression of interest in a specific project. Requests should invite comment as to the special experience in the project being considered, describe previous experience with similar projects, and the availability of the firm to provide required services within any time limitation.

C. *Initial Screening and Requests for Proposals.* Expressions of interest will then be presented to the City Council for initial screening. Factors to be determined in the initial screening are to include:

1. Specialized experience in the type of work required.
2. Record of the firm in accomplishing work on similar projects satisfactorily and within the required time frame.
3. Quality of work previously performed by the firm for the City.
4. Recent experience showing accuracy of cost estimates.
5. Community relations including evidence of sensitivity to citizen concerns.
6. Geographic location of the principal offices of the firm.

The City Council may designate up to three (3) firms who will then be requested to present detailed proposals on the project.

D. *Detailed Proposals.* Each firm submitting detailed proposals will be asked to provide a resume of its proposed project supervisor; the name of the principal who will be responsible for the work; the amount of work presently underway; the ability of the firm to meet required time schedules; and a description of how the project would be conducted as well as other facts they wish to present in favor of its firm. A contract form will be provided by each firm to provide a detailed proposal so that the City and the firm can be fully informed of the parameters of the proposed subject and general City contracting policies. A contract form will be prepared by the firm and reviewed by the City Manager and the City Attorney.

E. *Interview and Selection.* Upon receipt of the detailed proposals, the City Council will interview the prospective firms and make the final selection as to the firm for the project.

F. *Contract Negotiations.* The selected firm will then be requested to come in for a final conference with the City Council to define precisely the scope of service to be provided and to submit a proposal covering the compensation requirements for the work. A fee is then negotiated for the project, which is fair and reasonable. A contract is prepared and submitted to the City Attorney for review, and then submitted to the City Manager for presentation to the City Council for approval. If, after reasonable effort a contract cannot be negotiated, the negotiations with the

designated firm shall be terminated, and negotiations shall be started with the next firm recommended.

**Section 120.370. Continuing Services.** [CC 1979 §2-247; Ord. No. 1214 §5, 4-17-1984]

A. The City may, at its sole discretion, extend, renew or employ a firm who has previously been retained and has a satisfactory performance record to continue providing professional services for related areas of a specific project.

B. Such a professional contract may be offered in the following cases:

1. To ensure continuity by retaining the same professional firm in all phases of an ongoing phased or segmented project.

2. To insure compatibility of extensions or additions to existing structures or facilities by retaining the original design professional.

3. To implement proposals or elements presented by preliminary studies performed by design professionals.

4. To provide continuity of services which will enhance a project and which will be in the best interest of the City.

**Section 120.380. Prohibition Against Contingent Fees.** [CC 1979 §2-248; Ord. No. 1214 §8, 4-17-1984]

A. Each contract entered into by the City for professional services shall contain a prohibition against contingent fees as follows: "The architect, engineer or land surveyor (as applicable) warrants that he/she is not employed or retained any company or person other than a bona fide employee working solely for the architect, engineer, or land surveyor, to solicit or secure a person, company, corporation, individual or firm other than a bona fide employee working solely for the architect, engineer, or land surveyor, any fees, commission, percentage, gift or any other consideration contingent upon our resolving from the award of making this agreement."

B. For the breach or violation of the foregoing provision the City shall have the right to terminate the agreement without liability and, at its discretion to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

**Section 120.390. Waiver of Procedure Requirements.** [CC 1979 §2-249; Ord. No. 1214 §9, 4-17-1984]

The City in its whole and absolute discretion may waive any and all aforementioned procedural requirements.

ARTICLE IV

## Protest of Contract Awards for Construction and Maintenance of Public Utilities [7]

**Section 120.400. Definition of Protest.** [CC 1979 §2-249.1; Ord. No. 92-34 §1, 7-7-1992]

A *"protest"* is a written complaint concerning the City of Neosho's solicitation or award of a sub-agreement or contract which must be filed in writing with the City Clerk by a party with a direct financial interest adversely affected by the City of Neosho's procurement action for the construction and maintenance of public utilities, including water, sewer and wastewater systems.

**Section 120.410. Filing of Protest — Hearing — Disposition.** [CC 1979 §2-249.2; Ord. No. 92-34 §2, 7-7-1992]

A party with a financial interest which believes they are adversely affected by a procurement action by the City of Neosho on solicitation or award of a contract or sub-agreement must file a written protest stating the basis for said protest with the City Clerk, as early in the procurement process as possible and must be received by said Clerk within seven (7) days after the basis for the protest is known or should have been known and before bid opening or the closing date for receipt of proposal for letting of contracts and City Council upon receipt of said protest shall hold a hearing as soon as reasonably possible on proper and legal notification to the party with the financial interest which is allegedly adversely affected by the action of the City and that said protestant shall be accorded a complete hearing and shall have the right to adduce evidence, both verbal and documentary to the City Council and upon conclusion of the hearing and evidence adduced as submitted the City Council shall announce and issue its written decision and order making disposition of the issues raised in said protest. A written copy of the decision of the City Council shall be served upon the protestant within (7) days after the hearing.

**Section 120.420. Appeal.** [CC 1979 §2-249.3; Ord. No. 92-34 §3, 7-7-1992]

Protestants shall have seven (7) days thereafter to file a protest appeal with the appropriate United States or State agency or official making any awards of financial assistance to the City in the construction and maintenance of said public utility projects.

**Section 120.430. Rules Governing Appeal.** [CC 1979 §2-249.4; Ord. No. 92-34 §4, 7-7-1992]

The protest appeal shall be governed by the rules and regulations of the Environmental Protection Agency set forth in 40 CFR, Part 31, Section 31.36 (b)(12) which is hereby incorporated herein as if set out in full as pertains to the City of Neosho.

**Section 120.440. Incorporation of Provisions.** [CC 1979 §2-249.5; Ord. No. 92-34 §5, 7-7-1992]

The provisions of this Article shall be incorporated in any solicitations, contract awards, or sub-agreements entered into by the City.

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[7]. **Cross Reference — Water, sewers, and sewage disposal, Title VII.**

# Chapter 125

# COMMITTEES AND BOARDS

## ARTICLE I
## (Reserved)

**Section 125.010. through Section 125.030. (Reserved)** [1]

## ARTICLE II
## (Reserved) [2]

**Section 125.040. through Section 125.100. (Reserved)**

## ARTICLE III
## Parks Recreation and Golf Course Board

**Section 125.110. Parks Recreation and Golf Course Board.** [Ord. No. 97-6 §§1 — 7, 3-18-1997; Ord. No. 10-2000 §1, 3-21-2000; Ord. No. 277-2007 §§1 — 2, 2-6-2007; Ord. No. 510-2012 §1, 8-7-2012; Ord. No. 522-2012 §1, 12-18-2012]

A. There is hereby established a Parks Recreation and Golf Course Board for the purpose of guiding and directing the development and maintenance of the Neosho City parks and recreation and golf course and related activities pertaining to such Neosho City parks and recreation and golf course.

B. The Parks Recreation and Golf Course Board shall be composed of seven (7) members. The Board shall elect from its members a Chairman, Vice Chairman and Secretary. The Board's responsibility will be to assist the City in developing the parks and recreation and golf course activities for the City.

C. Each member of the Parks Recreation and Golf Course Board shall be appointed by the City Council. The members, after the original members, shall serve for three (3) years. In the event of a vacancy, a new member shall be appointed to fill such vacancy in the same manner and for the remainder of the unexpired term.

D. At least five (5) members shall be resident citizens of the City of Neosho. Two (2) members may or may not be a citizen of Neosho, but they must be residents of Newton County.

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1. **Editor's Note — Ord. no. 99-12 §1, adopted April 20, 1999, repealed article I. Historic Preservation Committee from chapter 125, repealing sections 125.010 — 125.030 in their entirety. Former said sections derived from CC 1979 §§2-271 — 2-273 and ord. no. 89-16 §§1 — 3, 7-5-1989. We have left these sections and this article reserved for future use.**

2. **Editor's Note — Ord. no. 510-2012 §2, adopted August 7, 2012 repealed article II "golf course committee", sections 125.040 — 125.100 in their entirety. Former sections 125.040 — 125.100 derived from Code 1962 §§2-140 — 2-146; CC 1979 §§20-26 — 20-32; ord. no. 92-41 §1, 9-15-1992; ord. no. 93-11 §§1 — 3, 3-23-1993; ord. no. 65-2001 §1, 5-15-2001.**

E. The Parks Recreation and Golf Course Board shall hold monthly meetings at such times and places that the Board may determine. A quorum for all regular or special meetings shall be a simple majority.

F. The Parks Recreation and Golf Course Board responsibilities will be:

1. To assist the City in development of rules and regulations applicable to parks and recreation and golf course activities within the confines of existing law, the provisions of this Code and other ordinances of the City.

2. To assist the City in developing and recommending plans for growth and improvement of City parks and recreation facilities and the golf course.

G. The Parks Recreation and Golf Course Board shall be responsible to the City Council and shall confine its activities to the duties specified in this Article.

H. The Parks Recreation and Golf Course Board shall not and is not authorized to commit the City to any expenditure of money, nor shall it otherwise obligate the City without specific authority of the City Council.

## ARTICLE IV
## **(Reserved)**

**Section 125.120. (Reserved)** [3]

## ARTICLE V
## **TIF Commission**

**Section 125.130. TIF Commission.** [Ord. No. 98-30 §§1 — 2, 9-1-1998]

A. The City Council of the City of Neosho, Missouri, hereby expresses its' intent to designate a redevelopment area located within the City limits of the City of Neosho, under the Real Property Tax Increment Allocation Redevelopment Act of the State of Missouri (herein referred to as the Act), Sections 99.800 to 99.865, RSMo.

B. There is hereby created an eleven (11) member Commission to be known as the TIF Commission. Members shall be appointed in accordance with the provisions of the Act, shall serve the terms of office as provided for in the Act, and shall have those duties authorized and allowed by the Act. The Commission shall elect from its members a Chairman, a Vice-Chairman, and a Secretary, and may adopt rules and regulations for its own organization and procedure as it amy deem proper, not inconsistent with law and the ordinances of the City.

## ARTICLE VI
## **Historic Preservation Commission**

**Section 125.140. Historic Preservation Commission.** [Ord. No. 156-2003 §1, 10-21-2003]

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[3]. **Editor's Note — Ord. no. 277-2007 §2, adopted February 6, 2007, repealed section 125.120 "recreation board" in its entirety. Section 125.120 derived from ord. no. 97-7 §§1 — 7, 3-18-1997; ord. no. 10-2000 §2, 3-21-2000. At the editor's discretion this article and section have been left reserved for the city's future use.**

A. *Purpose*. The purpose of this Section is to promote the economic, cultural, educational and general welfare of the City by:

1. Conserving and improving the value of property within District HD;

2. Protecting and enhancing the attractiveness of Neosho to home buyers, home owners, residents, tourists, visitors and shoppers thereby supporting and promoting business, commerce, industry and providing economic benefit to the City;

3. Providing a mechanism to identify and preserve the distinctive historic and architectural characteristics of downtown Neosho;

4. Fostering civic pride in the aesthetics and cultural accomplishments of the past as represented in Neosho's landmarks and historic areas;

5. Fostering and encouraging district, restoration and rehabilitation of structures, areas and adjoining neighborhoods;

6. Promoting the use of landmarks and historic areas for the education, pleasure and welfare of the people of Neosho and its visitors.

B. *Historic District Commission.*

1. The Historic District Commission is hereby established. The Historic District Commission shall consist of seven (7) members appointed by the City Council. Members shall serve without compensation. Every attempt should be made to establish a balance of representation among members and all Commissioners should have a demonstrated interest in historic district. Of the seven (7) members, five (5) shall be voting members and two (2) will be non-voting ex officio members. The Commission shall be devised as follows: One (1) voting member shall be a member of the City Council; one (1) voting member shall be a representative of the Newton County Historical Society; three (3) voting members shall be downtown Neosho property owners; one (1) non-voting member shall be nominated by the Chamber of Commerce/ Economic Development Director and the City Planner shall be a non-voting member.

2. Two (2) of the initial members shall serve terms of one (1) year, two (2) shall serve terms of two (2) years and three (3) shall serve terms of three (3) years. Thereafter, the terms of office for members of the Historic District Commission shall be three (3) years. Vacancies shall be filled for the unexpired terms only.

3. The Historic District Commission shall elect from its members a Chair, a Vice Chair and a Secretary. Officers shall serve for one (1) year and shall be eligible for re-election. The Chair shall preside over all meetings. In the absence of the Chair, the Vice Chair shall preside. The Secretary shall prepare minutes and other necessary records of Historic District Commission meetings.

C. *Powers And Duties.* The Historic District Commission shall have the following powers and duties:

1. To adopt its own procedural regulations;

2. To investigate and recommend to the Council the implementation of incentives and benefits to encourage redevelopment of the historic district(s);

3. To review applications for the designation of landmarks in the Historic District, make recommendations to the City Council regarding the designation of landmarks and historic district(s), maintain a register of designated sites and district(s) and confer recognition upon persons associated with designated landmarks and historic district(s);

4. To advise and assist Neosho residents and owners of real property on physical and financial aspects of district, renovation, rehabilitation and reuse of structures within the historic district(s);

5. To encourage nomination of landmarks and historic districts to the National Register of Historic Places;

6. To review applications for construction, alteration, removal or demolition affecting landmarks or properties and structures within the historic district(s);

7. To consider applications for certificates of economic hardship that would allow the performance of work for which a certificate of appropriateness has been denied;

8. To review proposed Zoning District Map amendments, applications for special use permits or applications for zoning variances for property in District HD or within one hundred eighty-five (185) feet of District HD in order to provide comment on such actions to the Planning and Zoning Commission, Board of Adjustment and City Council, as appropriate.

9. To advise the Council on the administration of any historic property which the City owns or controls;

10. To make recommendations to the City Council concerning the application for and utilization of any Federal, State or private grant, gift or bequest furthering the purposes of this Section;

11. To call upon available staff members and other experts for technical advice;

12. To advise and testify before City boards and commissions on any matter affecting historically and architecturally significant property, structures and areas;

13. To periodically review this Chapter and to recommend to the City Council and Planning and Zoning Commission amendments appropriate for the protection and continued use of landmarks or property and structures within historic district(s).

ARTICLE VII
**Big Spring Plaza Community Improvement District**

**Section 125.145. Big Spring Plaza Community Improvement District.** [Ord. No. 241-2006 §§1 — 2, 2-21-2006]

A. The Petition ("petition") to establish the Big Spring Plaza Community Improvement District (the "district") as a separate political subdivision in accordance with Section 67.1401, RSMo., through Section 67.1571, RSMo., otherwise known as the Missouri Community Improvement District Act (the "Act") and which is on file in the City offices as Exhibit 1, is hereby approved in its entirety.

B. The district is hereby established for the purposes set forth in the petition, that the district shall have all the powers and authority authorized by the Act and by the petition, and that the district shall have a minimum life of twenty (20) years following the effective date of this Section, after which the district shall continue in perpetual existence unless and until terminated in accordance with the Act.

ARTICLE VIII
**Senior Citizen Committee**

**Section 125.150. Established.** [Ord. No. 230-2005 §1, 11-1-2005; Ord. No. 333-2008 §1, 5-20-2008]

The necessity of the Senior Citizen Committee for the purpose of advising the Neosho City Council of development and maintenance needs of the Neosho Senior Citizen's facility located at 1017 Carl Sweeney Parkway is hereby recognized.

**Section 125.160. Composition.** [Ord. No. 230-2005 §2, 11-1-2005; Ord. No. 333-2008 §1, 5-20-2008]

The Senior Citizen Committee shall be composed of five (5) voting members and two (2) ex officio members. The Committee shall elect from its members a Chairman, Vice Chairman and Secretary. The Committee's responsibility will be to advise the City in development, maintenance and other related activities of the Neosho Senior Citizen's facility.

**Section 125.170. Term of Office.** [Ord. No. 230-2005 §3, 11-1-2005; Ord. No. 333-2008 §1, 5-20-2008]

The members, after the original members, shall serve for three (3) years. In the event of a vacancy, a new member shall be appointed to fill such vacancy in the same manner and for the remainder of the unexpired term.

**Section 125.180. Voting Membership.** [Ord. No. 230-2005 §4, 11-1-2005; Ord. No. 333-2008 §1, 5-20-2008]

A. Voting membership shall consist of the following:

1. One (1) member shall be a representative of Newton County Senior Citizens, Inc. or its successor in interest and recommended for appointment by said

entity then appointed by the Mayor after approval by a majority vote of the City Council;

2. Two (2) members shall be resident senior citizens of the City of Neosho and appointed by the Mayor after approval by a majority vote of the City Council;

3. One (1) member shall be a Neosho City Councilperson representative appointed by said body; and

4. One (1) member shall be a resident of Newton County and appointed by the Mayor after approval by a majority vote of the City Council.

In the occurrence of the dissolution of the Newton County Senior Citizens, Inc. without a successor in interest, the member identified as the Newton County Senior Citizens, Inc. representative shall become null and void and said member shall be replaced with a resident senior citizen of the County of Newton, State of Missouri and appointed by the Mayor after approval by a majority vote of the City Council. All appointments in such aforementioned occurrence which were the responsibility of the Newton County Senior Citizens, Inc. shall revert to the responsibility of the Neosho City Council.

**Section 125.190. Ex Officio Membership.** [Ord. No. 230-2005 §5, 11-1-2005; Ord. No. 333-2008 §1, 5-20-2008]

A. Ex officio membership shall consist of the following:

1. One (1) member shall be a Newton County Commissioner representative appointed by said body; and

2. One (1) member shall be a City of Neosho administrative staff employee.

**Section 125.195. Definition.** [Ord. No. 333-2008 §1, 5-20-2008]

For the purpose of this Article, *"Senior"* shall be defined as an individual over the age of fifty-five (55).

**Section 125.200. Meeting Times.** [Ord. No. 230-2005 §6, 11-1-2005; Ord. No. 333-2008 §1, 5-20-2008]

The Senior Citizen Committee shall hold monthly meetings at such times and places that the Committee may determine. A quorum for all regular or special meetings shall be three (3) voting members.

**Section 125.205. Responsible to the City Council.** [Ord. No. 230-2005 §7, 11-1-2005; Ord. No. 333-2008 §1, 5-20-2008]

The Senior Citizen Committee shall be responsible to the City Council and shall confine its activities to the duties specified in this Article.

ARTICLE IX

## Enhanced Enterprise Zone Board

**Section 125.210. Membership.** [Ord. No. 237-2006 §1, 1-3-2006; Ord. No. 485-2011 §1, 11-15-2011]

A. The Neosho City Council hereby establishes the Enhanced Enterprise Zone Board consisting of seven (7) members as follows:

1. One (1) member of the Board shall be appointed by the Neosho R-5 School District.

2. One (1) member of the Board shall be a Newton County Commissioner representing other affected taxing districts.

3. The remaining five (5) members, one (1) of who shall be a current member of the Neosho City Council, of the Board shall be appointed by the Mayor with the consent of a majority of Council members.

**Section 125.220. Terms.** [Ord. No. 237-2006 §2, 1-3-2006; Ord. No. 485-2011 §1, 11-15-2011]

Members shall serve terms of five (5) years.

**Section 125.230. Removal From Office.** [Ord. No. 237-2006 §3, 1-3-2006]

A member of the Board may be removed for inefficiency or neglect of duty or misconduct in office by the applicable appointing authority.

**Section 125.240. Rules of Procedure.** [Ord. No. 237-2006 §4, 1-3-2006]

A majority of the members shall constitute a quorum of such Board for the purpose of conducting business and exercising the powers of the Board and for all other purposes. Action may be taken by the Board upon a vote of a majority of the members present. The Board shall be governed by Robert's Rules of Order. The members of the Board annually shall elect a Chair from among the members to preside at the meeting of the Board and to call Board meetings as may be necessary to carry out the duties of the Board.

**Section 125.250. Authority.** [Ord. No. 237-2006 §5, 1-3-2006]

The role of the Board shall be to conduct the activities necessary to advise the governing authority on the designation of an enhanced enterprise zone and any other advisory duties as determined by the City Council. The role of the Board after the designation of an enhanced enterprise zone shall be review and assessment of zone activities as it relates to the annual reports as set forth in Section 135.1060, RSMo.

## Chapter 130

## (RESERVED)

Editors' Note — Ord. no. 99-9 §1, enacted March 16, 1999, repealed chapter 130: Municipal Auditorium Restoration Trustees, without provisions for replacement. Former said chapter derived from CC 1979 §§2-291 — 2-296; ord. no. 90-11 §§1 — 3, 5 — 7, 5-15-1990; ord. no. 91-36 §1, 7-16-1991; and ord. no. 96-50 §1, 10-15-1996. This chapter has been left reserved for the city's future use.

# Chapter 135

# MUNICIPAL COURT

Charter Reference — Municipal court, art. VIII.

Cross References — General penalty, §100.130 et seq; administration, Title I; police, ch. 200; duties of police chief to attend sessions of municipal court, §200.060; offenses and miscellaneous provisions, ch. 215; motor vehicles and traffic, Title III.

## ARTICLE I
## In General

**Section 135.010. Court Established.** [CC 1979 §17-1; Ord. No. 1023 §2, 2-6-1979]

There is hereby established in this City a Municipal Court, to be known as the "Neosho Municipal Court, a Division of the 40th Judicial Circuit Court of the State of Missouri." This Court is a continuation of the Municipal Court of the City as previously established by Article VIII of the Home Rule Charter and is termed herein "the Municipal Court."

**Section 135.020. Jurisdiction.** [CC 1979 §17-2; Ord. No. 1023 §2, 2-6-1979]

The jurisdiction of the Municipal Court shall be as set out in Section 8.01 of the Home Rule Charter of the City of Neosho.

**Section 135.030. City to Furnish Courtroom.** [Code 1962 §19-3; CC 1979 §17-3; Ord. No. 973 §1, 10-4-1977]

The City Council shall provide a suitable Courtroom at City expense for the purpose of holding Court.

**Section 135.040. Superintending Authority.** [CC 1979 §17-4; Ord. No. 1023 §2, 2-6-1979]

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 135.050. Sessions of Court.** [Code 1962 §19-15; CC 1979 §17-5; Ord. No. 973 §1, 10-4-1977]

The Municipal Judge shall hold a session of his/her Court every weekday, except Sunday and legal holidays, if necessary. Nothing herein shall prohibit the Municipal Judge from setting regular Court days.

**Section 135.060. Duties of the City's Prosecuting Attorney.** [CC 1979 §17-6; Ord. No. 1023 §2, 2-6-1979]

It shall be the duty of an attorney designated by the City Manager 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 result in any case.

**Section 135.070. Clerk of Municipal Court.** [CC 1979 §17-7; Ord. No. 1023 §2, 2-6-1979]

A. The City Manager shall designate a Clerk of the Municipal Court. The duties of said Clerk shall be as follows:

1. To collect such fines for violations of such offenses as may be described, and the Court costs thereof.

2. To take oaths and affirmations.

3. To accept signed complaints, and allow the same to be signed and sworn to or affirmed before him/her.

4. Sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas duces tecum.

5. Accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in Traffic Violations Bureau cases or as directed by the Municipal Judge; generally act as Violation Clerk of the Traffic Violations Bureau, if one be established.

6. Perform all other duties as provided for by ordinance, by "Rules of Practice and Procedure in Municipal and Traffic Courts," and by Statute.

7. Maintain, properly certified by the City Clerk, a complete copy of the ordinances of the City which shall constitute prima facia evidence of such ordinance before the Court. Further, to maintain a similar certified copy on file with the Clerk serving the Circuit Court of this County.

**Section 135.080. Issuance and Execution of Warrants.** [CC 1979 §17-9; Ord. No. 1023 §2, 2-6-1979]

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 warrant shall be executed by the Chief of Police, Police Officer, or Sheriff any place within the limits of the County and not elsewhere unless the warrants are endorsed in the manner provided for warrants in criminal cases, and, when so endorsed, shall be served in other counties, as provided for in warrants in criminal cases.

**Section 135.090. Arrests Without Warrants.** [CC 1979 §17-10; Ord. No. 1023 §2, 2-6-1979]

The Chief of Police, or other Police Officer of the City shall, 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 135.100. Administrative Search Warrants.** [Ord. No. 302-2007 §1, 8-7-2007]

A. *Search Warrant Defined — Who May Execute, When.*

1. An administrative search warrant is a written order of the Municipal Judge commanding the search or inspection of any property, place or thing, and the seizure, photographing, copying or recording of property or physical conditions found thereon or therein, to determine or prove the existence of violations of any ordinance or Code Section of the Neosho Municipal Code relating to the use, condition or occupancy of property or structures located within the City of Neosho or to enforce the provisions of any such ordinance or Code Section.

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

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

   b. The owner or occupant of the property or place to be searched or inspected or the thing to be seized has refused to allow same after official request by the Neosho City Inspector or his/her designee.

3. Any such warrant shall be directed to the Chief of Police or any other Police Officer of the City of Neosho and shall be executed by the Chief of Police or said Police Officer within the Neosho City limits and not elsewhere.

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

1. Any Police Officer, Neosho City Inspector or Neosho City Attorney may make application to the Municipal Judge for the issuance of an administrative search 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 has been requested by the Neosho City

Inspector or his/her designee to allow such action and has refused to allow such action;

e. State facts sufficient to show probable cause for the issuance of a search warrant as provided in Subsection (C)(1) hereof to:

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

(2) Show that entry or seizure is authorized and necessary to enforce an ordinance or Code Section specified in the application and that any required 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 search 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.

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

1. *Hearing and procedure.*

a. The Municipal Judge shall hold a non-adversary hearing to determine whether probable cause exists to inspect or search for violations of any Neosho 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 of Neosho 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 of Neosho ordinance or Code Section and the passage of time since the property's last inspection. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a City of Neosho 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 of Neosho ordinance or Code Section or to enforce any such ordinance or Code Section, a search 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 search warrant.* The search warrant shall:

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

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

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 and, if known, identify the resident of the property;

e. Command that the described property or places be searched or entered upon, and that any evidence of any City of Neosho ordinance violations found therein or thereon, or any property seized pursuant thereto, or a description of such property seized, be returned within ten (10) days after filing of the application to the Municipal Judge who issued the warrant to be dealt with according to law;

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

3. *Execution and return.*

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

(1) 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.

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

(3) 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. Additionally:

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

(b) The disposition of property seized pursuant to a search warrant under this Section shall be in accordance with an

applicable City of Neosho ordinance or Code Section but in the absence of same, then with Section 542.301, RSMo.

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

(5) 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 would be justified in using if the warrant were valid.

(6) A search 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.

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

(1) 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.

(2) 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.

(3) 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 search 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 of Neosho;

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.

**Section 135.110. Authority of Complainant to Withdraw Complaint.** [CC 1979 §17-12; Code 1962 §19-19; Ord. No. 973 §1, 10-4-1977]

When any person, other than a Police Officer, has caused the arrest of another for violation of any provision of this Code or other City ordinance, and the offense charged affected wholly or principally the person causing the arrest, when the case shall be called for trial, the latter may, in the discretion of the Court, withdraw the charge on payment of costs.

**Section 135.120. Severance.** [Code 1962 §19-31; CC 1979 §17-13; Ord. No. 973 §1, 10-4-1977]

Persons jointly charged in any complaint shall have a separate trial, if either defendant demands it before the trial has begun and the jury is impaneled.

**Section 135.130. Transfer of Complaint to Associate Circuit Judge.** [CC 1979 §17-14; Ord. No. 1023 §2, 2-6-1979]

If, in the progress of any trial before a Municipal Judge, it shall appear to the Judge that the accused ought to be put upon trial for an offense against the criminal laws of the State and not cognizable before him/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 Judge within the County.

**Section 135.140. Bail Authorized.** [Code 1962 §19-26; CC 1979 §17-15; Ord. No. 973 §1, 10-4-1977]

A defendant shall be entitled to be admitted to bail if application therefor is made to the Judge or Clerk of the Court after an appeal is perfected, and before the transcript and papers in the case are filed in the office of the Clerk of the Circuit Court.

**Section 135.150. Amount of Bail.** [Code 1962 §19-27; CC 1979 §17-16; Ord. No. 973 §1, 10-4-1977]

The Judge or Clerk of the Court shall admit a defendant to bail in such amount as the Court or the Clerk shall deem proper or as provided by law.

**Section 135.160. Breach of Recognizance.** [CC 1979 §17-17; Ord. No. 1023 §2, 2-6-1979]

In the case of a breach of any recognizance entered into before a Municipal Judge or an Associate Circuit 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 Judge or associate Circuit Judge, and in the event of cases caused to be prosecuted by a Municipal Judge, such shall be on the transcript of the proceedings before the Municipal Judge. All monies recovered in such actions shall be paid over to the Municipal Treasury to the General Revenue Fund of the Municipality.

**Section 135.170. License to Operate Motor Vehicle May Be Deposited in Lieu of Bail — Exceptions — Failure to Appear, Notice to Director of Revenue.**

A. Any person arrested and charged with violating a traffic law of this City may, at the discretion of both the officer authorized by law or rule of court to accept bail and the person arrested, deposit his/her license to operate a motor vehicle with a member of the Highway Patrol or with the officer demanding bail in lieu of any other security for his/her appearance in court to answer any such charge, except when the charge is for driving while intoxicated, driving while under the influence of intoxicating liquor or drugs, leaving the scene of a motor vehicle accident, driving when his/her license is suspended or revoked, or for any charge made because of a motor vehicle accident in which a death has occurred.

B. Notwithstanding the fact that the officer authorized by law or rule of court to accept bail authorizes the person arrested to deposit his/her license to operate a motor vehicle as his/her security for his/her appearance in court, in lieu of depositing his/her license to operate a motor vehicle, the person arrested may decline to deposit his/her license to operate a motor vehicle as security and instead deposit a bond with the officer authorized by law or rule of court to accept bail or other such officer demanding bail in the amount of fifty dollars ($50.00) per traffic offense allegedly committed. The officer shall issue a receipt for such a bond to the person and deposit the bond with the Judge, Court Clerk or other officer requiring security for a court appearance.

C. The Judge, Court Clerk or other officer requiring security for an appearance shall accept the bond or deposit of the license in lieu of bail and, if the license is accepted, shall issue a receipt to the licensee for the license upon a form approved by the Director of Revenue. The licensee may, until he/she has appeared at the proper time and place as stated in the receipt to answer the charge placed against him/her, operate motor vehicles while in possession of the receipt, and the receipt shall be accepted in lieu of the license as provided by Section 302.181, RSMo. If a continuance is requested and granted, the licensee shall be given a new receipt for his/her license.

D. Whether or not a license to operate a motor vehicle has been deposited in lieu of bail pursuant to this Section, if the driver fails to appear at the proper time to answer the charge placed against him/her, the Clerk of the Court, or the Judge of the Court if there is no Clerk, shall within ten (10) days notify the Director of Revenue of the failure to appear, and the Director shall thereafter withhold any renewal of the license or the issuance of a duplicate license to the licensee until notified by the court that the charge has been reduced to final judgment.

**Section 135.180. Defendant Not Admitted to Bail to Remain in Custody.** [Code 1962 §19-28; CC 1979 §17-19; Ord. No. 973 §1, 10-4-1977]

If a defendant is not admitted to bail pending appeal, he/she shall remain in custody or be committed to await the determination of the case in the Circuit Court of Newton County, or to the Court having jurisdiction of the appeal.

**Section 135.190. Delivery of Defendants in Custody for Trial.** [Code 1962 §19-25; CC 1979 §17-20; Ord. No. 973 §1, 10-4-1977]

At the opening of the Municipal Court each day, the Chief of Police shall bring before it for trial all persons then in custody for violation of this Code or other City ordinances, except, however, those whose cases have previously been continued to a later day, and for this purpose the keeper of the Jail shall deliver to the Chief of Police all prisoners in his/her custody whose cases have not been so committed.

**Section 135.200. Chief of Police to Provide Information to the Court — Order of Trial of Defendants.** [Code 1962 §19-24; CC 1979 §17-21; Ord. No. 973 §1, 10-4-1977]

It shall be the duty of the Chief of Police to furnish to the Court at each opening thereof a statement showing the names of all persons arrested during the adjournment of the Court, the offenses with which they are charged, the names of the Officers who made the arrests, and such further information as may be necessary. All persons in custody shall be forthwith tried, if ready for trial. All other persons shall be tried in the order in which their names appear on the docket.

**Section 135.210. Jailing of Defendants.** [CC 1979 §17-22; Ord. No. 1023 §2, 2-6-1979]

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

**Section 135.220. Summoning of Witnesses.** [CC 1979 §17-23; Ord. No. 1023 §2, 2-6-1979]

A. It shall be the duty of the Municipal Judge to summon all persons whose testimony may be deemed essential as witnesses at a trial, and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before associate Circuit Judges and shall be taxed as other costs in the case. When a trial shall be continued by a Municipal Judge it shall not be necessary to summon any witnesses who may be present at the continuance; 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.

B. Police Officers shall attend as witnesses against persons whom they have arrested without summons, and if they fail to answer at the time of the trial, they may be attached and punished for contempt in like manner as witnesses summoned.

**Section 135.230. Contempt Defined — Authority to Punish Persons for Contempt.** [Code 1962 §19-49; CC 1979 §17-24; Ord. No. 973 §1, 10-4-1977]

A. The Municipal Judge shall have the power to punish for criminal contempt any person guilty of:

1. Disorderly, contemptuous or insolvent behavior committed during its session, in its immediate view and presence, and directly tending to interrupt its proceedings or to impair the respect due its authority;

2. Any breach of the peace, noise or other disturbance directly tending to interrupt its proceedings;

3. Resistance willfully offered by any person to the lawful order or process of the Municipal Court;

4. The contumacious and unlawful refusal of any person to be sworn as a witness, or, when so sworn, to refuse to answer any legal and proper interrogatory; or

5. Willful failure of any person to comply with a lawful order of the Municipal Court.

B. The Municipal Court may punish summarily any violation of this Section committed by any person in the immediate view and presence of the Municipal Court.

C. Punishment for contempt as provided in this Section may be by fine or imprisonment in the City Jail, or both such fine and imprisonment, as provided for in Section 8.01 of the City Charter.

**Section 135.240. Parole and Probation.** [CC 1979 §17-25; Ord. No. 1023 §2, 2-6-1979]

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 said Judge.

**Section 135.250. Conditions of Probation — Compensation of Victims — Free Work, Public or Charitable.** [1] [CC 1979 §17-25.1; Ord. No. 93-43 §§1, 2, 10-5-1993]

A. The conditions of probation shall be such as the Court in its discretion deems reasonably necessary to insure that the defendant will not again violate the law. When a defendant 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 such conditions as the Court believes will serve to compensate the victim, any dependent of the victim, or society. Such conditions may include, but shall not be limited to:

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

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[1]. **Cross Reference — Prisoners may be required to work on streets, etc., §100.150.**

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

3. The assessment of shock jail time, so long as such jail time is within the range of punishment authorized by ordinance of law for the offense charged;

4. The assessment of a shock fine so long as such amount is within the range of punishment authorized by ordinance or law for the offense charged; and

5. Completion of alcohol or substance abuse education, evaluation or treatment programs at the expense of the defendant.

C. The defendant 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 defendant or any person deriving a cause of action from him/her if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant 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.

E. The Court may suspend either the imposition or execution of sentence as a condition of probation.

**Section 135.260. Right of Appeal.** [CC 1979 §17-26; Ord. No. 1023 §2, 2-6-1979]

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

**Section 135.270. Appeal From Jury Verdicts.** [CC 1979 §17-27; Ord. No. 1023 §2, 2-6-1979]

In all cases in which a jury trial has been demanded, and the case certified as provided for herein, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate Appellate Court.

**Section 135.280. Execution of Judgment to Be Stayed Pending Appeal.** [Code 1962 §19-47; CC 1979 §17-28; Ord. No. 973 §1, 10-4-1977]

Execution of a judgment rendered in the Municipal Court shall be stayed if an appeal is taken and the defendant is admitted to bail pending the appeal.

**Section 135.290. Court Costs — Costs for Training Police Officers.** [CC 1979 §17-29; Ord. No. 1023 §2, 2-6-1979; Ord. No. 1127 §2, 1-5-1982; Ord. No. 1157 §2, 8-17-1982; Ord. No. 93-48 §1, 11-16-1993; Ord. No. 96-56 §1, 11-5-1996; Ord. No. 74-2001 §1, 7-3-2001]

A. *Generally.* Pursuant to Section 479.260, RSMo., the Municipal Judge is hereby authorized and empowered to assess as fees an amount not to exceed twelve dollars ($12.00) per case for each municipal ordinance violation case filed before the Municipal Judge, and in the event a defendant pleads guilty or is found guilty, the Judge may assess costs against the defendant except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs. The fees authorized in this Subsection (A) are in addition to service charges, witness fees, and jail costs that may otherwise be authorized to be assessed, but are in lieu of other Court costs. The fees provided by this Subsection (A) shall be collected by the Municipal Division Clerk and shall be transmitted not less frequently than monthly to the City Treasurer for deposit in the City Treasury.

B. *Crime Victims' Compensation Fund.* Additionally, pursuant to Section 595.045, RSMo., the Municipal Judge shall access as costs a surcharge of five dollars ($5.00) in each Municipal Court proceeding involving an infraction and violation of municipal ordinance; except that no such surcharge shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the Court or when costs are to be paid by the City of Neosho. Such surcharge shall be collected by the Municipal Division Clerk and transmitted not less frequently than monthly as follows:

1. Ninety-five percent (95%) shall be paid to the Director of Revenue of the State of Missouri to the credit of the Crime Victims' Compensation Fund; and

2. Five percent (5%) shall be transmitted to the City Treasurer for deposit in the City Treasury.

C. *Law Enforcement Training.* Additionally, pursuant to Section 488.5336, RSMo., the Municipal Judge may assess as costs a surcharge of up to two dollars ($2.00) per case for each municipal ordinance violation case filed in Municipal Court; except that no such surcharge shall be assessed in non-moving traffic violation cases in any proceeding when the proceeding or defendant has been dismissed by the Court or when costs are to be paid by the City of Neosho. Such surcharge shall be collected by the Municipal Division Clerk and transmitted not less frequently than monthly to the City Treasurer for use in training of Law Enforcement Officers as provided in Section 488.5336, RSMo.

D. *Peace Officers Standards And Training Commission Fund.* Additionally, pursuant to Section 488.5336, RSMo., the Municipal Judge shall assess as costs a surcharge in the amount of one dollar ($1.00) for each municipal ordinance violation case filed in Municipal Court; except that no such surcharge shall be assessed in any proceeding when the proceeding or defendant has been dismissed by the Court or when costs are to be paid by the City of Neosho. Such surcharge shall be collected by the Municipal Division Clerk and transmitted not less frequently than monthly to

the Treasurer of the State of Missouri to the credit of the Peace Officers Standards and Training Commission Fund to be used state-wide for training of Peace Officers.

E. *Shelters For Victims Of Domestic Violence.* Additionally, pursuant to Section 488.607, RSMo., the Municipal Judge may assess as costs a surcharge of up to two dollars ($2.00) for each municipal ordinance violation case filed in Municipal Court; except that no such surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the Court or when costs are to be paid by the City of Neosho. Such surcharge shall be collected by the Municipal Division Clerk and transmitted not less frequently than monthly to the City Treasurer for the purpose of providing operating expenses for shelters of victims of domestic violence as provided in Sections 455.200 — 455.230, RSMo.

F. *Spinal Cord Injury Fund.* Additionally, effective September 29, 2001, pursuant to Section 304.027, RSMo., upon conviction of an intoxication-related offense, as defined by Section 577.023, RSMo., the Municipal Judge shall enter judgment against the defendant in favor of the Spinal Cord Injury Fund in the amount of twenty-five dollars ($25.00). The judgments collected pursuant to this Section shall be paid into the State Treasury to the credit of the Spinal Cord Injury Fund. The Municipal Court Clerk receiving funds pursuant to judgments entered pursuant to this Section shall collect and disburse such amounts as provided in Sections 488.010 — 488.020, RSMo.

G. Other costs, such as for the issuance of a warrant, a commitment, summons and witness fees, as provided before the Associate Circuit Judge in criminal prosecutions.

H. Actual cost assessed against the City by the County Sheriff for apprehension or confinement in the County Jail.

I. Mileage, in the same amount as provided to the Sheriff in criminal violations for each mile and fraction thereof the officer must travel (both directions) in order to serve any warrant or commitment or order of this Court.

J. Upon conviction of an intoxication-related offense, as defined by Section 577.023, RSMo., recoupment of actual cost expended by the City of Neosho in the processing of the defendant shall be assessed.

**Section 135.300. (Reserved)** [2]

**Section 135.305. (Reserved)** [3]

**Section 135.310. Assessment of Costs Against Prosecuting Witness.** [CC 1979 §17-30; Ord. No. 1023 §2, 2-6-1979]

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[2]. **Editor's Note — Ord. no. 73-2001 §1, adopted July 3, 2001, repealed §135.300: court costs — crime victims' compensation account fee. Former section 135.300 derived from cc 1979 §17-29.1 and ord. no. 88-35, 8-16-1988. This section was left reserved for the city's future use.**

[3]. **Editor's Note — Ord. no. 72-2001 §1, adopted July 3, 2001, repealed §135.305: court costs — shelters for battered persons. Former section 135.305 derived from ord. no. 95-53 §I, 11-21-1995. This section was left reserved for the city's future use.**

The costs of any action may be assessed against the prosecuting witness and judgment be rendered against him/her that he/she pay the same and stand committed until paid in any case where it appears to the satisfaction of the Municipal Judge that the prosecution was commenced without probable cause or from malicious motives.

**Section 135.320. Installment Payment of Fine.** [CC 1979 §17-31; Ord. No. 1023 §2, 2-6-1979]

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

**Section 135.330. Defendant To Be Discharged Upon Payment of Fine and Costs, or Perfecting Appeal.** [Code 1962 §19-42; CC 1979 §17-32; Ord. No. 973 §1, 10-4-1977]

Any defendant committed under the provisions of this Chapter may be discharged on the payment of the fine and costs, or upon perfecting an appeal as hereinabove provided.

**Section 135.340. Prosecutions Based on Information Only.** [CC 1979 §17-33; Ord. No. 1023 §2, 2-6-1979]

All prosecutions for the violation of municipal ordinances shall be instituted by information and may be based upon a complaint. No proceedings shall be dismissed or a defendant discharged by reason of any informality or irregularity in any complaint or information, but the complaint may, by leave of Court, at any time before or during the trial, prior to the Finding of the Municipal Judge, be amended without prejudice to the proceeding.

## ARTICLE II
## **Municipal Judge**

**Section 135.350. Selection of Judge.** [CC 1979 §17-51; Ord. No. 1023 §2, 2-6-1979]

The Judge of the City's Municipal Court shall be known as a Municipal Judge of the 40th Judicial Circuit Court, and shall be appointed by the City Manager.

**Section 135.360. Oath of Office.** [Code 1962 §19-4; CC 1979 §17-52; Ord. No. 973 §1, 10-4-1977]

Before entering upon the duties of his/her office, the Municipal Judge shall take the oath required of other City Officers.

**Section 135.370. Term of Office.** [CC 1979 §17-53; Ord. No. 1023 §2, 2-6-1979]

The Municipal Judge shall hold his/her office for a period of two (2) years and shall take office biannually from January first (1st) and shall hold office until a successor is duly appointed and qualified. 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 135.380. Vacation of Office.** [CC 1979 §17-54; Ord. No. 1023 §2, 2-6-1979]

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

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; or

2. Upon attaining his/her seventieth (70th) birthday; or

3. If he/she should lose his/her license to practice law within the State of Missouri.

**Section 135.390. Compensation.** [Code 1962 §19-5; CC 1979 §17-55; Ord. No. 973 §1, 10-4-1977]

The Municipal Judge shall receive such compensation for his/her services as the City Council may from time to time determine by ordinance.

**Section 135.400. Qualifications for Office.** [CC 1979 §17-56; Ord. No. 1023 §2, 2-6-1979]

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 (70) years.

5. He/she may serve as Municipal Judge for any other municipality.

6. He/she may not hold any other office within the City Government.

**Section 135.410. Temporary Municipal Judge.** [CC 1979 §17-57; Ord. No. 1023 §2, 2-6-1979]

A. If a Municipal Judge be absent, sick or disqualified from acting, the City Manager may designate some competent, eligible person to act as Municipal Judge until such absence or disqualification shall cease.

B. The City Council shall provide by ordinance for the compensation of any person designated to act as Municipal Judge under the provisions of this Section.

**Section 135.420. Report to City Manager — Payment of Fines Collected.** [CC 1979 §17-58; Ord. No. 1023 §2, 2-6-1979]

A. The Municipal Judge shall cause to be prepared within the first ten (10) days of every month a report indicating the following: A list of all cases heard and tried before the Court during the preceding month, giving in each case the name of the defendant, the fine imposed if any, the amount of cost, the names of the defendants

committed and the cases where there was an application for trial de novo, respectively. The same shall be prepared under oath by the Municipal Court Clerk or the Municipal Judge. This report shall be filed with the City Manager.

B. The Municipal Court shall, within the ten (10) days after the first (1st) of the month, pay to the Municipal Collector the full amount of all fines collected during the preceding months, if they have not previously been paid.

**Section 135.430. Docket and Court Records.** [CC 1979 §17-59; Ord. No. 1023 §2, 2-6-1979]

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 Newton County. The Municipal Judge shall deliver the docket and records of the Municipal Court, and all books and papers pertaining to his/her office, to his/her successor in office or to the Presiding Judge of the Circuit Court.

**Section 135.440. Powers and Duties Generally.** [CC 1979 §17-60; Ord. No. 1023 §2, 2-6-1979]

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

1. Establish a Traffic Violations Bureau if he/she deems necessary 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, 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, except as limited by Section 8.01 of the Home Rule Charter.

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

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 135.450. Disqualification of Municipal Judge From Hearing Particular Case.** [CC 1979 §17-61; Ord. No. 1023 §2, 2-6-1979]

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

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# Chapter 140

# TAXATION

Cross Reference — Licenses and miscellaneous business regulations, ch. 605.

## ARTICLE I

## In General

**Section 140.010. Tax on Sale of Water, Electricity, Gas, Wood, Oil, Etc.** [CC 1979 §26.5-1; Ord. No. 1049 §§1, 2, 8-7-1979]

A. The municipal sales tax on all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, used for non-business, non-commercial or non-industrial purposes heretofore imposed within the corporate limits of this municipality is hereby reimposed.

B. The rate of taxation shall be, as heretofore, one percent (1%).

**Section 140.020. Additional Sales Tax for Transportation Purposes.** [CC 1979 §26.5-2; Ord. No. 86-9 §1, 3-18-1986; Ord. No. 91-52 §1, 12-17-1991; Ord. No. 92-6 §1, 3-10-1992; Ord. No. 97-43 §1, 11-18-1997; Ord. No. 98-3 §1, 2-17-1998; Ord. No. 280-2007 §§1, 6, 2-9-2007]

A. There is hereby imposed a transportation sales tax of three-eighths (3/8) of one percent (1%) as authorized by Section 94.700 et seq., RSMo. Said transportation sales tax of three-eighths (3/8) of one percent (1%) shall be imposed from its effective date upon all persons within the City of Neosho who are engaged in selling at retail personal property or taxable services at retail if such property and services are subject to taxation by the State of Missouri under Sections 144.010 to 144.510, RSMo. Said tax shall be in the manner and to the extent provided in Sections 144.010 to 144.510, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto.

B. There is hereby imposed an additional transportation sales tax of one-eighth of one percent (1/8 of 1%) as authorized by Section 94.700, RSMo., et seq. Said additional transportation sales tax of one-eighth of one percent (1/8 of 1%) shall be imposed from its effective date upon all persons within the City of Neosho who are engaged in selling at retail personal property or taxable services if such property and services are subject to taxation by the State of Missouri under Section 144.010 to Section 144.510, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto. All revenue received from the tax authorized pursuant to the provisions of this Section shall be utilized solely for retirement of bonds issued for the financing of the South Street bridge project, resurfacing Highway 59, surfacing La-Z-Boy Drive and the extension of Howard Bush Drive.

**Section 140.023. Additional Sales Tax for Senior Citizens Center and Municipal Auditorium.** [Ord. No. 202-2005 §§1, 4, 1-18-2005; Ord. No. 210-2005 §3, 4-19-2005]

A. There is hereby established a sales tax in the amount of one-fourth of one percent (.25%) on all local retail sales subject to taxation under the provisions of Section 94.577, RSMo., within the City of Neosho.

B. All revenue received from the tax authorized pursuant to the provisions of this Section shall be deposited in a special trust fund and shall be divided and used as follows:

1. One-sixteenth (1/16) of said one-quarter (1/4) to be used solely for the operation, maintenance and capital improvement of the Senior Citizens Center.

2. Three-sixteenths (3/16) of said one-quarter (1/4) to be used solely for the operation, maintenance and capital improvement of the Neosho Municipal Auditorium and its associated facilities.

**Section 140.025. Additional Sales Tax for Local Parks and Stormwater Control.** [Ord. No. 97-19 §§1 — 4, 5-20-1997; Passed in election of 8-5-97]

There is hereby established a sales tax in the amount of three-eighths (3/8) of one percent (1%) on all local retail sales subject to taxation under the provisions of Sections 644.032 to 644.033, RSMo., within the City of Neosho. The Finance Manager is hereby directed to account to the City Council monthly the amounts generated by this tax and to transfer said amount from the general revenue fund to a new fund to be known as Local Parks and Stormwater Control Sales Tax Trust Fund. All expenditures of funds shall only be by an appropriation act of the City Council for the purposes of parks and stormwater control.

**Section 140.027. Additional Sales Tax for Operation of Fire Department.** [Ord. No. 66-2001 §1, 5-15-2001; Ord. No. 78-2001 §1, 9-4-2001]

There is hereby established a sales tax in the amount of one-fourth of one percent (0.25%) on all local retail sales subject to taxation under the provisions of Section 321.242, RSMo., within the City of Neosho, for the purpose of providing revenue for the operation of the City of Neosho Fire Department.

**Section 140.030. Payment of Fees, Taxes and License Charges Under Protest.** [CC 1979 §26.5-3; Ord. No. 90-10 §1, 5-15-1990]

A. Any person who pays a fee, tax or license charge authorized by an ordinance of the City may protest all or any part of any fee, tax or license charge paid by filing a protest as set forth herein. If no other procedure is established by law for protesting the fee, tax or license charge, then a person desiring to pay any fee, tax or license charge under protest shall, at the time of paying such fee, tax or license or within seven (7) days thereafter file with the City Collector a written statement setting forth the grounds on which the protest is based. The statement shall include the amount of the money in dispute which is claimed by the person paying such fee, tax or license charge.

B. The City Collector shall impound, in a separate fund, all or any part of such fee, tax or license charge which is in dispute. Within thirty (30) days after the filing of the protest, the City Council shall hold an administrative hearing on the protest. There shall be at least ten (10) days notice of a hearing given to the protesting party. Notice shall be given by certified mail. The hearing shall be informal and formal rules of evidence shall not apply. Upon hearing the evidence, the City Council shall rule on the validity of the protest. In the event the protest is ruled invalid, then any person protesting the payment of the fee, tax or license charge shall, within thirty (30) days after filing such a ruling, commence an action against the City Collector by filing a Petition for review and for recovery of the amount protested in the Circuit Court of Newton County. If any person so protesting the fee, tax or license charge shall fail to commence an action in the Circuit Court for the recovery of the fee or license charge so protested within the time prescribed in this Subsection, then such protest shall become null and void and of no effect, and the City Collector shall then disburse to the proper official the fee, tax or license charge impounded as authorized by the laws of the City. If a final decision is rendered holding that the fee, tax or license charge is invalid, then the City Collector shall refund to the person who protested the fee, tax or license charge the amount of the charge which was found to be invalid, plus interest at the legal rate of interest on the sum from the time it was paid to the City.

ARTICLE II

**Economic Development**

**Section 140.040. Tax Imposed.** [CC 1979 §26.5-51; Ord. No. 90-5 §1, 2-26-1990; Ord. No. 90-6 §1, 3-6-1990; Ord. No. 94-21 §I, 7-19-1994]

Effective April 1, 1995, there is hereby imposed a City sales tax in the amount of one-eighth cent for the benefit of the City of Neosho, Missouri, solely for economic development, on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the City of Neosho, which property and services are subject to taxation by the State of Missouri under the provisions of Sections 144.010 to 144.510 RSMo., as provided for in Sections 94.500 through 94.570 RSMo.

**Section 140.050. Addition of Tax to Sale Price.** [CC 1979 §26.5-52; Ord. No. 90-5 §2, 2-26-1990; Ord. No. 90-6 §2, 3-6-1990; Ord. No. 94-21 §II, 7-19-1994]

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 in Section 140.040, to add the tax imposed by this Article to the sale 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 tax shall be the sum of the two (2) rates multiplying the combined tax rate times the amount of the sale.

**Section 140.060. Rules Adopted — Collection.** [CC 1979 §26.5-53; Ord. No. 90-5 §3, 2-26-1990; Ord. No. 90-6 §3, 3-6-1990; Ord. No. 94-21 §III, 7-19-1994]

The above referred 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 144.010 to 144.510, RSMo., and the rules and regulations of the Director of Revenue issued pursuant thereto, are hereby adopted and made a part hereof. Such tax, when collected, is to be paid to the State Director of Revenue in the same manner as provided for in Sections 144.010 to 144.510, RSMo., governing the State sales tax except as modified by Sections 94.500 through 94.577, RSMo., the provisions of which are hereby adopted and made a part hereof.

**Section 140.070. Deposit of Tax Into Fund.** [CC 1979 §26.5-54; Ord. No. 90-5 §4, 2-26-1990; Ord. No. 90-6 §4, 3-6-1990; Ord. No. 94-21 §IV, 7-19-1994]

Such taxes collected by the Director of Revenue of the State of Missouri, when remitted to the City of Neosho, shall be paid to the Collector of Revenue and shall be deposited in the economic development fund division of the City sales tax fund.

**Section 140.080. Tax on Purchase and Sale of Motor Vehicles.** [CC 1979 §26.5-55; Ord. No. 90-5 §5, 2-26-1990; Ord. No. 90-6 §5, 3-6-1990; Ord. No. 94-21 §V, 7-19-1994]

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 State Director of Revenue from the purchaser at the time application is made for a certificate of title if the address of the applicant is within the City of Neosho.

**Section 140.090. Use Governed.** [1] [CC 1979 §26.5-56; Ord. No. 90-5 §6, 2-26-1990; Ord. No. 90-6 §6, 3-6-1990; Ord. No. 94-21 §VI, 7-19-1994; Ord. No. 451-2010 §1, 12-7-2010; Ord. No. 490-2011 §1, 10-4-2011]

The use of such economic development sales tax shall be governed by the Neosho City Council which shall receive recommendations by a committee, whose members shall consist of: one (1) member appointed by the School Board of the Neosho R-V School District; one (1) member appointed by the Newton County Commissioner's office and (3) three members appointed by the City of Neosho Mayor with the consent of the majority of the Neosho City Council.

ARTICLE III

**Economic Development Sales Tax Committee**

**Section 140.100. Established — Purpose.** [CC 1979 §26.5-71; Ord. No. 90-8 §1, 4-3-1990]

There is hereby established an Economic Development Sales Tax Committee for the purpose of guiding and directing the use of the one-eighth cent sales tax for economic development of the City of Neosho, Missouri.

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1. **Cross Reference — Economic development sales tax committee, §§140.100 — 140.160.**

**Section 140.110. Composition — Rules and Regulations.** [CC 1979 §26.5-72; Ord. No. 90-8 §2, 4-3-1990; Ord. No. 451-2010 §2, 12-7-2010; Ord. No. 490-2011 §1, 10-4-2011; Ord. No. 64-2013 §1, 9-17-2013]

A. The Economic Development Sales Tax Committee shall be composed of:

1. Voting members:

a. One (1) member appointed by the School Board of the Neosho R-V School District;

b. One (1) member appointed by the Newton County Commissioner's office; and

c. Three (3) members, all citizens of the City of Neosho, appointed by the City of Neosho Mayor with the consent of the majority of the Neosho City Council and shall include a current member of the Neosho City Council.

2. Ex officio non-voting members:

a. Neosho City Manager;

b. Neosho area Chamber of Commerce President;

B. The Committee shall elect from its members a Chairman, Vice Chairman and a Secretary. The Committee may adopt rules and regulations for its organization and procedure as it may deem necessary.

**Section 140.120. Membership.** [CC 1979 §26.5-73; Ord. No. 90-8 §3, 4-3-1990; Ord. No. 451-2010 §3, 12-7-2010; Ord. No. 490-2011 §1, 10-4-2011]

Of the members initially appointed, two (2) shall be designated to serve for terms of two (2) years, and the remaining members shall be designated to serve for a term of three (3) years from the date of such initial appointments. Thereafter, the members appointed shall serve for a term of three (3) years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments. All members shall be not less than twenty-one (21) years of age.

**Section 140.130. Meetings.** [CC 1979 §26.5-74; Ord. No. 90-8 §4, 4-3-1990]

The Economic Development Sales Tax Committee shall hold regular meetings at such times and places as the committee may determine, but such meetings shall be held no less often than every six (6) months. A quorum for all regular or special meetings shall be a simple majority of the voting members.

**Section 140.140. Powers and Duties.** [CC 1979 §26.5-75; Ord. No. 90-8 §5, 4-3-1990; Ord. No. 490-2011 §1, 10-4-2011]

A. The Economic Development Sales Tax Committee shall have the power and duty to:

1. Develop and recommend plans for the use of the one-eighth cent economic development sales tax.

2. Prepare, recommend, and submit a budget each year to the City Council for review and approval.

3. Administer the affairs of the use of economic development sales tax of the City by and with the consent of the Council and the City Manager and within the confines of existing law, the provisions of this Code and other ordinances of the City.

**Section 140.150. Committee Responsible to City Council.** [CC 1979 §26.5-76; Ord. No. 90-8 §6, 4-3-1990]

The Economic Development Sales Tax Committee shall be responsible to the City Council and shall confine its activities to the duties specified in this Article.

**Section 140.160. Commitment of Funds.** [CC 1979 §26.5-77; Ord. No. 90-8 §7, 4-3-1990]

The Economic Development Sales Tax Committee shall not and is not authorized to commit the City to any expenditure of money, nor shall it otherwise obligate the City.

ARTICLE IV

**Occupational License Tax — Hotels, Motels and Tourist Courts**

**Section 140.165. Occupational License Tax — Hotels, Motels and Tourist Courts.** [2] [Ord. No. 250-2006 §§1 — 2, 5-16-2006; Ord. No. 256-2006 §1, 9-5-2006]

A. Every person engaging in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or in a part thereof in connection with any hotel, motel or tourist court shall pay to the City a license tax equal to four percent (4%) of the gross rental receipts derived from or paid by transient guests for sleeping accommodations.

B. *Use Of Tax Funds.*

1. All funds collected pursuant to the provisions of this Article, less administrative costs in the amount of three percent (3%), shall be used exclusively with the approval of the City Manager or his designee to publicize, advertise and promote tourism and conventions, lodging and other related activities in the City. Any unappropriated balance in the fund at the end of a fiscal year shall be transferred over into the subsequent year's budget.

2. Notwithstanding anything contained in Subparagraph (1) above, the funds shall be allocated by the City Council utilizing the following procedure:

a. The City Manager or his designee shall establish a procedure wherein not later than August thirty-first (31st) of each year a recommendation is made to the City Council for the appropriation of the funds described herein. In recommending the use of the funds, consideration shall be made as to the most

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2. **Editor's Note — The provisions of this Section passed by a vote of the people at the August 8, 2006 election.**

appropriate use of the funds to include, but not be limited to, billboard design and development, the beautification of entryways into the City, special events such as displays, festivals or celebrations intended to attract visitors from the region to the City and other related activities in the City designed to promote the City of Neosho and its features as a destination for outside visitors and tourists.

b. The Council shall, after public hearing held prior to the adoption of the budget, allocate said funds based upon the Council's determination as to the most appropriate use of said funds to publicize, advertise and promote tourism and conventions, lodging and other related activities in the City.

ARTICLE V

**Real Property Tax Abatement Rate**

**Section 140.170. Real Property Tax Abatement Rate.** [Ord. No. 239-2006 §§1 — 2, 1-17-2006]

A. An enhanced business enterprise will be eligible if established:

1. Under one (1) of the following North American Industry Classification System (NAICS) two-digit headings ["NAICS", the 1997 Edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this Section shall include its corresponding classification in subsequent Federal industry classification systems]:

| | |
|---|---|
| 22 | Utilities |
| 31-33 | Manufacturing |
| 42 | Wholesale Trade |
| 48-49 | Transportation and Warehousing |
| 51 | Transportation |
| 52 | Finance and Insurance |
| 54 | Professional, Scientific and Technical Services (excluding 5418 through 541890) |
| 55 | Management of Companies and Enterprises |
| 56 | Administrative and Support and Waste Management and Remediation Services |
| 611512 | Flight Training |
| 62 | Health Care and Social Assistance |

2. To produce "value-added agricultural products" as defined in Section 348.015(14), RSMo.

3. Any other business enterprise within the above itemized NAICS codes that makes a one hundred thousand dollar ($100,000.00) real property new investment and creates two (2) or more full-time jobs, defined as thirty-five (35) hours or more per week, may be considered for real property tax abatement at a rate of fifty percent (50%) for a maximum period of ten (10) years, provided they provide health insurance benefits for the employee with the employer paying seventy-five percent (75%) minimum of the cost of the insurance, excluding retail, eating and drinking establishments, and gaming operations.

4. Any other new business enterprise that makes a two hundred fifty thousand dollar ($250,000.00) real property new investment and creates over a two (2) year period and maintains ten (10) or more full-time jobs, defined as thirty-five (35) hours or more per week, at a pay rate of ten dollars ($10.00) per hour or more * and provides health insurance benefits for the employee with the employer paying seventy-five percent (75%) minimum of the cost of the insurance may be considered for real property tax abatement at a rate of fifty percent (50%) for a maximum period of ten (10) years excluding retail, eating and drinking establishments, and gaming operations.

5. Any other expanding business enterprise that makes a one hundred thousand dollar ($100,000.00) real property new investment and creates over a two (2) year period and maintains ten (10) or more full-time jobs, defined as thirty-five (35) hours or more per week, at a pay rate of ten dollars ($10.00) per hour or more * and provides health insurance benefits for the employee with the employer paying seventy-five percent (75%) minimum of the cost of the insurance may be considered for real property tax abatement at a rate of fifty percent (50%) for a maximum period of ten (10) years excluding retail, eating and drinking establishments, and gaming operations.

5. * Pay rate is calculated from previous year's total taxable payroll of all employees, including management, to get the average wage per hour.

B. For improvements made to real property used for an enhanced business enterprise, said business enterprise shall receive a real property tax abatement of one hundred percent (100%) for the first (1st) two (2) years, seventy-five percent (75%) for the next eight (8) years, and fifty percent (50%) for the remaining life of the zone, per Section 135.963, RSMo.

C. In accordance with Chapter 135, Section 135.950 through Section 135.973, RSMo., inclusive, the City Council of the City of Neosho, Missouri, hereby establishes and adopts the above property tax abatement level, effective January 17, 2006, and to remain in effect in conformance with Chapter 135, Section 135.950 through Section 135.973, RSMo., for eligible enhanced business enterprises as defined in Section 3(a), commencing operations

in a facility, as defined in Section 135.950(8), RSMo., after the State designation date of the Neosho/Newton County enhanced enterprise zone.

ARTICLE VI

**Sales Tax Holiday**

**Section 140.180. Opt Out of Sales Tax Holiday.** [Ord. No. 251-2006 §§1 — 3, 5-16-2006]

A. The City of Neosho, Missouri, hereby prohibits the provisions of Section 144.049, RSMo., 2003, from exempting sales of certain clothing, personal computers, certain computer software and school supplies that occur within the boundaries of said City of Neosho, Missouri, during the month of August "sales tax holiday" from local sales tax.

B. The City of Neosho, Missouri, hereby perpetually prohibits the provisions of Section 144.049, RSMo., from exempting said local sales tax.

C. The City Clerk is hereby directed to send written notice to the State of Missouri Department of Revenue, P.O. Box 3380, Jefferson City, Missouri 65105-3380 as soon as possible, but no later than June 20, 2006, of the decision to perpetually opt out of the "sales tax holiday", by forwarding a cover letter and certified copy of this Section.

# Chapter 145

# AIRPORT

Cross Reference — Officers and employees, see ch. 110.

## ARTICLE I
## In General

**Section 145.010. Airplanes Flying at Certain Altitudes Prohibited.** [Code 1962 §21-6; CC 1979 §3-1; Ord. No. 973 §1, 10-4-1977]

No person shall fly an airplane over the City at a height of less than fifteen hundred (1500) feet.

**Section 145.020. (Reserved)** [1]

## ARTICLE II
## Airport Industrial Development Board [2]

**Section 145.030. Established.** [Code 1962 §2-131; CC 1979 §3-13; Ord. No. 229-2005 §1, 10-18-2005]

There is hereby established an Airport Industrial Development Board of the City to serve at the pleasure of the City Council.

**Section 145.040. Composition — Officers.** [Code 1962 §2-132; CC 1979 §3-14; Ord. No. 88-32, §2, 7-5-1988; Ord. No. 92-21 §§1 — 2, 5-19-1992; Ord. No. 96-51 §1, 10-15-1996; Ord. No. 229-2005 §1, 10-18-2005]

The Airport Industrial Development Board shall be composed of seven (7) members. Three (3) members shall be affiliated with industrial commercial aviation businesses; one (1) member shall be the Director of Economic Development for the City of Neosho; one (1) member shall be an officer of a financial institution from the City of Neosho; one (1) member shall be a City Council member and one (1) member shall be a pilot at large. These members shall elect from the membership of the Board a Chairman, Vice Chairman and a Secretary.

**Section 145.050. Terms of Members.** [Code 1962 §2-133; CC 1979 §3-15; Ord. No. 229-2005 §1, 10-18-2005]

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1. **Editor's Note — Ord. no. 39-2000 §1, adopted on September 19, 2000, repealed section 145.020 in its entirety. Former section 145.020 derived from CC 1979 §3-2 and ord. no. 92-50 §1, 11-3-1992.**

2. **Charter Reference — Creation of agencies, §4.01. Cross Reference — Planning and zoning commission, ch. 400.**

Members of the Airport Industrial Development Board, after the expiration of the original terms, shall be appointed for subsequent terms of three (3) years.

**Section 145.060. Filling Vacancies.** [Code 1962 §2-134; CC 1979 §3-16; Ord. No. 781 §1, 3-16-1971; Ord. No. 88-32 §3, 7-5-1988; Ord. No. 92-21 §§1, 3, 5-19-1992; Ord. No. 229-2005 §1, 10-18-2005]

Any vacancy on the Airport Industrial Development Board shall be filled by the Council by appointment of a member to serve during the remainder of the term of his/her predecessor.

**Section 145.070. Meetings — Quorum.** [Code 1962 §2-135; CC 1979 §3-17; Ord. No. 229-2005 §1, 10-18-2005]

The Airport Industrial Development Board shall hold regular meetings at such times and at such place as the Board may determine but such meetings shall be held no less often than every three (3) months. A quorum for all regular or special meetings shall be a simple majority.

**Section 145.080. Duties — Generally.** [Code 1962 §2-136; CC 1979 §3-18; Ord. No. 229-2005 §1, 10-18-2005]

A. The Airport Industrial Development Board shall have the following duties:

1. To develop and recommend rules and regulations applicable to airport activity within the confines of existing Federal, State, County and City laws or ordinances and recommend additional laws or ordinances or revisions thereto.

2. To represent the City in all matters dealing with air traffic and commerce.

3. To receive and screen all applications for catering services, fuel, oil, transportation, fixed base operations, flight instruction, manufacturing or such other activities involving the use or conduct of business on or involving the municipal airport and make recommendations to the City Manager or City Council as applicable.

4. To investigate the need for and recommend action necessary for maintenance of the municipal airport so long as such airport requires City labor, equipment and materials or the contribution of labor, equipment and materials by others.

5. To develop through the assistance of suitable technical consultants a master airport development program including, but not restricted to, runways, lighting, taxiways, parking area, hangars, restaurants, lodging, communications, servicing, zoning, etc.

6. To develop and recommend ways and means for the accomplishment of an approved master airport plan.

**Section 145.090. Duties — Delegation to Individual Members.** [Code 1962 §2-137; CC 1979 §3-19; Ord. No. 229-2005 §1, 10-18-2005]

The Airport Industrial Development Board may delegate to its individual members such of the responsibilities and duties set forth in this Article as may be necessary to effectively carry out the responsibilities of the Board.

**Section 145.100. Expenditures.** [Code 1962 §2-138; CC 1979 §3-20; Ord. No. 229-2005 §1, 10-18-2005]

The Airport Industrial Development Board shall not commit the City to any expenditure of money nor shall it otherwise obligate the City without the specific authority of the City Council.

**Section 145.110. Responsible to City Council, Etc.** [Code 1962 §2-139; CC 1979 §3-21; Ord. No. 229-2005 §1, 10-18-2005]

The Airport Industrial Development Board shall be responsible to the City Council and shall confine its efforts to the development and maintenance of the municipal airport for the City in keeping with the times and economics of the City.

**Section 145.120. (Reserved)** [3]

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[3]. **Editor's Note — Ord. no. 39-2000 §1, adopted on September 19, 2000, repealed section 145.120, fees for bow hunting on airport property. Former section 145.120 derived from CC 1979 §3-22; ord. no. 92-22 §1, 5-19-1992 and ord. no. 92-50 §2, 11-3-1992.**

# Chapter 200

# POLICE PROVISIONS

Cross References — Administration, Title I; general penalty for code violation, §100.130; sale of unclaimed property, §120.290; municipal court, ch. 135; offenses and miscellaneous provisions, ch. 215; nuisances, ch. 220; motor vehicles and traffic, Title III.

## ARTICLE I
## In General

**Section 200.010. Auxiliary Police Redesignated Reserve Police.** [CC 1979 §24-1; Ord. No. 836 §2, 3-6-1973]

The Auxiliary Police of the City shall hereafter be known and designated as the Reserve Police of the City and shall be a volunteer organization.

**Section 200.020. Participation in Major Case Squad Operations.** [CC 1979 §24-2; Ord. No. 93-8 §§1, 2, 3-9-1993]

A. For the purpose of this Section, the *"Major Case Squad"* shall mean any formation, operation, organization, or cooperative action between any County Governing Body, any Municipal Government and the City of Neosho, the purpose of which is intensive professional investigation of certain individual crimes that may occur in their general geographical area, and which is operated and activated on request of a County Sheriff, County Police Superintendent, or the Police Chief of a political subdivision wherein a crime has occurred.

B. The officers of the City of Neosho Police Department are authorized to participate in and cooperate with any Law Enforcement Officers of jurisdictions in any Major Case Squad operation or formation. The officers designated to act as the Major Case Squad operation will be so designated by the Chiefs of Police and when acting outside of the City of Neosho as a member of the Major Case Squad operation shall be considered to be on active duty the same as if acting within the boundaries of the City of Neosho.

## ARTICLE II
## Police Department [1]

**Section 200.030. Powers and Duties — Generally.** [Code 1962 §2-70; CC 1979 §24-16]

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1. **Charter Reference — Authority of council to create departments, §4.01. Cross Reference — Duties of police department in relation to dangerous buildings, §525.080.**

Regular City Policemen shall be conservators of the peace within the City and patrol on such beats and at such times as may be designated by the Chief of Police, and shall be constantly on the alert, vigilant and active in the prevention of depredations, disturbances of the peace and violations of the laws of the State, the provisions of this Code and other ordinances of the City. In making arrests, in maintaining and preserving order and the peace of the City, and in serving and returning process and notices, they shall have and exercise the same powers as the Chief of Police.

## ARTICLE III
## Police Chief [2]

**Section 200.040. To Preserve the Peace, Suppress Riots, Etc. — to Report Misconduct, Etc., of Policemen — to Perform Other Duties Required by Law, Etc.** [Code 1962 §2-57; CC 1979 §24-31]

The Chief of Police shall be active and vigilant in preserving the peace and good order of the City, and at all times shall be on the alert to suppress any riot or disorder in the City. The Chief of Police shall perform all other duties required of him/her by law, and by the various provisions of this Code.

**Section 200.050. Execution of Orders and Process.** [Code 1962 §2-58; CC 1979 §24-32]

It shall be the duty of the Chief of Police to execute all orders or process issued by the Municipal Judge or other Officer of the City having authority to issue the same, and to make return thereof according to law.

**Section 200.060. To Attend, Etc., Municipal Court.** [3] [Code 1962 §2-60; CC 1979 §24-34]

It shall be the duty of the Chief of Police to attend the Municipal Court when in session, either in person or by Deputy, and to preserve order therein.

**Section 200.070. Reporting, Etc., Violations of Code, Etc.** [Code 1962 §2-62; CC 1979 §24-36]

It shall be the duty of the Chief of Police to diligently inquire into and report to the City Manager and City Attorney all violations of the provisions of this Code or other City ordinances.

**Section 200.080. Inspection, Etc., of Streets and Alleys.** [Code 1962 §2-65; CC 1979 §24-38]

The Chief of Police shall inspect all streets and alleys in the City and report any dangerous or unhealthy conditions existing to the City Manager.

**Section 200.090. Monthly Report of Funds Collected, Etc.** [Code 1962 §2-69; CC 1979 §24-42]

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2. **Cross References — Fire chief, ch. 205, art. II; notice to police chief regarding routes for moving buildings, §530.040; duties of chief of police enforcing license provisions, §605.140.**

3. **Cross Reference — Municipal court, ch. 135.**

The Chief of Police shall give, in writing, to the City Manager monthly a full account of all the money that may have been received and paid out by him/her by virtue of his/her office and also the fees collected by him/her and to whom paid.

## ARTICLE IV
## Miscellaneous Provisions

**Section 200.100. Acting in an Emergency Situation Outside the City Limits.** [Ord. No. 95-2 §§I — IV, 1-17-1995]

A. Any Police Officer of the City of Neosho, Missouri, who has completed the basic training program as established by Chapter 590, RSMo., shall have the authority to respond to an emergency situation outside of the boundary of the City of Neosho, Missouri, provided however, that such authorization to respond shall exist only within the jurisdiction described in Subsection (C) hereof. As provided herein, *"emergency situation"* means any situation in which the Police Officer has reasonable belief that a crime 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 the officer's response is reasonably necessary to prevent or end such emergency situation. The determination of the existence of any emergency situation shall be in the discretion of the officer.

B. The term *"response"*, as used in this Section shall mean to take any and all action which the Police Officer may lawfully take as if exercising normal powers within the City of Neosho.

C. The authority contained herein shall permit the response of one or more City of Neosho Police Officers in any of the following jurisdiction within the State of Missouri until the emergency situation has been adequately taken in to control, in the discretion of the officer, by another appropriate jurisdiction: County of Newton.

D. Notwithstanding anything to the contrary within this Section, if the County Commission of Newton County, Missouri, has not passed appropriate legislation authorizing Police Officers of the City of Neosho to respond within that jurisdiction within sixty (60) days of January 17, 1995, that this Section shall be void and of no effect whatsoever as to the authority of the Police Officers of the City of Neosho to respond within that jurisdiction.

# Chapter 205

# FIRE DEPARTMENT

Cross References — Personnel policy regarding firefighters, §§115.150 — 115.270; obedience to fire department officials required, §310.020; following fire apparatus prohibited, §340.010; crossing fire hoses prohibited, §340.020; as to fire prevention code, see §500.070; duties of fire department in relation to dangerous buildings, §525.080;

Charter Reference — Authority to create departments and offices, §4.01.

## ARTICLE I
## General Provisions

**Section 205.010. Appointment, Etc., of Officers and Members — Filling Vacancies.** [Code 1962 §11-7; CC 1979 §10-17; Ord. No. 325-2008 §1, 3-18-2008]

A. The City Manager shall appoint the Fire Chief. The Fire Chief and Human Resources Director shall, working together, hire Deputy Fire Chief, officers, equipment engineers and as many Firemen or Volunteer Firemen as are deemed necessary to protect the welfare of the City, with each hiring decision subject to the approval of the City Manager. Such persons shall serve at the pleasure of the City Manager. Vacancies, if and when they occur, shall be filled by the Fire Chief and Human Resources Director, subject to the approval of the City Manager.

B. The Fire Chief shall designate the Deputy Fire Chief and may, in consultation with the Human Resources Director, assign other job titles and ranks.

**Section 205.020. Qualifications and Physical Requirements of Members — Physical Examinations.** [Code 1962 §11-8; CC 1979 §10-18]

The officers and members of the Fire Department shall possess the general qualifications required for other officers of the City, and shall be in good physical condition. The City Manager shall prescribe physical standards for members of the Fire Department, and shall require periodic physical examinations, at least once each year and more often if deemed necessary, by a licensed physician designated by him, to insure that members of the Fire Department are in good physical condition and physically able to carry out their duties.

**Section 205.030. Firemen Subject to Call at All Times — Responding to Fire Alarm.** [Code 1962 §11-9; CC 1979 §10-19]

Every person duly selected as a member of the Fire Department shall be subject to call at any time of day or night to attend any fire within the City and if any member shall fail, neglect or refuse to attend a fire without reasonable cause therefor, he/she shall be subject

to immediate removal from the Department. Members shall be called to attend fires by the sounding of the fire alarm and upon the sounding thereof, they shall assemble as quickly as possible at the station house or other place designated by the Fire Chief.

**Section 205.040. Duties, Etc., of Firemen Generally.** [Code 1962 §11-10; CC 1979 §10-20]

All members of the Fire Department shall perform such duties as may be required of them by the Fire Chief and shall observe such other rules and regulations as may be promulgated by the City Manager.

**Section 205.050. Interference With Operations.** [CC 1979 §10-21; Ord. No. 948 §III, 3-15-1977]

It shall be unlawful to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any Fire Department emergency vehicle in any way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any Fire Department operation.

**Section 205.060. Unlawful Boarding or Tampering With Emergency Equipment.** [CC 1979 §10-22; Ord. No. 948 §V, 3-15-1977]

A person shall not without proper authorization from the Fire Official in charge of said Fire Department emergency equipment cling to, attach himself/herself to, climb upon or into, board, or swing upon any Fire Department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with, or attempt to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on, or a part of any Fireman or any Fire Department emergency vehicle.

**Section 205.070. Damage, Injury to Equipment, Personnel.** [CC 1979 §10-23; Ord. No. 948 §VI, 3-15-1977]

It shall be unlawful for any person to damage or deface, or attempt to conspire to damage or deface, any Fire Department emergency vehicle at any time, or to injure, or attempt to injure or conspire to injure Fire Department personnel while performing departmental duties.

**Section 205.080. Blocking Fire Hydrants and Connections.** [CC 1979 §10-24; Ord. No. 948 §VII, 3-15-1977]

It shall be unlawful to obscure from view, damage, deface, obstruct, or restrict the access to any fire hydrant or any Fire Department connection for the pressurization of fire suppression systems, including fire hydrants and Fire Department connections that are located on public or private streets and access lanes, or on private property. Operators of motor vehicles shall not park their vehicles within a space of ten (10) feet on any side of a fire hydrant located on public or private property.

**Section 205.090. Hydrant Use Approval.** [CC 1979 §10-25; Ord. No. 948 §VIII, 3-15-1977]

No person shall use or operate any fire hydrant intended for use of the Fire Department for fire suppression purposes unless such person first secures a permit from the City Manager, Water Department Superintendent and/or the Fire Chief. This Section shall not apply to employees of the Fire Department and Water Department.

## ARTICLE II
## **Fire Chief** [1]

**Section 205.100. Responsibilities.** [Code 1962 §11-11; CC 1979 §10-33]

The Fire Chief shall be responsible to the City Manager for discipline, good order and conduct of the Fire Department, and the performance of all rules, regulations and ordinances pertaining thereto, and for the care and condition of the fire equipment and all other property of the Fire Department.

**Section 205.110. Authority at Fires.** [Code 1962 §11-12; CC 1979 §10-34; Ord. No. 948 §II, 3-15-1977; Ord. No. 325-2008 §1, 3-18-2008]

The Officer in Charge shall be in charge at the scene of any fire. The "Officer in Charge" is highest ranking fireman at the scene. He/she is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, control rescue operations or hazardous materials incidents. The Officer in Charge may prohibit any person, except a Law Enforcement Officer, and prohibit any vehicle or object from approaching the scene and may cause to be removed from the scene any person, vehicle or object which may be endangered or is likely to impede or interfere with the operations of the Fire Department. All persons ordered to leave an area shall do so immediately and shall not re-enter the area until authorized to do so by the Officer in Charge.

**Section 205.120. Powers and Duties of Deputy Fire Chief in Absence of Chief.** [Code 1962 §11-13; CC 1979 §10-35; Ord. No. 325-2008 §1, 3-18-2008]

In the absence of the Fire Chief, the Deputy Fire Chief shall be in full charge and control of the Department and exercise all powers and duties specified by this Article for the Fire Chief.

**Section 205.130. Departmental Records and Reports.** [Code 1962 §11-14; CC 1979 §10-36]

The Fire Chief shall keep in suitable books a record of the names, ages and residences of all members of the Fire Department and an inventory of all the personal property belonging to the Department. He/she shall also keep a record of every fire that may occur, showing what property was destroyed, giving a description of such property and the names of the occupants thereof, and showing where such property was situated and established and the amount of loss and insurance. The Fire Chief shall also keep a record of the false alarms, of the causes of the various fires, and of the expenses of the Fire Department, and such other facts as he/she may deem of value to be preserved, and he/she shall report the same to the City Manager the first (1st) of every month.

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1. **Cross References — Police chief, ch. 200, art. III; notice to fire chief regarding route for moving of buildings, §530.040.**

**Section 205.140. Compliance With Orders of Chief Required.** [CC 1979 §10-37; Ord. No. 948 §IV, 3-15-1977]

Any person who shall fail or refuse to comply with any lawful order or direction of the Fire Chief or to interfere with the compliance attempts of another individual shall be deemed guilty of a misdemeanor.

# Chapter 210

# ANIMALS AND FOWL

Cross References — Offenses and miscellaneous provisions, ch. 215; nuisances, ch. 220; vehicles propelled by animals subject to motor vehicle and traffic regulations, §310.030.

## ARTICLE I
## In General

**Section 210.010. Running at Large — Generally.** [Code 1962 §5-1; CC 1979 §6-1; Ord. No. 892 §1(5-1), 4-1-1975]

No person shall permit any horse, mule, mare, jack, jenny, colt, swine, sheep, bull, goat, steer, cow, heifer, calf or other animal or domestic fowl to run at large upon the streets, alleys, public places or public commons, within the limits of the City.

**Section 210.020. Running at Large — on Private Property.** [Code 1962 §5-2; CC 1979 §6-2; Ord. No. 892 §1 (5-2), 4-1-1975]

No person owning, controlling or in possession of any animal described in Section 210.010 of this Chapter shall allow or permit such animal to run at large upon, over or across the lot, garden or enclosure of another, to his/her damage and annoyance.

**Section 210.030. Animal Neglect.**

A. A person is guilty of animal neglect when he/she has custody or ownership or both of an animal and fails to provide adequate care or adequate control.

B. Animal neglect is a misdemeanor. All fines and penalties for a first conviction of animal neglect may be waived by the court provided that the person found guilty of animal neglect shows that adequate, permanent remedies for the neglect have been made. Reasonable costs incurred for the care and maintenance of neglected animals may not be waived.

**Section 210.040. Animal Abuse.**

A. A person is guilty of animal abuse when a person:

1. Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of Sections 578.005 to 578.023, RSMo.;

2. Purposely, intentionally or recklessly causes injury, suffering, or pain to an animal;

3. Abandons an animal in any place without making provisions for its adequate care;

4. Overworks or overloads an animal, or drives or works an animal unfit to work; or

5. Having ownership or custody of an animal willfully fails to provide adequate care or adequate control.

**Section 210.050. Rabid Animals Generally.** [Code 1962 §§5-7, 5-21; CC 1979 §6-7; Ord. No. 892 §1 (5-7), 4-1-1975]

It shall be the duty of any Police Officer or Animal Control Officer, to summarily kill and dispose of any animal, including, but not limited to, dogs and cats, suffering from rabies; provided however, that extreme caution shall be used not to unnecessarily kill or dispose of any such animal at such an early time or in such a manner or way that it will interfere with a proper determination of whether the animal is suffering from rabies or the identification of the animal by persons who may have been exposed, and all such persons shall use extreme care to comply with proper procedures prescribed by veterinarians and medical doctors for the protection of human and animal life and safety in such cases. It is hereby made the express duty of all such persons to familiarize themselves with such proper, safe and desirable procedures in such cases, together with safe animal detention methods and devices.

**Section 210.055. Quarantine of Animals Biting Humans or Suspected of Having Rabies.** [Ord. No. 99-18, 6-1-1999]

A. Every animal which bites a person or which is suspected of having been exposed to rabies shall be promptly reported to the Police Department and may thereupon be securely quarantined at the direction of the Police Chief, Assistant Chief or shift supervisor for a period of ten (10) days from the date of first (1st) confinement. Such animal shall be quarantined at the shelter designated as the City pound or at a veterinary hospital or at the home of the owner upon such conditions as the Police Chief, Assistant Chief or shift supervisor shall impose, and the expense of such quarantine shall be paid by the owner of such animal if his/her identity is known.

B. The owner, upon demand made by the Police Chief, Assistant Chief or shift supervisor, shall forthwith surrender any animal which has bitten or scratched a human or which is suspected as having been exposed to rabies for supervised quarantine, the expense of such shall be borne by the owner of such animal if his/her identity is known. Any person who willfully fails or refuses to obey this Section of the City of Neosho Code of Ordinances or who willfully resists or opposes a member of the City Police force in the proper discharge of his/her duties shall be guilty of a misdemeanor and punished as provided for in Section 100.130 of the Code of Ordinances.

**Section 210.060. Keeping Certain Animals Prohibited.** [Code 1962 §5-8; CC 1979 §6-8; Ord. No. 892 §1 (5-8), 4-1-1975]

No person shall keep or harbor any animals or fowl in such number or in such close proximity to the dwelling place of another that the same shall become offensive, noisome or disagreeable to the community in which the same may be located.

**Section 210.070. Keeping Fowl — Accumulating Manure in Fowl Pens.** [CC 1979 §6-9; Ord. No. 892 §1 (5-9), 4-1-1975]

No person shall keep chickens, ducks, geese, turkeys, pigeons or other fowl in an enclosure which is less than fifty (50) feet from any dwelling, church or school, as measured from the exterior boundary of such enclosure, nor shall any person permit the accumulation of manure in any such enclosure.

**Section 210.080. Stables, Barns, Pens, Etc., Generally.** [CC 1979 §6-10; Ord. No. 892 §1 (5-10), 4-1-1975]

No person shall erect, operate or maintain any barn, stable, hen house, hutch or pen of any kind whatsoever, and permit the same to become offensive, noisome, disagreeable or obnoxious to the community in which the same may be located.

**Section 210.090. Causing Animals to Fight.** [Code 1962 §21-14; CC 1979 §6-11; Ord. No. 973 §1, 10-4-1977]

No person shall purposely cause dogs or other animals or fowl to fight in the City.

**Section 210.100. Complaints and Summons.** [CC 1979 §6-12; Ord. No. 892 §1 (5-18), 4-1-1975]

Complaints may be filed by any person having personal knowledge of the violation of the terms of this Chapter. The Animal Control Officer shall file complaints in the name of the City in those instances where he/she has personal knowledge of the violation complained of. Complaints by individuals shall be directed to the Animal Control Officer through the City Police Department.

**Section 210.110. Responsibility of Police Department.** [CC 1979 §6-13; Ord. No. 892 §1 (5-19), 4-1-1975]

The Police Department, in the enforcement of this Chapter, shall be authorized to receive complaints and to serve summons and other legal process.

**Section 210.120. Violations of Chapter.** [CC 1979 §6-14; Ord. No. 892 §1 (5-11), 4-1-1975]

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed the penalty provided in Section 100.130 of this Code of Ordinances.

## ARTICLE II
## **Dogs and Cats**

**Section 210.130. Running at Large.** [CC 1979 §6-26; Ord. No. 892 §1 (5-12), 4-1-1975; Ord. No. 94-5 §II (6-26), 3-1-1994; Ord. No. 111-2002 §1, 8-20-2002]

It shall be unlawful for any person to permit a dog or cat possessed, kept or harbored by him/her, to be allowed to run at large, unless leashed, on the streets, alleys, public places or on private premises not under control of such owner, within the City, whether a license for such dog or cat shall have been secured or not. The owner of any dog or cat who fails to keep his/her dog or cat under restraint shall be held liable for all damages caused by said dog or cat. Any dog or cat found running at large and which cannot be safely taken up and impounded, the Animal Control Officer, or any Police Officer, is hereby authorized to use such force as may be necessary to capture such dog or cat, including the killing of such dog or cat.

**Section 210.140. through Section 210.160. (Reserved)** [1]

**Section 210.170. Disposal of Dead and Unwanted Animals.** [CC 1979 §6-30; Ord. No. 892 §1 (5-16), 4-1-1975]

Any owner of a dog, cat or other domesticated animal or fowl, shall be liable for the disposal of such animal or fowl. It is unlawful to dispose of same by placing the animal in garbage cans, or dumping it on public streets or parks, County roads and rights-of-way. It shall not be the duty of the Animal Control Officer, any Police Officer, or any other City employee to assist in the retrieval or removal of any dead dog, cat, opossum, raccoon or other small wild animal, whether such animal belongs to the owner of the property where the dead animal is found, or if it was deposited or strayed upon such property.

**Section 210.180. Barking, Etc., Dogs — Meowing, Etc., Cats.** [CC 1979 §6-31; Ord. No. 892 §1 (5-17), 4-1-1975]

No person shall keep a dog which by loud, frequent, barking or howling disturbs the surrounding neighborhood, and no person shall keep a cat which by loud, frequent, meowing or other noises disturbs the surrounding neighborhood.

**Section 210.190. Dangerous Animals.** [CC 1979 §6-32; Ord. No. 892 §1 (5-20), 4-1-1975]

A. The Animal Control Officer of the City shall pick up all dogs or cats which are running at large that are vicious and dangerous, and such dogs and cats shall be disposed of as follows:

   1. If the owner of such vicious and dangerous dog or cat is known, such owner shall be notified. He/she is then herein given the right to make application for and have a proper trial before the Municipal Court on the issue of fact as to whether such dog or cat is vicious and dangerous. If such dog or cat is then found to be vicious and dangerous, it shall be killed and the owner thereof shall be liable for all costs of court and for the cost of impounding and caring for such dog or cat.

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[1]. **Editor's Note — Ord. no. 496-2012 §1, adopted March 20, 2012, repealed sections 210.140 "city pound", 210.150 "impounding — generally — pound, etc., redemption fees", and 210.160 "impounding — notice to owner — disposal of unredeemed animals" in their entirety. Former sections 210.140 — 210.160 derived from CC 1979 §§6-27 — 6-29; ord. no. 892 §1(5-13 — 5-15), 4-1-1975; ord. no. 967 §§1 — 2, 8-2-1977; ord. no. 94-5 §§III — V (6-27 — 6-29), 3-1-1994; ord. no. 41-2000 §§1 — 2, 9-19-2000.**

2. If the owner of such vicious dog or cat is unknown, the same shall be summarily destroyed in an emergency and if there is no emergency such dog or cat shall be dealt with according to Section 210.160(C).

**Section 210.200. Special Vaccination Upon Outbreak.** [CC 1979 §6-33; Ord. No. 892 §1 (5-22), 4-1-1975]

In the event that a quarantine because of rabies is declared in the City by the Animal Control Officer, or some other authority, all dogs and cats vaccinated more than twelve (12) months previous thereto shall be revaccinated.

**Section 210.210. Female Dogs in Heat.** [CC 1979 §6-34; Ord. No. 892 §1 (5-23), 4-1-1975]

The owner, keeper, or person harboring a bitch in heat shall, during this entire period, keep it securely confined or enclosed within a building away from public view.

## ARTICLE III
## Registration and Licenses

**Section 210.220. Required.** [CC 1979 §6-42; Ord. No. 892 §1 (5-24), 4-1-1975]

It shall be unlawful for any person to own, keep, possess, harbor or allow to remain upon any premises under his/her control within the City, any dog or cat over the age of four (4) months, male or female, which has not been registered and a license issued therefor as provided by this Article.

**Section 210.230. Rabies Vaccination Prerequisite to Issuance of License.** [CC 1979 §6-43; Ord. No. 892 §1 (5-25), 4-1-1975]

No license shall be issued for any dog or cat owned, kept, possessed, harbored or allowed upon the premises of any person within the City unless such dog or cat shall first have been vaccinated against rabies by a duly licensed veterinarian under the provisions of Section 210.240.

**Section 210.240. Vaccination Certificate to Be Presented Prior to License Issuance — Relationship Between Date of Vaccination and Date of License Issuance.** [CC 1979 §6-44; Ord. No. 892 §1 (5-26), 4-1-1975]

There shall be presented to the City prior to the issuance of a license pursuant to this Article, a certificate signed by a duly licensed veterinarian showing that the dog or cat, as the case may be, has been vaccinated, and giving the date of such vaccination. Where the certificate shows that the vaccination has been performed within twelve (12) months prior to the issuance of such license, and that the dog or cat was at least four (4) months old at the time of vaccination, then the license may be issued for such dog or cat if the date of vaccination is within twelve (12) months prior to the issuance of such license.

**Section 210.250. Licenses to Be Obtained From City Collector.** [CC 1979 §6-45; Ord. No. 892 §1 (5-27), 4-1-1975; Ord. No. 99-2002 §1, 4-16-2002]

Licenses issued pursuant to this Article may be obtained from the City Collector upon presentation of the certificate of vaccination described in Section 210.240.

Licenses issued pursuant to this Article may be obtained from locally authorized veterinarians upon proper vaccination and issuance of certificate of vaccination described in Section 210.240.

**Section 210.260. License Tag.** [CC 1979 §6-46; Ord. No. 892 §1 (5-28), 4-1-1975; Ord. No. 100-2002 §1, 4-16-2002]

Upon the issuance of each license pursuant to this Article, it shall be the duty of the City Collector or locally authorized veterinarian to deliver to the person procuring the license a metal tag on which shall be engraved the license number and the year of issuance of such license. The owner of such dog or cat, as the case may be, shall cause the metal tag to be fastened securely around the dog's or cat's neck and worn continuously for the purpose of displaying to the public the fact that such dog or cat has been licensed according to law. It shall be unlawful for any person to remove a metal tag issued under the provisions of this Article from a dog or cat without the written consent of the owner of such dog or cat.

**Section 210.270. Register of Licenses.** [CC 1979 §6-47; Ord. No. 892 §1 (5-29), 4-1-1975]

The City Collector shall keep a register of all licenses issued pursuant to this Article, in which shall be entered the name of the applicant, the name of the owner of the dog or cat, if other than the applicant, a description of the dog or cat, including its approximate value, and the number of the license tag issued.

**Section 210.280. Registration Fee.** [CC 1979 §6-48; Ord. No. 892 §1(5-30), 4-1-1975; Ord. No. 92-4 §1, 3-3-1992; Ord. No. 94-5 §VI (6-48), 3-1-1994; Ord. No. 41-2000 §3, 9-19-2000; Ord. No. 101-2002 §1, 4-16-2002]

A fee shall be charged for the registration provided for by Section 210.240 of any dog or cat, provided, that no person operating a duly licensed kennel within the City shall be required to procure a separate license and registration for each dog or cat kept therein. Said fee if paid to a locally authorized veterinarian shall be increased by an amount from time to time determined by the City to cover administration cost.

**Section 210.290. License Expiration Date.** [CC 1979 §6-49; Ord. No. 892 §1 (5-31), 4-1-1975]

All licenses issued pursuant to this Article shall expire on the first (1st) day of March each year.

**Section 210.300. Kennel License.** [CC 1979 §6-50; Ord. No. 892 §1 (5-32), 4-1-1975; Ord. No. 94-5 §VII (6-50), 3-1-1994]

Any person operating a kennel within the City where dogs are kept, sold or trained shall be required to procure a kennel license which shall be issued upon application therefor and the payment of a fee of fifteen dollars ($15.00), if not more than six (6) dogs are kept

within the kennel, or twenty-five dollars ($25.00) if more than six (6) dogs are kept therein.

# Chapter 215

## OFFENSES AND MISCELLANEOUS PROVISIONS

Cross References — General penalty for code violations, §100.130; municipal court, ch. 135; police, ch. 200; nuisances, ch. 220.

### ARTICLE I
### In General

**Section 215.010. Responsibility for the Conduct of Another.**

A. A person is criminally responsible for the conduct of another when:

1. The statute defining the offense makes him/her so responsible; or

2. Either before or during the commission of an offense with the purpose of promoting the commission of an offense, he/she aids or agrees to aid or attempts to aid such other person in planning, committing or attempting to commit the offense.

B. However, a person is not so responsible if:

1. He/she is the victim of the offense committed or attempted;

2. The offense is so defined that his/her conduct was necessarily incident to the commission or attempt to commit the offense. If his/her conduct constitutes a related but separate offense, he/she is criminally responsible for that offense but not for the conduct or offense committed or attempted by the other person;

3. Before the commission of the offense he/she abandons his/her purpose and gives timely warning to Law Enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.

C. The defense provided by subparagraph (3) of Subsection B is an affirmative defense.

**Section 215.020. Attempt.**

A. A person is guilty of attempt to commit an offense when, with the purpose of committing the offense, he/she does any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

B. It is no defense to a prosecution under this Section that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of

commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

**Section 215.030. Conspiracy.**

A. A person is guilty of conspiracy with another person or persons to commit an offense if, with the purpose of promoting or facilitating its commission he/she agrees with such other person or persons that they or one (1) or more of them will engage in conduct which constitutes such offense.

B. If a person guilty of conspiracy knows that a person with whom he/she conspires to commit an offense has conspired with another person or persons to commit the same offense, he/she is guilty of conspiring with such other person or persons to commit such offense, whether or not he/she knows their identity.

C. If a person conspires to commit a number of offenses, he/she is guilty of only one conspiracy so long as such multiple offenses are the object of the same agreement.

D. No person may be convicted of conspiracy to commit an offense unless an overt act in pursuance of such conspiracy is alleged and proved to have been done by him/her or by a person with whom he/she conspired.

E. *Exception:*

1. No one shall be convicted of conspiracy if, after conspiring to commit the offense, he/she prevented the accomplishment of the objectives of the conspiracy under circumstances manifesting a renunciation of his/her criminal purpose.

2. The defendant shall have the burden of injecting the issue of renunciation of criminal purpose under subdivision (1) of this subsection.

F. For the purpose of time limitations on prosecutions:

1. Conspiracy is a continuing course of conduct which terminates when the offense or offenses which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom he/she conspired.

2. If an individual abandons the agreement, the conspiracy is terminated as to him/her only if he/she advises those with whom he/she has conspired of his/her abandonment or he/she informs the law enforcement authorities of the existence of the conspiracy and of his/her participation in it.

G. A person may not be charged, convicted or sentenced on the basis of the same course of conduct of both the actual commission of an offense and a conspiracy to commit that offense.

**Section 215.040. Use of Excessive Force.** [CC 1979 §19-100; Ord. No. 91-12 Arts. I, II, 3-19-1991; Ord. No. 94-35 Arts I — II, 12-20-1994]

A. The City hereby adopts and will enforce this policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations. The City also prohibits the physical barring of any entrance or exit to such a facility and will enforce all applicable State laws regarding same.

B. *Violation — Notice — Penalty.*

1. Any person found to be violating any provision of this Section shall be served by the City with written notice stating the nature of the violation.

2. Any person guilty of this violation shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred dollars ($100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Any person violating any of the provisions of this Section shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

## ARTICLE II
## Offenses Against a Person

**Section 215.050. False Impersonation.**

A. A person commits the offense of false impersonation if he/she:

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; or

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.

**Section 215.060. Assault.** [Code 1962 §21-7; CC 1979 §19-74; Ord. No. 973 §1, 10-4-1977; Ord. No. 88-21 §2, 4-19-1988; Ord. No. 326-2008 §2, 4-1-2008]

A. A person commits the offense of assault if:

1. The person attempts to cause or recklessly causes physical injury to another person; or

2. With criminal negligence, the person causes physical injury to another person by means of a deadly weapon; or

3. The person purposely places another person in apprehension of immediate physical injury, and the person placing the other person in apprehension of an injury and the immediacy of the injury is possible because of the proximity to the person receiving the threat to the person or persons who would carry out the threat; or

4. The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

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 215.070. Harassment.** [CC 1979 §19-84; Ord. No. 88-39, 9-20-1988; Ord. No. 395-2009 §1, 5-19-2009]

A. A person commits the crime of harassment if he or she does any of the following:

1. Knowingly communicates a threat to commit any felony to another person and in so doing frightens, intimidates, or causes emotional distress to such person; or

2. When communicating with another person, knowingly uses coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or

3. Knowingly frightens, intimidates, or causes emotional distress to another person by anonymously making telephone call or any electronic communication; or

4. Knowingly communicates with another person who is, or who purports to be, seventeen (17) years of age or younger and in so doing and without good cause recklessly frightens, intimidates, or causes emotional distress to such other person; or

5. Knowingly makes repeated unwanted communication to another person; or

6. Without good cause engages in any other act with the purpose to frighten, intimidate, or cause emotional distress to another person, causes such person to be frightened, intimidated, or emotionally distressed, and such person's response to the act is one of a person of average sensibilities considering the age of such person.

**Section 215.080. Affrays.** [Code 1962 §21-5; CC 1979 §19-96; Ord. No. 973 §1, 10-4-1977]

If any two (2) or more persons shall, in any public place in this City, voluntarily, or by agreement, engage in any fight, or use any blows or violence toward each other, in an angry or quarrelsome manner, or do each other any mischief, or if any person shall assault another, and strike him, in any place, to the terror or disturbance of others therein, the persons so offending shall be deemed guilty of a misdemeanor.

## ARTICLE III
## Offenses Concerning Administration of Justice

**Section 215.090. Escape or Attempted Escape From Confinement.**

A person commits the offense of escape or attempted escape from confinement if, while being held in confinement after arrest for any crime, or while serving a sentence after conviction for any crime, he/she escapes or attempts to escape from confinement.

**Section 215.100. 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, he/she escapes or attempts to escape from custody.

**Section 215.110. Aiding Escape of a Prisoner.**

A. A person commits the offense of aiding escape of a prisoner if he/she:

1. Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other crime; or

2. Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement.

**Section 215.120. Interference With a Police Officer Prohibited; Resisting or Interfering With Arrest.**

A. A person commits the offense of resisting or interfering with arrest if, knowing that a Law Enforcement Officer is making an arrest, for the purpose of preventing the officer from effecting the arrest, he/she:

1. Resists the arrest of himself/herself by using or threatening the use of violence or physical force or by fleeing from such officer; or

2. Interferes with the arrest of another person by using or threatening the use of violence, physical force or physical interference.

B. This Section applies to arrests with or without warrants and to arrests for any crime or ordinance violation.

C. 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.

D. In addition, no person shall otherwise resist, hinder, obstruct, run away from or otherwise interfere with a Police Officer in the discharge of his official duties.

**Section 215.130. 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.

**Section 215.140. Failure to Stop on Signal of Member of Police Force.** [Code 1962 §21-39; CC 1979 §19-7; Ord. No. 973 §1, 10-4-1977]

It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the streets of this City to stop on signal of any member of the City Police Force and to obey any other reasonable signal or direction of such member of the City Police Force given in directing the movement of traffic on the streets of the City. Any person who willfully fails or refuses to obey such signals or directions or who willfully resists or opposes a member of the City Police Force in the proper discharge of his/her duties shall be guilty of a misdemeanor and punished as provided for in Section 100.130.

**Section 215.150. Refusing to Aid Police Officer.** [Code 1962 §21-40; CC 1979 §19-8; Ord. No. 973 §1, 10-4-1977]

Any person who shall refuse to give aid to any Police Officer of the City, while in the discharge of his/her official duties, after being called upon for aid, shall be guilty of a misdemeanor.

**Section 215.155. False Declarations.** [Ord. No. 99-39 §1, 10-19-1999]

A. A person commits the crime of making a false declaration if, with the purpose to mislead a Law Enforcement Officer in the performance of his duty, he/she:

1. Submits any oral or written false statement, which he/she does not believe to be true, or

2. Submits or invites reliance on:

a. Any writing which he/she knows to be forged, altered or otherwise lacking in authenticity; or

b. Any document which he/she knows to be false.

B. The falsity of the statement or the item under Subsection (A) of this Section must be as to a fact which is material to the purposes for which the statement is made or submitted.

C. It is a defense to a prosecution under Subsection (A) of this Section that the actor retracted the false statement or item, but this defense shall not apply if the retraction was made after:

1. The falsity of the statement or item was exposed, or

2. The public servant took substantial action in reliance on the statement or item.

D. The defendant shall have the burden of injecting the issue of retraction under Subsection (C) of this Section.

**Section 215.160. False Reports.**

A. A person commits the offense of making a false report if he/she knowingly:

1. Gives false information to a Law Enforcement Officer for the purpose of implicating another person in a crime; or

2. Makes a false report to a Law Enforcement Officer that a crime has occurred or is about to occur; or

3. Makes a false report or causes a false report to be made to a Law Enforcement Officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred.

B. It is a defense to a prosecution under Subsection (A) 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 215.170. False Bomb Reports.**

A person commits the offense of making a false bomb report if he/she knowingly makes a false report or causes a false report to be made to any person that a bomb or other explosive has been placed in any public or private place or vehicle.

## ARTICLE IV
## Offenses Concerning Public Safety

**Section 215.180. Abandonment of Airtight or Semi-Airtight Containers.**

A. A person commits the crime 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 215.185. Misuse of Emergency Telephone Service Unlawful — Definitions — Penalty.** [Ord. No. 326-2008 §4, 4-1-2008]

A. It shall be unlawful for any person to misuse the emergency telephone service. For the purposes of this Section:

1. *"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;

2. *"Misuse the emergency telephone service"* includes, but is not limited to, repeatedly calling the "911" for non-emergency situations causing operators or equipment to be in use when emergency situations may need such operators or equipment; and

3. *"Repeatedly"* means three (3) or more times within a one (1) month period.

**Section 215.190. Street Warning Lanterns, Etc., Unauthorized Removal, Etc.** [Code 1962 §21-45; CC 1979 §19-112; Ord. No. 973 §1, 10-4-1977]

No person shall, without proper authority remove or extinguish any lantern, flare or other danger signal which has been placed on any street, alley, sidewalk, parking or other highway or portion of a highway for the purposes of guarding against accidents.

**Section 215.195. Fireworks.** [Ord. No. 96-22 §§1 — 10, 6-4-1996; Ord. No. 99-21, 6-15-1999; Ord. No. 325-2008 §2, 3-18-2008]

A. Firework sales are allowed in the City but shall be limited to the periods of 7:00 A.M. to 10:00 P.M. on June twentieth (20th) through July tenth (10th).

B. Discharge of fireworks shall be limited to the periods of 7:00 A.M. to 10:00 P.M. on June twentieth (20th) through July tenth (10th).

C. Fireworks shall not be stored in, nor dispensed from, a permanent building.

D. Only sales and use of Type 1.4 fireworks are allowed, excluding torpedoes, torpedo canes or "bottle rockets".

E. Firework sales and storage are to be governed by the Missouri Division of Fire Safety Rules.

F. Firework displays for the general public must be approved by the Fire Department.

G. The manufacture of fireworks is prohibited.

H. In order to sell fireworks, a City merchants license must be purchased, with all locations to be inspected by the Fire Chief or the Fire Chief's designee prior to the issuance of the license. Sales locations will be subject to the Building and Fire Safety Codes adopted by the City.

## ARTICLE V
## Offenses Concerning Public Peace

**Section 215.200. Prohibited Noises.** [CC 1979 §19-61; Ord. No. 882 §I, 10-3-1974; Ord. No. 1208 §1, 3-6-1984]

A. No person shall make or cause, permit or suffer any premises under his/her control or care to be used for any noise of any kind by means of any whistle, rattle, bell, gong, clapper, drum, horn, hand organ, mechanically operated piano, other musical instrument, wind instrument, mechanical device, radio, phonograph, sound-amplifying or other similar electronic device, so as to destroy the peace and tranquility of the surrounding neighborhood; provided however, this shall not apply to a parade or similar authorized school event or authorized musical production.

B. *Animal And Bird Noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the peace and tranquility of the surrounding neighborhood is declared unlawful and is prohibited.

**Section 215.210. Exceptions.** [CC 1979 §19-62; Ord. No. 882 §II, 10-3-1974]

A. None of the terms or prohibitions of Section 215.200 of this Article shall apply to:

1. Any police or fire vehicle or any ambulance, while engaged upon emergency business.

2. Excavations or repairs of bridges, streets or highways by or on the behalf of the City, County or the State, during the night, when the public safety, welfare and convenience renders it impossible to perform such work during the day.

**Section 215.220. Disturbing the Peace.** [Ord. No. 326-2008 §3, 4-1-2008]

A. A person commits the offense of peace disturbance if:

1. The person unreasonably and knowingly disturbs or alarms another person or persons by:

a. Loud noise within three hundred (300) feet of a dwelling; or

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; or

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; or

d. Fighting in a manner that involves physical contact, either bodily or with weapons; or

e. Creating a noxious and offensive odor in a confined space.

2. The person is in a public place or on private property of another without consent of the owner or lawful tenant 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 215.230. Sound Amplification Devices — Operation of.** [Code 1962 §21-62; CC 1979 §19-78; Ord. No. 973 §1, 10-4-1977]

No person shall operate out of doors any sound amplification device upon the streets, alleys or other places of public buildings within the City without first having obtained a permit to do so from the Chief of Police.

**Section 215.240. 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, this City or of the United States with force or violence.

**Section 215.250. 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.

**Section 215.260. Disorderly Conduct on Public Streets and Public Parking Lots.** [1] [CC 1979 §19-85; Ord. No. 90-20, 11-6-1990]

A. Any person who, with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned commits the following acts shall be deemed to have committed the offense of disorderly conduct:

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1. **Cross Reference — Disturbing the peace, §215.220.**

1. Congregates with others on a public street and refuses to move on when ordered by the Police.

2. Congregates with others on a public parking lot and refuses to move on when ordered by the Police.

## ARTICLE VI
## Offenses Concerning Property [2]

**Section 215.270. 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.

**Section 215.280. Vulgar, Etc., Inscriptions, Etc., on Fences, Etc.** [Code 1962 §21-55; CC 1979 §19-113; Ord. No. 973 §1, 10-4-1977]

No person shall willfully or maliciously injure, deface or disfigure any fence, building, gate, post or other structure by writing, marking or drawing thereon any character, or post, in any place within the City, any vulgar or indecent writing or inscription, or any obscene literature or representation.

**Section 215.290. Throwing Stones, Etc., Into Trains, Vehicles, Etc.** [Code 1962 §21-46; CC 1979 §19-114; Ord. No. 973 §1, 10-4-1977]

No person shall willfully or maliciously throw any stone, stick or other thing into or at any train or locomotive, or at or into any motor vehicle.

**Section 215.300. Removal and Destruction of Official Notices and Signs.** [Code 1962 §21-47; CC 1979 §19-115; Ord. No. 973 §1, 10-4-1977]

No person shall deface, destroy, tear down or remove any official notice or bulletin or any official sign or signal posted or placed in conformity with law or ordinance, except an officer of the City in the proper discharge of his/her duties.

**Section 215.310. Definitions.**

As used in this Article, the following words shall have the meanings set out herein:

ADULTERATED — Varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this State lawfully filed, or if none, as set by commercial usage.

APPROPRIATE — To take, obtain, use, transfer, conceal or retain possession of.

COERCION — A threat, however communicated.

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2. **Cross Reference — Vandalism at municipal golf course, §235.020.**

1. To commit any crime; or
2. To inflict physical injury in the future on the person threatened or another; or
3. To accuse any person of any crime; or
4. To expose any person to hatred, contempt or ridicule; or
5. To harm the credit or business repute of any person; or
6. To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or
7. To inflict any other harm which would not benefit the actor.

A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

CREDIT DEVICE — A writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

DEALER — A person in the business of buying and selling goods.

DECEIT — Purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term *"deceit"* does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he/she did not subsequently perform the promise.

DEPRIVE — Means:

1. To withhold property from the owner permanently; or
2. To restore property only upon payment of reward or other compensation; or
3. To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

MISLABELED — Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity.

OF ANOTHER — Property or services is that *"of another"* if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall

not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

PROPERTY — Anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

RECEIVING — Acquiring possession, control or title or lending on the security of the property;

SERVICES — Includes transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

WRITING — Includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

**Section 215.320. 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 criminal prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

1. He/she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

2. He/she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

3. He/she left the hotel, restaurant, inn or boardinghouse 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 boardinghouse.

**Section 215.325. Failure to Return Rented Personal Property — Prima Facie Evidence, When — Law Enforcement Procedure — Notice, Contents — Exception.** [Ord. No. 99-38 §1, 10-19-1999]

A. A person commits the crime of failing to return leased or rented property if, with the intent to deprive the owner thereof, he 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 crime 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 crime 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. 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. 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.

D. 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 215.270 in addition to being in violation of this Section.

**Section 215.330. Advertisements — Attaching or Inscribing on Sidewalk, Etc.** [Code 1962 §21-3; CC 1979 §19-117; Ord. No. 973 §1, 10-4-1977]

No person shall paste or attach, in any manner, any handbill, poster, paper or advertisement device, or chalk, write, print, whitewash, paint or in any manner inscribe any advertisement upon any public footwalk or crossing, or upon any fountain wall or other similar structure.

**Section 215.340. Advertisements — Attaching to Telephone Poles, Gates, Etc.** [Code 1962 §21-4; CC 1979 §19-118; Ord. No. 973 §1, 10-4-1977]

No person shall, within the City, attach, in any manner whatsoever, any handbill, dodger, poster, sign, notice or other advertising device, except legal notices or print, write, whitewash or paint or in any other manner inscribe, any advertising device or notice, other than legal notice, upon any telegraph or telephone pole, or any other pole maintained for the transmission of electricity for power or light, or upon awning posts, buildings, fences or gates, without the consent of the owner or the person occupying or having charge thereof.

**Section 215.350. Fouling and Littering Public Fountains, Reservoirs, Etc.** [Code 1962 §21-18; CC 1979 §19-119; Ord. No. 973 §1, 10-4-1977]

No person shall bathe, wade, or cause dogs or other animals to swim, or throw, cast or deposit any stones, sticks, papers, carcasses of dead animals or any other substances, of whatever kind or character, in any fountain basin in any public park within the City, or in any reservoir, well or body of water belonging to, used or controlled by the City, or upon any grounds belonging to or used and controlled by the City.

**Section 215.360. Taking, Retention or Mutilation of Public Records.** [Code 1962 §21-31; CC 1979 §19-120; Ord. No. 973 §1, 10-4-1977]

No person, without proper authority, shall take, remove, mutilate or destroy any record, document, book or paper on file or kept on record in any public office of the City, nor shall any person retain any record, document, book, paper or property of the City after lawful demand for the return thereof has been made by an official or duly authorized agent of the City.

**Section 215.370. Trespass.**

A. A person commits the offense of trespass 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.

**Section 215.380. Junk, Abandoned, Inoperable Vehicles.** [3] [CC 1979 §19-122; Ord. No. 1233 §1, 8-21-1984]

It shall be unlawful for any person to deposit, store, keep or permit to be deposited, stored or kept, on any public or private property, for a period exceeding ninety-six (96) hours, a dismantled, unserviceable, inoperable, junk or abandoned vehicle or any vehicle legally or physically incapable of being operated for a period exceeding ninety-six (96) hours, unless such vehicle is completely enclosed in a building, or stored in connection with a business lawfully established pursuant to the zoning ordinances of the City.

**Section 215.390. Throwing Litter, Trash and Other Articles Upon Streets or Private Property or From a Motor Vehicle.** [Code 1962 §18-13; CC 1979 §26-8; Ord. No. 767 §1, 1-5-1971; Ord. No. 85-24 §1, 8-6-1985]

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[3]. **Cross References — Removal of illegally parked vehicles, §375.050; leaving vehicle on street for twenty-four hours, §375.060; zoning, ch. 405.**

No person shall throw or place or cause to be thrown or placed upon any street, private real property owned by another, or public property, any trash, debris, tacks, nails, wire, scrap or glass. No person shall throw from any motor vehicle onto the streets of the City or upon the property of any other person any trash, or debris of any nature.

## ARTICLE VII
## Offenses Concerning Minors [4]

**Section 215.400. Curfew Established.** [Code 1962 §7-1; CC 1979 §19-22; Ord. No. 1085, 6-3-1980]

It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll, drive, ride or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 11:00 P.M. and 5:00 A.M. of the following day for weekdays, Monday through Friday, and between the hours of 12:30 A.M. and 5:00 A.M. on Saturdays, Sundays and Mondays, from and after the completion of the first (1st) complete school day of the school term for the City of Neosho, Missouri, to the completion of the last full school day of the school term of the City of Neosho, Missouri, as established by the Board of Education for the City of Neosho, Missouri, and between the hours of 1:00 A.M. and 5:00 A.M. of any other day of the calendar year; provided however, that the provisions of this Section do not apply to a minor accompanied by his/her parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his/her parent, guardian or other adult person having the care and custody of the minor.

**Section 215.410. Curfew — Responsibilities of Parent, Guardian, Etc.** [Code 1962 §17-2; CC 1979 §19-23; Ord. No. 1085, 6-3-1980]

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of eighteen (18) years to knowingly permit such minor to loiter, idle, wander, stroll, drive, ride or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 11:00 P.M. and 5:00 A.M. of the following day for weekdays, Monday through Friday, and between the hours of 12:30 A.M. and 5:00 A.M. on Saturdays, Sundays and Mondays, from and after the completion of the first (1st) complete school day of the school term for the City of Neosho, Missouri, to the completion of the last full school day of the school term of the City of Neosho, Missouri, as established by the Board of Education for the City of Neosho, Missouri, and between the hours of 1:00 A.M. and 5:00 A.M. of any other day of the calendar year; provided however, that the provisions of this Section do not apply to a minor accompanied by his/her parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his/her parent, guardian or other adult person having the care and custody of the minor.

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4. **Cross References — Closing hours for dance halls, etc., §610.010; hours of operation for poolhalls, §610.050.**

**Section 215.420. Curfew — Violations.** [Code 1962 §17-3; CC 1979 §19-24]

Any minor violating the provisions of Section 215.400 shall be dealt with in accordance with the law and procedure of the court having jurisdiction thereof. Any minor violating the provisions of Section 215.400 who is subject to jurisdiction of the Municipal Court and any parent, guardian or other adult person having the care and custody of a minor violating Section 215.410 shall be guilty of a misdemeanor.

## ARTICLE VIII
## Offenses Concerning Public Health and Sanitation [5]

**Section 215.430. Spitting on Sidewalk, Etc.** [Code 1962 §21-43; CC 1979 §19-99; Ord. No. 973 §1, 10-4-1977]

No person shall spit, expectorate or deposit spit or sputum in any manner whatsoever upon any sidewalk in this City, or into any grating or other opening into any sidewalk, or upon any steps projecting into or upon any sidewalk.

## ARTICLE IX
## Offenses Concerning Morals

**Section 215.440. Definitions.**

As used in this Article, the following words shall have the meanings set out herein:

DEVIATE SEXUAL INTERCOURSE — Any act involving the genitals of one (1) person and the 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.

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, 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 215.450. Sexual Misconduct in the First Degree.**

A person commits the offense of sexual misconduct in the first degree if he/she has deviate sexual intercourse with another person of the same sex or he/she purposely subjects another person to sexual contact or engages in conduct which would constitute sexual contact except that the touching occurs through the clothing without that person's consent.

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5. **Cross Reference — Nuisances, ch. 220.**

**Section 215.460. Sexual Misconduct in the Second Degree.**

A. A person commits the offense of sexual misconduct in the second degree if he:

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.

3. He/she solicits or requests another person to engage in sexual conduct under circumstances in which he/she knows that his/her requests or solicitation is likely to cause affront or alarm.

ARTICLE X
**Offenses Concerning Prostitution**

**Section 215.470. Article Definitions.**

As used in this Article, the following terms shall have the meanings set out herein:

PROMOTING PROSTITUTION — A person promotes prostitution if, acting other than as a prostitute or a patron of a prostitute, he/she knowingly

1. Causes or aids a person to commit or engage in prostitution; or

2. Procures or solicits patrons for prostitution; or

3. Provides persons or premises for prostitution purposes; or

4. Operates or assists in the operation of a house of prostitution or a prostitution enterprise; or

5. Accepts or receives or agrees to accept or receive something of value pursuant to an agreement or understanding with any person whereby he/she participates or is to participate in proceeds of prostitution activity; or

6. Engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution;

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.

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 person having engaged in sexual conduct with him/her or with another; or

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 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 person to engage in sexual conduct with him/her or with another, in return for something of value.

SEXUAL CONDUCT — Occurs when there is:

1. *"Sexual intercourse"* which means any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results; or

2. *"Deviate sexual intercourse"* which means any sexual act involving the genitals of one person and the mouth, hand, tongue or anus of another person; or

3. *"Sexual contact"* which means any touching, manual or otherwise, of the anus or genitals of one person by another, done for the purpose of arousing or gratifying sexual desire of either party;

SOMETHING OF VALUE — Any money or property, or any token, object or article exchangeable for money or property.

**Section 215.480. Prostitution.**

A person commits the offense of prostitution if he/she performs an act of prostitution.

**Section 215.490. Patronizing Prostitution.**

A person commits the offense of patronizing prostitution if he/she patronizes prostitution.

**Section 215.500. 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 215.510. Promoting Prostitution.**

A person commits the offense of promoting prostitution if he/she knowingly promotes prostitution.

**Section 215.520. Prostitution Houses Deemed Public Nuisances.**

A. Any room, building or other structure regularly used for sexual contact for pay as defined in Section 215.470 or any unlawful prostitution activity prohibited by this Article is a public nuisance.

B. The Attorney General, Circuit Attorney or Prosecuting Attorney may, in addition to all criminal 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 XI
## Offenses Concerning Streets, Sidewalks and Public Places

**Section 215.530. Injuring or Obstructing Street, Sidewalk, Etc., Generally.** [Code 1962 §27-2; CC 1979 §26-3]

No person shall injure or obstruct any public sidewalk, street, alley or other public highway, or any part thereof, or connection therewith, in any manner whatsoever, so as to prevent the full and free use of the same 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, 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 of the width of such sidewalk or street, nor shall any such building materials be left unguarded in the nighttime. Such merchants and persons engaging in building, upon receipt and discharge of the merchandise or upon completion of the building, shall remove such merchandise and building materials and return the street, sidewalk or alley to as good a condition as it was in prior to such use.

**Section 215.540. Obstruction by Standing, Loitering, Etc., on Streets and Sidewalks.** [Code 1962 18-54.2; CC 1979 §26-4; Ord. No. 962 §1, 7-5-1977]

A. No person shall stand, run, walk, lay, crawl, or loiter in any roadway or street if such act interferes with the lawful movement of traffic.

B. It shall be unlawful for a pedestrian to stand upon any sidewalk if such standing interferes with the use of such sidewalk by other pedestrians.

**Section 215.550. Erecting, Etc., Barbed Wire Fence Along Street, Etc.** [Code 1962 §27-3; CC 1979 §26-5]

No person shall erect or maintain any fence composed in whole or in part of barbed wire along or adjacent to any public street, avenue, alley, park, cemetery or other public place.

**Section 215.560. Permitting Water From Downspout to Flow on Sidewalk.** [Code 1962 §27-4; CC 1979 §26-6]

No person owning or controlling any building or premises shall construct or maintain a downspout in such manner as to cause or allow the water emitted therefrom to flow onto or across any sidewalk.

**Section 215.570. Draining, Depositing, Etc., Slops, Wastewater, Filth, on Street, Etc.** [Code 1962 §27-5; CC 1979 §26-7]

No person shall drain or conduct, or cause to be drained or conducted, or permit or suffer to be drained or conducted in any manner whatsoever, any filth, slops, waste water or the contents of any privy vault, cesspool or sink, either directly or indirectly, into any street, avenue, alley, public park or public place in the City, or into any gutter or upon any sidewalk, or part thereof; and no person shall otherwise throw, cast or deposit into or upon any street, avenue, alley, park or other highway or public place within the City any slops, foul or dirty water, filth or refuse of any kind whatsoever.

**Section 215.580. Leaving Sidewalk Grating Open, Etc.** [Code 1962 §27-6; CC 1979 §26-9]

No person shall leave open or suffer to be left open or in an insecure or unsafe condition, on any premises under his/her ownership or control, any grating or other covering of an area or vault under a sidewalk.

**Section 215.590. Erecting Signs, Awnings Over Sidewalk.** [6] [Code 1962 §§27-7, 27-9; CC 1979 §26-10]

No person shall erect or hang from any house, building or other structure any sign or construct or maintain any awning over any sidewalk, the lowest part of which sign or awning is less than seven (7) feet above the sidewalk.

**Section 215.600. Sidewalks in Front of Premises to Be Kept Clean.** [Code 1962 §6-5; CC 1979 §26-11]

A. It shall be unlawful for any person to sweep dirt or trash from the interior of any store or premises occupied by him/her upon the sidewalk. All such dirt or trash shall be taken up and put in proper receptacles for removal.

B. It shall be the duty of all persons occupying stores or premises fronting on any street to keep the sidewalk in front thereof clean and clear of rubbish, trash, wastepaper and similar substances, and they shall not sweep the same into the roadway of the street but shall take up the same and put it in proper receptacles to be removed as other trash and rubbish is removed.

**Section 215.610. Street Barricades Generally.** [Code 1962 §27-14; CC 1979 §26-12]

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6. **Cross Reference — Signs, see §405.240.**

No person shall disregard, proceed through or around, or tear down or remove or damage any protective barrier or any lights or other warning devices thereon placed in the streets of the City for the protection of the public.

## ARTICLE XII
## **Offenses Concerning Weapons**

**Section 215.620. Definitions.**

The following words when used in this Article shall have the meanings set out herein:

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.

FIREARM — Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

INTOXICATED — Substantially impaired mental or physical capacity resulting from introduction of any substance into the body.

KNIFE — Any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this Chapter, *"knife"* does not include any ordinary pocket knife with no blade more than four (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.

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.

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.

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 215.630. Unlawful Use of Weapons — Exceptions.** [7] [Ord. No. 164-2004 §1, 2-3-2004]

A. A person commits the offense of unlawful use of weapons if he/she knowingly:

1. Carries concealed upon or about his/her person a knife, firearm, blackjack or any other weapon readily capable of lethal use; or

2. Sets a spring gun; or

3. Discharges or shoots a firearm into a dwelling house, railroad train, boat, aircraft or motor vehicle as defined in Section 302.010, RSMo., or any building or structure used for the assembling of people; or

4. Exhibits, in the presence of one (1) or more person, any weapon readily capable of lethal use in an angry or threatening manner; or

5. Possesses or discharges a firearm or projectile weapon while intoxicated; or

6. Discharges a firearm within one hundred (100) yards of any occupied schoolhouse, courthouse or church building; or

7. Discharges or shoots a firearm at a mark, at any object or at random on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

8. Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship or into any school or into any election precinct on any election day or into any building owned or occupied by any agency of the Federal Government, State Government, local government or political subdivision thereof; or

9. Discharges or shoots a firearm at or from a motor vehicle as defined in Section 301.010, RSMo., discharges or shoots at any person or at any other motor vehicle or at any building or habitable structure, unless the person was lawful acting in self-defense; or

10. 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. Subsection (A) of this Section shall not apply to or affect any of the following:

1. All State, County and municipal Law Enforcement Officers possessing the duty and power of arrest for violation of the general criminal laws of the State

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7. **State Law Reference — The provisions of L. 2003 H.B. 349, et al, enacted section 571.094 which has been codified as §571.101 through 571.121, RSMo., as amended.**

or for violation of ordinances of Counties or municipalities of the State, whether such officers are within or outside their jurisdictions or on or off duty, or any person summoned by such officers to assist in making arrest or preserving the peace while actually engaged in assisting such officer;

2. Wardens, superintendents and keepers of prisons, penitentiaries, jails or 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;

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.;

9. Any coroner, deputy coroner, medical examiner or assistant medical examiner.

C. Subdivisions (1), (5), (8) and (10) 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. Subdivision (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. Subdivision (10) 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. Subdivisions (1), (8) and (10) 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. Subdivisions (3), (4), (5), (6), (7), (8), (9) and (10) of Subsection (A) of this Section shall not apply to persons who are engaged in the 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.

**Section 215.635. Concealed Weapons.** [Ord. No. 164-2004 §2, 2-3-2004]

A. No person shall carry concealed firearms 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. The Chief of Police is hereby designated as the Chief Law Enforcement Officer for the City of Neosho for the purposes of this Section;

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. Any courthouse solely occupied by the Circuit 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. Nothing in this Subdivision shall preclude those person listed in Subdivision (1) of Subsection (2) of Section 571.030, RSMo., while within their jurisdiction and on duty, those persons listed in Subdivisions (2) and (4) of Subsection (2) of Section 571.030, RSMo., or such other persons who serve in a law enforcement capacity for a court as may be specified by Supreme Court rule 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;

4. Any meeting of the City Council, except that nothing in this Subdivision shall preclude a member of the City Council, City Manager or City Attorney holding a valid concealed carry endorsement from carrying a concealed

firearm at a 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.

B. *Concealed Weapons Prohibited in City Buildings.*

1. No person shall carry any weapon as identified in Section 215.630 in any portion of any building owned, leased or controlled by:

   a. The City of Neosho, excepting however:

      (1) Highways, streets, roads, avenues, drives, boulevards, courts, rest areas, RV parks and firing ranges, or

      (2) City of Neosho parks or recreation areas; or

      (3) City of Neosho Housing Authority, excepting however:

         (a) Private dwellings owned, leased or controlled by the Housing Authority except to the extent that such a prohibition is required by Federal law.

Persons violating this Section shall be denied entrance to the building, ordered to leave the building and, if employees of the unit of government, be subjected to disciplinary measures for violation of this Section.

2. All buildings identified in Subdivision (A) of Subsection (2) of this Section shall be clearly identified by signs posted at the entrance to the restricted area.

3. 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.

4. 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 criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

5. Any place where the carrying of a firearm is prohibited by Federal law.

6. 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 the 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.

7. Any portion of a building used as a child care facility without the consent of the owner or manager. Possession of a firearm in a vehicle on the premises of a child care 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. Nothing in this Subdivision shall prevent the operator of a child care facility in a family home from owning or possession a firearm or a driver's license or non-driver's license containing a concealed carry endorsement.

8. 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 or brandished while the vehicle is on the premises.

9. 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 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.

10. 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.

11. Any hospital accessible by the public. 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.

C. No City employee, except Police Officers and such other persons as may be authorized by the City Manager, shall carry any weapon as defined in Section 215.630 on City property or in any City vehicle.

D. Carrying of a concealed firearm in a location prohibited by this Section by any individual who holds concealed carry endorsement issued pursuant to this Section shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a Law Enforcement 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) and his/her endorsement to carry concealed firearms shall be suspended for a period of one (1) year. 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) and shall have his/her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three (3) years. Upon conviction of charges arising from a citation issued pursuant to this Subsection, 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.

**Section 215.640. BB and Air Guns — Carrying and Discharging.** [Code 1962 §21-8; CC 1979 §19-97; Ord. No. 973 §1, 10-4-1977]

It shall be unlawful for any person to discharge a BB gun or air gun within the City.

## ARTICLE XIII
## Offenses Concerning Drugs and Alcohol [8]

**Section 215.650. 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.

**Section 215.660. 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.

**Section 215.670. Intoxicated Persons, How Handled — Officer Granted Immunity From Legal Action, When.**

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8. **Cross Reference — Nuisances, ch. 220.**

A. A person who appears to be incapacitated or intoxicated may be taken by a Peace Officer to the person's residence, to any available treatment service, or to any other appropriate local facility, which may if necessary include a jail, for custody not to exceed twelve (12) hours.

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 (A) above if the officer has reasonable grounds to believe the person is incapacitated or intoxicated by alcohol and he/she does not use unreasonable excessive force to detain such person.

C. Such immunity from prosecution includes the taking of reasonable action to protect himself/herself from harm by the intoxicated or incapacitated person.

**Section 215.680. Sale, Offer of Sale, Purchase With Intent To Sell and Public Display for Sale Prohibited of Synthetic Stimulant Bath Salts, Synthetic Cathinones, Synthetic Amphetamines and Other Synthetic Stimulants That Mimic Illegal Drugs.** [Ord. No. 23-2013 §1, 5-7-2013]

A. *Purpose and Intent.* The Neosho City Council finds and declares that the products and synthetic substances described hereunder are commonly used as alternatives to amphetamines, cocaine, ecstasy and other illegal drugs. The Council further finds that these synthetic substances are particularly appealing to youth, and that these synthetic substances are potentially dangerous to users in the short term, and the long-term effects are not yet known. The Council finds that the products which contain these synthetic substances often use a disclaimer that the product is not for human consumption to avoid regulations that require the manufacturer to list the product's active ingredients. The Council finds that drug designers and chemists can quickly create new synthetic drugs once Federal or State law makes a particular synthetic drug illegal. As such, the Council finds there is a need to declare illegal the sale, offer for sale, purchase with intent to sell and public display for sale of synthetic substances that have not yet themselves been categorized as illegal controlled substances under Federal or State law. The Council further finds that it is proper and necessary for the Council to exercise its authority to safeguard and protect the public health, safety and welfare by taking this action.

B. *Definitions.* For purposes of this Section, the following terms apply:

STRUCTURALLY SIMILAR — Chemical substitutions off a common chemical backbone associated with cathinone, methcathinone, amphetamine, methamphetamine, cocaine. 3-Fluoromethcathinone, 4-Fluoromethcathinone, 3, 4-Methylenedioxy-methamphetamine (MDMA), 3,4-methylenedioxymethcathinone, 3,4-methylenedioxy-pyrovalerone (MDPV), methylmethcathinone, methoxy-methcathinone, methyleth-cathinone, fluoromethcathinone, BZP (benzylpiperazine), Mephedrone, or 4-methylmethcathinone, 4-methoxymethcathinone, Methylenedioxypyrovalerone, MDPV, or (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone fluorophenylpiperazine, methylphenylpiperazine, chlorophenylpiperazine, methoxyphenylpiperazine, DBZP (1,4-dibenzyl-piperazine), TFMPP (3-Trifluoromethylphenylpiperazine), MBDB (Methylbenzodioxolylbutanamine), Hydroxy-alpha-methyltryptamine, Methylone, or 3,4-

Methylenedioxymethchathinone, 4-methyl-alpha-pyrrolidinobutiophenone, or MPBP, 5 -Hydroxy-N-methyltryptamine, 5-Methoxy-N-methyl-N-isopropyltryptamine, Methylone, or 3, 4-Methylenedioxymethcathinone. 5-Methoxy-alpha-methyltryptamine, methyltryptamine. 5-Methoxy-N, N-dimethyltryptamine, 5-Methyl-N, N-dimethyl-tryptamine, 5-Methoxy-N, N-Diisopropyltryptamine. DiPT (N, N Diisopropyltryptamine), DPT (N, N-Dipropyltryptamine), 4-Hydroxy-N, N-diisopropyltryptamine, N, N-Diallyl-5Methoxytryptamine, DOI (4-Iodo-2.5-dimethoxyamphetamine). D0C (4-Chloro-2, 5-dimethoxyamphetamine), 2C-E(4-Ethyl-2,5-dimethoxyphenethylamine). 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine), 2C-C (4-Chloro-2, 5-dimethoxyphenethylamine), 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine), 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine), 2C-T-7(2,5-Dimethoxy-4-(n)- propylthio-phenethylamine), 2C-1 (4-Iodo-2,5- dimethoxyphenethylamine), Butylone (beta-keto-N-methylbenzodioxolylpropylamine), Ethcathinone, Ethylone (3,4-methylenedioxy-N-ethylcathinone), Naphyrone (naphthylpyrovalerone), N-N-Dimethyl-3,4-methylenedioxycathinone, N-N-Diethyl-3, 4-methylene- dioxycathinone, 3,4-methylenedioxy-propiophenone, 2-Bromo-3,4-Methyl- enedioxypropiophenone, 3,4-methylenedioxy-propiophenone-2-oxime, N-Acetyl- 3,4-methylenedioxycathinone, N-Aeetyl-N-Methyl3,4-Methylenedioxy-cathinone, N-Acetyl-N-Ethyl3,4-Methylenedioxycathinone, Bromomethcathinone, Buphedrone (alpha- methylamino-butyrophenone), Eutylone (beta-KetoEthylbenzodioxolyl- butanamine), Dimethylcathinone, Dimethylmethcathinone, Pentylone (beta-Keto-Methylbenzodioxolylpentanamine) (MDPPP) 3,4- Methylenedioxy-alpha pyrrolidino-propiophenone, (MDPBP) 3, 4-Methylenedioxy-alphapyrroli- dinobutiophenone, Methoxy-alpha Myrrolidinopropiophenone (MOPPP), Methyl-alphapyrrolidinohexiophenone (MPHP), Benocyclidine (B CP), benzothiophenylcyclohexylpiperidine (BTCP), Fluoromethylaminobutyrophenone (FMABP), Methoxypyrrolidinobutyrophenone (Me0- PBP), Ethylpyrrolidinobutyrophenone (Et-PBP), 3- Methyl-4-Methoxymethcathinone (3-Me-4-Me0-MCAT), Methylethylaminobutyrophenone (MeEABP), Methylamino-butyrophenone (MABP), Pyrrolidinopropiophenone (PPP), Pyrrolidinobutiophenone (PBP), Pryyolidinovalerophenone (PVP), Methyl-alpha-pyrrolidinopropiophenone (MPPP), or related salts, isomers, and salts of isomers, listed in the controlled substance schedules in Chapter 195, RSMo., as amended, or otherwise prohibited by Federal or State law.

SYNTHETIC STIMULANT — Any chemical or mixture of chemicals, however packaged, that has a stimulant effect on the central nervous system and is structurally similar to cathinone, methcathinone, amphetamine, methamohetamine, cocaine, MDMA or any other substance listed in the definition of "structurally similar", above, or related salts, isomers, and salts of isomers, as listed in the controlled substance schedules in Chapter 195, RSMo., or otherwise prohibited by Federal or State law. Synthetic stimulant shall also include any chemical or mixture of chemicals, however packaged, that mimics the pharmacological effects of cathinone, methcathinone, amphetamine, methamohetamine, cocaine, MDMA or any other substance listed in the definition of "structurally similar", above, or related salts, isomers, and salts of isomers. Packaging that indicates, suggests or implies that a product mimics the pharmacological effects of

cathinone, methcathinone, amphetamine, methamphetamine, cocaine, ecstasy or any other substance listed in the definition of "structurally similar", above, shall create a presumption that the product mimics the effect of the substance. Synthetic stimulant shall not include any substance currently listed in the controlled substance schedules in Chapter 195, RSMo., or otherwise prohibited by Federal or State law, as such may be amended from time to time.

SYNTHETIC STIMULANT BATH SALTS — Any substance, whether in powder, crystal, liquid, tablet or capsule from, containing a synthetic stimulant as defined herein or to which a synthetic stimulant has been added or applied, that can be ingested by smoking, inhaling or other method, regardless of whether the substance is marketed as not for the purpose of human consumption, and regardless of how the substance is labeled, including but not limited to bath salts, insect repellant, plant food, herbs, incense. iPod cleaner, nutrient, dietary supplement or spice.

C. *Sale, Offer for Sale and Purchase With Intent To Sell Synthetic Stimulant Bath Salts and Synthetic Stimulants Prohibited.* It shall be unlawful for any store owner, store manager, store purchaser or other person to sell, offer for sale or purchase with intent to sell any synthetic stimulant bath salts as defined herein or any synthetic stimulants as defined herein.

D. *Public Display for Sale of Synthetic Stimulant Bath Salts and Synthetic Stimulants Prohibited.* It shall be unlawful for any store owner, store manager, store purchasing agent or other person to publicly display for sale any synthetic stimulant bath salts as defined herein or any synthetic stimulant as defined herein.

E. *Affirmative Defense.* It shall be an affirmative defense to prosecution of a violation of this Section if the sale, offer for sale, purchase with intent to sell or public display for sale of synthetic stimulant bath salts as defined herein or synthetic stimulants as defined herein is pursuant to the direction or prescription of a licensed physician or dentist authorized in the State of Missouri to direct or prescribe such act.

F. *Seizure and Destruction of Synthetic Stimulant Bath Salts and Synthetic Stimulants.* Synthetic stimulant bath salts and synthetic stimulants prohibited herein may be seized by Law Enforcement Officers and may be destroyed in the same manner used to destroy narcotics and contraband substances, after its use for evidentiary purposes in any judicial proceeding is no longer required.

G. *Injunctive Relief.* The City of Neosho shall have the authority to seek an injunction against any person or business violating the provisions of this Section. In any action seeking an injunction, the City of Neosho shall be entitled to collect its enforcement expenses, including forensic costs, law enforcement costs and reasonable attorney fees and costs incurred at the trial level and on appeal.

H. *Subsequent Federal or State Action.* If Congress, a Federal agency, the Missouri General Assembly or Missouri agency with such authority amends Federal or State law to include a particular substance or otherwise enacts or amends a Federal or State law providing for criminal penalties for the prohibitions of substances set

forth in this Section, then upon the effective date of such enactment or amendment, the provisions of this Section addressed by Federal or State law shall no longer be deemed effective. Any violations of this Section committed prior to such law so enacted may be prosecuted.

I. *Penalty.* Violation of a provision of this Section is a misdemeanor. Any person who knowingly violates any provision of this Section shall be punished by a fine not to exceed five hundred dollars ($500.00), County Jail not to exceed ninety (90) days, or a combination of both fine and County Jail.

**Section 215.690. Sale, Offer of Sale, Purchase With Intent To Sell and Public Display for Sale Prohibited of Synthetic Cannabinoid Herbal Incense.** [Ord. No. 24-2013 §1, 5-7-2013]

A. *Purpose and Intent.* The Neosho City Council finds and declares that the products and synthetic substances described hereunder are commonly used as alternatives to marijuana. The Council further finds that these synthetic substances are particularly appealing to youth, and that these synthetic substances are potentially dangerous to users in the short term, and the long-term effects are not yet known. The Council finds that the products which contain these synthetic substances often use a disclaimer that the product is not for human consumption to avoid regulations that require the manufacturer to list the product's active ingredients. The Council finds that drug designers and chemists can quickly create new synthetic drugs once Federal or State law makes a particular synthetic drug illegal. As such, the Council finds there is a need to declare illegal the sale, offer for sale, purchase with intent to sell and public display for sale of synthetic substances that mimic illegal controlled substances that have not yet themselves been categorized as illegal controlled substances under Federal or State law. The Council further finds that it is proper and necessary for the Council to exercise its authority to safeguard and protect the public health, safety and welfare by taking this action.

B. *Definitions.* For purposes of this Section, the following terms apply:

STRUCTURALLY SIMILAR — Chemical substitutions off a common chemical backbone associated with cathinone, metheathinone, amphetamine, methamphetamine, cocaine, 3-Fluoromethcathinone, 4-Fluoromethcathinone, 3, 4-Methylenedioxy-methamphetamine (MDMA), 3,4-methylenedioxymethcathinone, 3,4-methylenedioxy-pyrovalerone (MDPV), methylmethcathinone, methoxy-methcathinone, methyleth-cathinone, fluoromethcathinone, BZP (benzylpiperazine), Mephedrone, or 4-methylmethcathinone, 4-methoxymethcathinone, Methylenedioxypyrovalerone, MDPV, or (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone fluorophenylpiperazine, methylphenylpiperazine, chlorophenylpiperazine, methoxyphenylpiperazine, DBZP (1, 4-dibenzyl-piperazine), TFMPP (3- Trifluoromethylphenylpiperazine), MBDB (Methylbenzodioxolylbutanamine), Hydroxy-alpha-methyltryptamine, Methylone, or 3,4-Methylenedioxymethchathinone, 4-methyl-alpha-pyrrolidinobutiophenone, or MPBP, 5 -Hydroxy-N-methyltryptamine, 5-Methoxy-N-methyl-N-isopropyltryptamine, Methylone, or 3, 4-Methylenedioxymethcathinone, 5-Methoxy-alpha-methyltryptamine, methyltryptamine, 5-Methoxy-N, N-dimethyltryptamine, 5-Methyl-N, N-dimethyl-tryptamine, 5-Methoxy-N, N-Diisopropyltryptamine, DiPT (N, N

Diisopropyltryptamine), DPT (N, N-Dipropyltryptamine), 4-Hydroxy-N, N-diisopropyltryptamine, N, N-Dially1-5Methoxytryptamine, DOI (4-Iodo-2,5-dimethoxyamphetamine), D 0 C (4-Chloro-2, 5-dimethoxyamphetamine), 2C-E(4-Ethy1-2,5-dimethoxyphenethylamine), 2C-T-4 (2,5- Dimethoxy-4-isopropylthiophenethylamine), 2C-C (4-Chloro-2, 5-dimethoxyphenethylamine), 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine), 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine), 2C-T-7 (2, 5 - Dimethoxy -4-(n)-propylthiophenethylamine), 2C-I (4-lodo-2.5-dimethoxyphenethylamine), Butylone (beta-keto-Nmethylbenzodioxolylpropylamine), Ethcathinone, Ethylone (3,4-methyl- enedioxy-N-ethylcathinone), Naphyrone (naphthylpyrovalerone), N-N-Dimethyl-3, 4-methylenedioxycathinone, N-N-Diethy1-3, 4-methylenedioxycathinone, 3,4-methyl-enedioxy-propiophenone, 2-Bromo-3,4-Methylenedioxypropiophenone, 3,4-methyl-enedioxy-propiophenone-2-oxime, N-Acetyl- 3,4-methylenedioxycathinone, N-Acetyl-N-Methyl3,4-Methylenedioxy-cathinone, N-Acetyl-N-Ethyl3, 4-Methylenedioxycathinone, Bromomethcathinone, Buphedrone (alpha- methylamino-butyrophenone), Eutylone (beta-KetoEthylbenzodioxolylbutanamine). Dimethylcathinone. Dimethylmethcathinone, Pentylone (beta-Keto-Methylbenzodioxolylpentanamine) (MDPPP) 3,4-Methylenedioxy-alpha pyrrolidino-propiophenone, (MDPBP) 3 ,4-Methylenedioxy-alphapyrrolidinobutiophenone, Methoxy-alpha Myrrolidinopropiophenone (MOPPP), Methyl-alpha- pyrrolidinohexiophenone (MPHP), Benocyclidine (B CP), benzothiophenylcyclohexylpiperidine (BTCP), Fluoromethylaminobutyrophenone (F-MABP), Methoxypyrrolidinobutyrophenone (Me0- PBP), Ethyl-pyrro-lidinobutyrophenone (Et-PBP), 3- Methyl-4-Methoxymethcathinone (3-Me-4-Me0-MCAT). Methylethylaminobutyrophenone (MeEABP), Methylamino-butyrophenone (MABP). Pyrrolidinopropiophenone (PPP), Pyrrolidinobutiophenone (PBP), Pryyolidinovalerophenone (PVP), Methyl-alpha-pyrrolidinopropiophenone (MPPP), or related salts, isomers, and salts of isomers, listed in the controlled substance schedules in Chapter 195, RSMo., as amended, or otherwise prohibited by Federal or State law.

SYNTHETIC CANNABINOID HERBAL INCENSE — Any natural or synthetic material, compound, mixture or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including, but not limited to, the synthetic cannabinoids specific all listed in Section 195.017, RSMo., and any analogues, homologues, isomers, esters, ethers and salts. These include the aromatic or non-aromatic plant material containing a synthetic drug, or to which a synthetic drug has been sprayed, applied or otherwise added, that is distributed in a loose, leafy, powder or granular form or in a compressed block or blocks that can be crushed to result in a powder or granular form, that can be placed into a pipe, cigarette paper or drug paraphernalia for purposes of ingestion by smoking, inhaling or other method, regardless of how the substance is labeled., including but not limited to insect repellant, plant food, herbs, incense, nutrient, dietary supplement or spice.

SYNTHETIC STIMULANT — Any chemical or mixture of chemicals, however packaged, that has a stimulant effect on the central nervous system and is structurally similar to cathinone, methcathinone, amphetamine, methamohetamine, cocaine, MDMA or any other substance listed in the definition of "structurally similar", above, or related salts, isomers, and salts of isomers, as listed in the controlled substance schedules in

Chapter 195, RSMo., or otherwise prohibited by Federal or State law. Synthetic stimulant shall also include any chemical or mixture of chemicals, however packaged, that mimics the pharmacological effects of cathinone, methcathinone, amphetamine, methamohetamine, cocaine, MDMA or any other substance listed in the definition of "structurally similar", above, or related salts, isomers, and salts of isomers. Packaging that indicates, suggests or implies that a product mimics the pharmacological effects of cathinone, methcathinone, amphetamine, methamphetamine, cocaine, ecstasy or any other substance listed in the definition of "structurally similar", above, shall create a presumption that the product mimics the effect of the substance. Synthetic stimulant shall not include any substance currently listed in the controlled substance schedules in Chapter 195, RSMo., or otherwise prohibited by Federal or State law, as such may be amended from time to time.

C. *Sale, Offer for Sale and Purchase With Intent To Sell Synthetic Cannabinoid Herbal Incense Prohibited.* It shall be unlawful for any store owner, store manager, store purchaser or other person to sell, offer for sale or purchase with intent to sell any synthetic cannabinoid herbal incense as defined herein.

D. *Public Display for Sale of Synthetic Cannabinoid Herbal Incense Prohibited.* It shall be unlawful for any store owner, store manager, store purchasing agent or other person to publicly display for sale any synthetic cannabinoid herbal incense as defined herein.

E. *Affirmative Defense.* It shall be an affirmative defense to prosecution of a violation of this Section if the sale, offer for sale or public display for sale of synthetic cannabinoid herbal incense is pursuant to the direction or prescription of a licensed physician or dentist authorized in the State of Missouri to direct or prescribe such act.

F. *Seizure and Destruction of Synthetic Cannabinoid Herbal Incense.* Synthetic cannabinoid herbal incense prohibited herein may be seized by Law Enforcement Officers and may be destroyed in the same manner used to destroy narcotics and contraband substances, after its use for evidentiary purposes in any judicial proceeding is no longer required.

G. *Injunctive relief.* The City of Neosho shall have the authority to seek an injunction against any person or business violating the provisions of this Section. In any action seeking an injunction, the City of Neosho shall be entitled to collect its enforcement expenses, including forensic costs, law enforcement costs and reasonable attorney fees and costs incurred at the trial level and on appeal.

H. *Subsequent Federal or State Action.* If Congress, a Federal agency, the Missouri General Assembly or Missouri agency with such authority amends Federal or State law to include a particular substance or otherwise enacts or amends a Federal or State law providing for criminal penalties for the prohibitions of substances set forth in this Section, then upon the effective date of such enactment or amendment, the provisions of this Section addressed by Federal or State law shall no longer be deemed effective. Any violations of this Section committed prior to such law so enacted may be prosecuted.

I. *Penalty.* Violation of a provision of this Section is a misdemeanor. Any person who knowingly violates any provision of this Section shall be punished by a fine not to exceed five hundred dollars ($500.00), County Jail not to exceed ninety (90) days or a combination of both fine and county jail.

# Chapter 220

# NUISANCES

Cross References — General penalty for code violation, §100.130; municipal court, ch. 135; offenses and miscellaneous provisions, ch. 215.

## ARTICLE I
## Generally

**Section 220.010. Prohibited.** [Code 1962 §20-1; CC 1979 §18-1; Ord. No. 32-2013 §1, 5-21-2013]

No resident and/or owner shall cause, maintain or permit a nuisance upon his, her or its real property, as defined by the laws of the State of Missouri or by this Chapter.

**Section 220.020. Acts, Objects, Etc., Which May Be Declared Nuisances.** [Code 1962 §20-2; CC 1979 §18-2; Ord. No. 94-15 §I (18-2), 5-17-1994]

A. The following may be declared to be nuisances by a court of competent jurisdiction after a duly authorized complaint has been filed with the court and after a hearing by the court on the merits of the case to ascertain whether the particular act or subject matter is a nuisance under the circumstances:

1. *Dead animal carcasses.* Carcasses of dead animals remaining exposed more than six (6) hours after death.

2. *Certain offensive substances.* Ashes, cinders, slops, filth, excrement, sawdust, tree limbs, piled brush, used lumber and other used building materials, stones, rock, dirt, straw, soot, sticks, shavings, oyster shells, cans, dust, paper, trash, rubbish, manure, refuse, offal, wastewater, chamber lye, fish, putrid meat, entrails, decayed fruit or vegetables, broken wire, rags, old china, old iron and other metal, wrecked or salvaged automobiles, old wearing apparel, all animal or vegetable matter, all dead animals or any other offensive or disagreeable substance or thing which is thrown, left or deposited, or caused to be left, thrown or deposited, by any person, in or upon any street, avenue, alley, sidewalk, parking or other public way, or in or upon the public square, or any public enclosure, or any lot (vacant or occupied) or any pool or pond of water.

3. *Certain hogpens.* Hogpens, except as provided in this Code.

4. *Tree limbs.* Limbs of trees projecting over a sidewalk or street at a height of less than ten (10) feet.

5. *Certain privies.* Privies which overflow, leak or are in a filthy condition.

6. *Stagnant water*. Ponds or pools of stagnant or unclean water.

7. *Rendering, etc., causing disagreeable odors.* The rendering, heating or steaming of any animal or vegetable product or substance in such a manner as to cause disagreeable odors.

8. *Certain stables, sheds, yards, etc.* Stables, stalls, sheds, pens or yards in which any horse or cow, or other animal, are not kept in accordance with the requirements of this Code.

9. *Substances causing unpleasant odors.* All substances or things which cause an odor disagreeable to the surrounding neighborhood.

10. *Furniture, appliances.* All furniture, bedding, refrigerators, freezers, heating stoves, kitchen ranges, laundry and dishwashing equipment, air conditioning units, or any other such appliances, articles or equipment designed for use inside a dwelling unit if stored, placed, or set upon the ground, on any open porch, in any attached carport, in any free-standing carport, or in any garage or shed that is without doors to conceal such articles.

**Section 220.030. Abatement Generally.** [Code 1962 §20-3; CC 1979 §18-3]

The Chief of Police may abate any nuisances in the manner prescribed by State law. Notice of hearing, where required, shall be a personal notice served by any Police Officer, and served in the manner prescribed by State Statute for the service of process in civil suits. If the owner of the premises involved is a non-resident, and such fact appears by affidavit filed with the City Clerk, then the written notice shall be posted on the premises for a period of ten (10) days before the hearing.

## ARTICLE II
## **Weeds**

**Section 220.040. Weeds.**

A. *Failure To Keep Weeds, High Grass, And Brush 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 brush growing on such property cut and removed. Whenever such weeds, high grass or brush 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. *Complaints, How Made.* Any complaint by any person, including Police Officers, shall be made to the Board of Aldermen or their appointed representative. The Board of Aldermen or their appointed representative shall then review the complaint and any evidence produced in support thereof. If the Board of Aldermen or their appointed representative determines that there is a nuisance within the meaning of this Section, they or their appointed representative shall begin

proceedings against the person or persons creating or maintaining such nuisance as provided in this Section.

D. *Notice.* Whenever the Chief of Police or his/her appointed representative determines that a violation of this Section has occurred, the Chief of Police shall cause written notice to be served upon the owner of the said lot or tract of land, if he/she can be located, or by the person occupying said lot or tract of land, by United States registered mail or by personal service. The notice shall state that the weeds upon said lot or tract of land are deemed to be a nuisance within the provisions of Subsection (A) hereof, and shall briefly state facts deemed to constitute such weeds a nuisance within the terms of this Section, and state that the nuisance is to be abated within ten (10) days from receipt of such notice.

E. *Proceedings When Owner Or Custodian Cannot Be Located.* When the owner or custodian of any nuisance as defined in Subsection (A) cannot be located by a reasonable search, the notice shall be attached to the property, briefly stating the facts deemed to constitute the property a nuisance and stating that the nuisance is to be abated within ten (10) days of the date the notice was posted.

F. *Hearing.* Whenever the owner or occupant of any nuisance as defined in Subsection (A) has been served with written notice as provided in Subsection (D) of this Section, the owner or occupant of said nuisance shall be given an opportunity to appear before the Chief of Police or other designated City official to be allowed a hearing on the existence of said nuisance. The right to a hearing shall be contained in the notice as provided in Subsection (D) of this Section. As stated in Subsection (D), the violator shall have ten (10) days to abate the nuisance or appear before the Chief of Police or other designated City official for a hearing. Should the violator fail to comply, and the Chief of Police or other designated City official declare the weeds to be a nuisance, pursuant to said hearing, the Chief of Police shall cause written notice to be served upon the violator, or by placing the notice on the property, stating the nuisance shall be abated after five (5) days.

G. *Disposition.* If not removed within the time specified in this notice, the Chief of Police or his/her duly authorized representative shall immediately cut or remove or cause to be cut and removed, said weeds, high grass or brush and shall certify the costs of same to the City Clerk.

H. *Entry Onto Private Property.* The Chief of Police or his/her duly authorized representative may enter upon private property for inspection or for the purpose of removing any weeds, high grass and brush in accordance with this Section. If any person refuses to allow entry onto his/her private property, the Chief of Police may obtain a warrant from the proper official and proceed in accordance therewith.

I. *Tax Bill.* The City Clerk shall cause a special tax bill therefor against the property to be prepared and to be collected by the Collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax

bill shall be issued by the City Clerk and delivered to the Collector on or before the first (1st) day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent (8%) are annum.

## ARTICLE III
## Trees

**Section 220.050. Diseased, Worm Infested, Etc., Trees — Declared Nuisances.** [Code 1962 §6-7; CC 1979 §28-16]

All trees within the City which are infested with bagworms, tent worms or any other insects or worms which are injurious to trees and all trees within the City which are diseased, decayed, dangerous or otherwise objectionable are hereby declared to be nuisances.

**Section 220.060. Diseased, Worm Infested, Etc., Trees — Notice to Owner.** [Code 1962 §6-8; CC 1979 §28-17]

A. Whenever there shall be found any tree in the City which is infested with bagworms, tent worms or any other insects or worms which are injurious to trees or any tree which is diseased, decayed or dangerous, it shall be the duty of the City Manager to cause a written notice, signed by the City Manager, to be served upon the owner or occupant of the property upon which such tree is located, or, in the case of non-resident owners of unoccupied property.

B. Such notice shall set forth the existence of such nuisance, designate the property upon which the tree so infested, diseased or dangerous is located and shall notify such owner, occupant or agent to abate such nuisance within seven (7) days after the service of such notice.

C. Such notice may be served by any Police Officer of the City, and the officer serving the same shall return a copy of such notice to the City Manager noting thereupon the name of the person served and the time and place of service.

**Section 220.070. Diseased, Worm Infested, Etc., Trees — Duty of Owner, to Remove — Disposition.** [Code 1962 §6-9; CC 1979 §28-18]

A. It shall be unlawful for any owner, occupant or agent of any property designated in any notice given under the preceding Section to permit any tree declared a nuisance by Section 220.060 to remain on such property for a period of time longer than seven (7) days after the service of such notice.

B. The carcass of any tree removed shall be immediately disposed of by burning by the owner, occupant or agent of the property on which it was located; provided, that, no such tree carcass shall be burned within the City without the written permission of the City Manager.

**Section 220.080. Dead, Broken, Etc., Limbs or Branches.** [Code 1962 §6-10; CC 1979 §28-19]

Owners shall remove all dead, decayed or broken limbs or branches that overhang any public street, alley or other public place so that they shall not fall over or upon the sidewalk, street or other public place. All dead, decayed or diseased limbs or branches overhanging any public street, alley, sidewalk or other public place are hereby declared to be nuisances.

# Chapter 225

## FAIR HOUSING

**Section 225.010. Declaration of Policy.** [CC 1979 §14-31; Ord. No. 977 §1, 12-6-1977; Ord. No. 94-34 §1, 12-20-1994]

The City Council hereby declares it to be the public policy of the City to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent or obtain real property without regard to race, sex, color, national origin, ancestry, religion or religious affiliation, handicap, and without regard to whether a family has children. This Chapter shall be deemed an exercise of the police powers of the City of Neosho, Missouri, for the protection of the public welfare, prosperity, health and peace of the people of Neosho.

**Section 225.020. Definitions.** [CC 1979 §14-32; Ord. No. 977 §2, 12-6-1977; Ord. No. 94-34 §2, 12-20-1994]

For the purpose of this Chapter the following terms, phrases, words and their derivations shall have the meanings given herein unless the context otherwise indicates:

AGGRIEVED PERSON — Shall include any person who is attempting to provide housing for himself/herself and/or his/her family in the City of Neosho, Missouri.

DISCRIMINATE — Distinctions in treatment because of race, sex, color, religion or religious affiliation, handicap, familial status, or national origin of any person.

PERSON — Shall include any individual, firm, partnership or corporation.

**Section 225.030. Discriminatory Practices.** [CC 1979 §14-33; Ord. No. 977 §3, 12-6-1977; Ord. No. 91-11 (14-33), 3-19-1991; Ord. No. 94-34 §3, 12-20-1994; Ord. No. 95-31 §1, 5-2-1995]

A. It shall be a discriminatory practice and a violation of this Chapter for any person to:

1. Refuse to sell or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, sex, color, religion or religious affiliation, handicap, familial status, or national origin of any person.

2. 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, sex, color, religion, or religious affiliation, handicap, familial status, or national origin of any person.

3. 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, sex, color, religion or religious affiliation, handicap, familial status, or national origin of any person, or an intention to make any such preference, limitation, or discrimination.

4. Represent to any person because of race, sex, color, religion, or religious affiliation, handicap, familial status, or national origin of any person, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

5. For profit, 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, sex, color, religion, or religious affiliation, handicap, familial status, or national origin of any person.

6. Discriminate in the sale or rental of housing on the basis of a race, sex, color, religion or religious affiliation, handicap, familial status, or national origin of any person, and requires the design and construction of new multi-family dwellings with four (4) or more units shall meet certain adaptability and accessibility requirements.

7. Discriminate in the sale or rental of housing because of race, sex, color, religion or religious affiliation, handicap, familial status, or national origin of any person, but exempts certain types of buildings that house older persons, e.g. Section 202 Housing.

**Section 225.040. Discrimination in the Financing of a House.** [CC 1979 §14-34; Ord. No. 977 §4, 12-6-1977; Ord. No. 94-34 §4, 12-20-1994]

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 to a person applying therefor for the purpose of purchasing, constructing, repairing, or maintaining a dwelling, or to discriminate against any person in the fixing of the amount or conditions of such loan, because of the race, sex, color, religion, or religious affiliation, handicap, familial status, or national origin of such person or of any person therein associated in connection with such financing.

**Section 225.050. Exemptions.** [CC 1979 §14-35; Ord. No. 977 §5, 12-6-1977]

A. The provisions of this Chapter, and particularly Section 225.030 herein, shall not apply to the following:

1. A rental or leasing of a dwelling unit in a building which contains housing accommodations for not more than two (2) families living independently of

each other, if the owner or members of his/her family reside in such dwelling unit.

2. A rental or leasing to less than five (5) persons living in a dwelling unit by the owner if the owner or members of his/her family reside therein.

3. Any single-family house sold or rented by an owner provided that such house is sold or rented:

   a. Without the use of sales or rental facilities or services of real estate brokers, agents, salesmen, or persons in the business of selling or renting dwelling, and

   b. Without the publication, posting or mailing of any advertisement in violation of Section 225.030(3) of this Article; provided however, that:

      (1) Nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, and

      (2) Any such private individual owner does not own any interest in, nor is there owned or reserved on his/her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time.

4.

   a. For the purposes of Subsection (3) above, a person shall be in the business of selling or renting dwellings if:

   b. He/she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

   c. He/she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/her own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

   d. He/she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

**Section 225.060. Administration — Fair Housing Committee.** [CC 1979 §14-36; Ord. No. 977 §6, 12-6-1977; Ord. No. 94-34 §5, 12-20-1994]

A. *Committee Created — Membership.* There is hereby created a Fair Housing Committee, whose membership shall consist of five (5) members, who shall be appointed by the Mayor of the City with the approval of the City Council.

B. *Procedure Upon Complaints.* Every complaint of a violation of this Chapter shall be referred to the Fair Housing Committee. The Fair Housing Committee shall forthwith notify the person against whom the complaint is made. The identity of the aggrieved person shall be made known to the person against whom the complaint is made at that time. If the Fair Housing Committee, after investigation, finds there is no merit to the complaint, the same shall be dismissed. If the Fair Housing Committee finds that there is merit in the complaint, in their opinion, then and in that event, the Fair Housing Committee will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

C. *Referral of Unresolved Complaints to City Attorney.* If the Fair Housing Committee is unable to eliminate the alleged discriminatory practice by conference and conciliation, then and in that event, the Fair Housing Committee shall forward said complaint to the City Attorney for handling. The final determination of whether or not to prosecute on said complaint shall be left to the City Attorney.

**Section 225.070. Enforcement — Violation — Penalties.** [CC 1979 §14-37; Ord. No. 977 §7, 12-6-1977; Ord. No. 94-34 §7, 12-20-1994; Ord. No. 95-31 §2, 5-2-1995]

A. Any person convicted of a violation of this Chapter shall be punished by a fine of not more than two hundred dollars ($200.00) or by confinement in the City Jail for not more than thirty (30) days, or by both such fine and imprisonment.

B. The City Attorney, instead of filing a complaint in Municipal Court of said City, may, as an alternative remedy, seek to have the alleged discriminatory practices abated by an action for an injunction to be maintained in the appropriate Circuit Court of the State of Missouri.

# Chapter 230

# GARBAGE, TRASH AND REFUSE

Cross References — Offenses against public health, ch. 215, art. VIII; sewage disposal in trailer camps, §420.260; plumbing, ch. 510; water, sewers and sewage disposal, Title VII.

## ARTICLE I
## In General

**Section 230.010. Definitions.** [CC 1979 §12-1; Ord. No. 91-19 §1, 4-2-1991]

For the purposes of this Chapter, the following terms shall be deemed to have the meanings indicated below:

BUILDING INSPECTOR — The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

BULKY RUBBISH — Non-putrescible solid wastes consisting of combustible and/or noncombustible waste materials from residential 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.

COLLECTION — Removal of solid waste from its place of storage to the transportation vehicle.

DEMOLITION AND CONSTRUCTION WASTE — Waste materials from the construction or destruction of agricultural, residential, commercial or industrial structures that are regulated by City and/or State Codes.

DISPOSABLE SOLID WASTE CONTAINER — Disposable plastic or paper sacks specifically designed for storage of solid waste, and also called trash bags, or a container specifically designed for solid waste.

DWELLING UNIT — Any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used or intended to be used for resting, living, sleeping, cooking and eating purposes; includes, but is not limited to, rooming houses, bed and breakfast units, single-family dwelling, multi-family dwellings, rooming units, dormitories, motels and hotels.

GARBAGE — Every accumulation of animal, vegetable, or organic matter likely to decay or usually discarded as waste matter from kitchens, dining rooms, hotels, restaurants, boardinghouses and dwelling houses of every kind, and shall include such waste, animal or vegetable matter from public or private institutions, businesses, stores, markets, or other establishments.

MULTIPLE-HOUSING FACILITY — A housing facility containing more than one (1) dwelling unit under one (1) roof.

OCCUPANT — Any person who, alone or joint or severally with others, is living or sleeping in a building, or having possession of a space within a building.

OWNER — Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate (including banks and loan institutes) of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON — Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or organization of any kind, or bank, or savings and loan company, or their legal representative, agent or assigns.

PROCESSING — Incinerating, composting, baling, shredding, salvaging, compacting, burning, and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

REFUSE — Solid waste.

RUBBISH — Combustible and non-combustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, any kind of plastics, tree limbs, tree branches, leaves, yard trimmings, tin cans, metal, mineral matter, glass, crockery, dust, and any other similar materials that may relate with the listed rubbish.

SOLID WASTE — Unwanted or discarded waste materials in a solid or semisolid state, including but not limited to garbage, ashes, street refuse, rubbish, animal or agricultural waste, yard wastes, discarded appliances, special wastes, industrial wastes, and demolition and construction waste.

SOLID WASTE CONTAINER — Receptacle used by any person to store solid waste during the interval between solid waste collection.

TRANSPORTATION — The transporting of solid waste, trash, rubbish and refuse from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

TRASH — Any accumulation of broken or discarded boxes, glass, metal vessels or containers, paper, straw, sawdust, clothing, machinery parts, automobile parts, motorcycle parts, tractor parts, bicycle parts, wagon parts, truck parts, scrap or any salvage materials, or any such other similar waste matter usually discarded by private or business establishments or occupants of any dwelling or living quarters.

TRASH BAGS — Bags for waste, refuse, trash or other rubbish; also called a disposable solid waste container.

WASTE — Trash, refuse, garbage, rubbish or any other offensive matter.

YARD WASTE — Grass clippings, leaves, tree trimmings of any kind.

**Section 230.020. Unlawful Accumulations.** [CC 1979 §12-2; Ord. No. 91-19 §2, 4-2-1991]

It shall be unlawful for any person, owner, occupant or other person in charge of any lot, track of ground or other premises in the City to allow garbage or trash to accumulate thereon and to permit water or other putrid substances, whether animal or vegetable, to accumulate so as to cause or seem to cause an offensive odor to be emitted therefrom, or to cause a condition dangerous to the health or safety of any person or cause a condition for the breeding grounds of rodents and insects.

**Section 230.030. Accumulation of Rubbish and Garbage.** [CC 1979 §12-3; Ord. No. 91-19 §3, 4-2-1991]

The interior of every residential and non-residential structure shall be free from any accumulation of rubbish, or garbage; and rubbish or garbage; shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes, or other locations that may be a hazard.

**Section 230.040. Regular Disposal of Trash, Garbage, Refuse and Rubbish.** [CC 1979 §12-4; Ord. No. 91-19 §4, 4-2-1991]

It shall be the responsibility of every person, owner, occupant, tenant or lessee occupying a business establishment, dwelling, house or apartment, or rental property, and every person in charge of a hotel, motel or other living quarters in the City to dispose of trash, garbage, refuse and rubbish each and every week of regular trash service.

**Section 230.050. Trash Containers — Duty of Owner to Provide — Placement — Specification.** [CC 1979 §12-5; Ord. No. 91-9 §5, 4-2-1991]

It is hereby made the duty of every person, owner, occupant, tenant or lessee occupying a business establishment, dwelling house or apartment, and every person in charge of a hotel or motel or other living quarters in the City to provide and maintain suitable containers for garbage and trash. All trash placed in said containers shall be placed near the alley or street adjacent to the occupied premises. The container is to be fully enclosed to prevent blowing and displacement of trash.

## ARTICLE II
## Collection and Disposal

**Section 230.060. Authorized Collectors.** [CC 1979 §12-16; Ord. No. 91-6 §2, 2-19-1991; Ord. No. 93-46 §2, 11-16-1993]

A. *Collection from Businesses by Commercial Haulers.* All businesses and residents will be responsible for contracting with a commercial hauler for the collection, removal and disposition of all solid waste, garbage and trash within the City limits.

B. Commercial residential haulers must meet the following qualifications:

1. They must use a totally enclosed packer unit truck or a roll-on and roll-off truck unit to be inspected and accepted by the City.

2. They must have a business phone with a 451 exchange and an office within the City limits of Neosho.

3. They must have a certificate of insurance for standard liability insurance and property insurance in the amount of five hundred thousand dollars ($500,000.00).

4. Their drivers must have valid commercial driver's licenses.

5. They must have a regular City business license.

6. A permit application must be completed and approved prior to license issuance. Permits are renewable the first (1st) day of July of each year.

7. The day of pickup for residential haulers shall be according to a map of the City to be maintained by the City Manager.

8. The hours of pickup shall be from 7:00 A.M. to 7:00 P.M.

9. All commercial trash haulers serving citizens of the City of Neosho must, on a quarterly basis, supply a list of their customers to the City Building Inspector.

10. All haulers must use a totally enclosed packer unit or a roll-on, roll-off unit capable of preventing loss of material from the unit.

11. Small trucks hauling solid waste must be covered to prevent loss of the solid waste.

12. All solid wastes collected by the contractor shall be disposed of at a processing facility or disposal area approved by the City and complying with all requirements of the Missouri Solid Waste Management Act of 1990 (RSMo. §§260.200 — 260.432) and the officially adopted rules and regulations thereunder.

13. Submit to the City a quarterly report on recycling activities per Missouri Solid Waste Management law.

14. Pay to the City five percent (5%) of gross sales within the City. Payments will be made on a quarterly basis. This fee shall be used for enforcement of solid waste disposition and related items.

**Section 230.070. Prohibited Practices.** [CC 1979 §12-18; Ord. No. 91-6 §2, 2-19-1991]

A. It shall be unlawful for any person to:

1. Deposit solid waste in any solid waste container or trash bag other than his/her own, without the written consent of the owner of such container or trash bag.

2. Interfere in any manner with solid waste collection and transportation equipment, or with solid waste collectors in the lawful performance of their duties.

3. Dispose of solid waste at any facility or location which is not approved by the City and the Missouri Department of Natural Resources.

4. 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.

**Section 230.080. Collection Vehicles.** [CC 1979 §12-19; Ord. No. 91-6 §2, 2-19-1991]

A. All vehicles used in the collection, removal and disposal of garbage and trash shall be maintained in a safe, clean and sanitary condition and be so constructed as to prevent such waste matter from spilling, blowing or falling off while being transported. No solid waste shall be transported in the loading hoppers. All garbage and trash shall be removed to and dumped at the place designated therefor by the City Manager. All solid waste becomes the property of the hauler, once it is picked up.

B. The vehicles mentioned in this Section shall at all times be subject to inspection by any person duly authorized to enforce the provisions of this Chapter and if found to be defective or unfit for such services, shall not be used therefor until such defect is remedied and the use of the vehicle approved by such official. The City Manager will enforce those provisions.

**Section 230.090. Tipping Fee for Transfer Stations.** [CC 1979 §12-20; Ord. No. 93-47 §3, 11-16-1993]

All transfer stations shall deliver to the City of Neosho, monies collected by the station totalling two percent (2%) of the total monies collected for the dumping of trash at said transfer station. This two percent (2%) fee shall be used to defray costs associated with clean-up, etc. of the roads to the transfer stations. Payment shall be made on a quarterly basis along with a solid waste tonnage report. Further, all such transfer stations must have available to the public receptacles suitable for the dumping of compost. Further, all such transfer stations must have available to the public receptacles suitable for the collection of recyclable materials.

## ARTICLE III
## **Littering**

**Section 230.100. Prohibited on Public Property — Penalty.** [Code 1962 §18-173; CC 1979 §12-44; Ord. No. 880 §I, 10-3-1974; Ord. No. 973 §1, 10-4-1977; Ord. No. 88-12 §2, 3-15-1988]

A. It shall be unlawful for any person to litter, dump or throw cans, paper, straw, sawdust, boxes, glass, metal vessels or containers, iron, clothes, bottles, filth, offal, trash, rubbish, garbage or other materials on public rights-of-way, public squares, alleys, sidewalks, parks, or any of the waterways in the City, or adjoining grounds.

B. There shall be a rebuttable presumption that any person whose name appears as an addressee with a postmark on any unlawfully disposed of litter as defined above shall be deemed the person who unlawfully disposed of said litter.

C. A violation of this Section shall be punishable by a fine not less than one hundred dollars ($100.00) nor to exceed five hundred dollars ($500.00) or a jail sentence not to exceed three (3) months, or by both such fine and jail sentence.

**Section 230.110. Unlawful Deposits — Exceptions.** [Code 1962 §18-173; CC 1979 §12-45; Ord. No. 880 §§II, III(a)-(c), 10-3-1974; Ord. No. 973 §1, 10-4-1977]

A. It shall be unlawful for any person to put, or cause to be put, any offal, filth, cans, bottles, trash or rubbish on any property of another, either public or private, within the City limits.

B. It shall be unlawful for any person to deposit, or cause to be deposited, scattered, burned, or leave any grass or weed clippings, garbage, rubbish, empty barrels or cartons, bottles, ashes, cinders, earth, glass, paper, clothes, ice, dirt, filth, manure, or other offensive materials in any public street or alley or ditches along streets or alleys or on any public property in the City, except approved private or public dumps, and except certain of such materials if used in a normal manner for improving property by grading, surfacing or fertilizing.

C. No person shall intentionally throw or deposit or leave in any public street, public square, alley or public place, or in any private place or premises, any glass, broken or unbroken, any metal, stone, earth, dirt, earthenware, nails, tacks, wire, cinders or other substance of a nature likely to cause injury to travelers or pedestrians or to injure any horse or other animal, or which might injure, cut or puncture any pneumatic tire.

D. Nothing in this Article shall be construed to prohibit the disposition of garbage by means of burning the same in an incinerator enclosed within a building and approved by the Building Inspector, and nothing in this Article shall be construed to prohibit the use of any standard garbage disposal unit so constructed as to grind and pulverize garbage so that it may be flushed into the sanitary sewers.

**Section 230.120. Vehicle Wheels Depositing Mud, Etc., on Streets.** [1] [CC 1979 §12-46; Ord. No. 880 §III(d), 10-3-1974; Ord. No. 973 §1, 10-4-1977]

No person shall drive or move any vehicle within the City, the wheels or tires of which carry onto or deposit in any public street or on the public square of the City or in any other public place of the City, mud, dirt, sticky substances, litter or foreign matter of any kind, and if any person shall so deposit or carry onto the street, the public square or other public places any such substances it shall be the duty of such person, upon receiving knowledge thereof, to remove such substances from the public way immediately; provided however, it shall be the duty of any person to whom a building permit shall have been issued, and not the duty of the driver or owner of such vehicle, to remove at

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1. **Cross Reference — Streets, sidewalks and public places, ch. 535.**

least once each working day any such substances deposited or carried on the public streets, public square or other public places of the City by any vehicle entering or leaving the site of the building or construction project for which the building permit was issued.

# Chapter 235

# PARKS AND RECREATION

Cross References — City's responsibility for recreation department accounting practices, §120.080; amusements, ch. 610.

## ARTICLE I
## In General

**Section 235.010. Swimming Pool.** [Code 1962 §6-2.5; CC 1979 §20-1; Ord. No. 590 §1, 10-6-1964]

A. *Entering At Times Other Than When Open To Public Restricted.* No person, except authorized officials, as herein defined, shall enter upon the premises of the municipal swimming pool, including adjacent grounds and improvements, except when the same is open to the public or open to a class of the public which includes such person.

B. *Placing Substances In Water Restricted.* No person except authorized officials, as herein defined, shall place in the water of the swimming pool any substance or liquid.

C. *Definition. "Authorized officials",* as used in this Section, shall be those persons whose duties require them to be upon the premises of the swimming pool or to place some substance or material therein in connection with authorized maintenance and upkeep as well as authorized treatment of the water. The term shall include agents or representatives of such persons, including craftsmen, maintenance personnel and inspection personnel.

**Section 235.015. (Reserved)** [1]

## ARTICLE II
## Golf Course

**Section 235.020. Vandalism.** [2] [Code 1962 §6-11; CC 1979 §20-16; Ord. No. 591 §1, 10-6-1964]

No person or persons shall dig into, tear up or drive upon the sodded turf of the grass greens of the municipal golf courses, nor shall any person or persons drive upon the

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1. **Editor's Note — Ord. no. 68-2001 §1, adopted June 19, 2001, repealed §235.015: swimming pool fee. Former section 235.015 derived from ord. no. 98-13 §1, 5-19-1998. This section was left reserved for the city's future use.**

2. **Cross Reference — Offenses against property, ch. 215, art. VI.**

fairways of the municipal golf course except in motorized or self-propelled golf cars or carts as may be approved by the Golf Course Committee.

**Section 235.030. (Reserved)** [3]

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[3]. **Editor's Note — Ord. no. 93-2002 §1, adopted January 8, 2002 and ord. no. 94-2002 §1, adopted January 8, 2002, repealed §235.030: golf course fees, in its entirety. Former section 235.030 derived from cc 1979 §20-17; ord. no. 87-3 §§1, 2, 2-5-1987; ord. no. 88-49 §§1, 2, 1-3-1989; ord. no. 90-7 §§1, 2, 3-20-1990; ord. no. 92-5 §1, 3-6-1992; ord. no. 92-42 §1, 9-15-1992; ord. no. 93-7 §1, 3-9-1993; ord. no. 93-37 §1, 9-23-1993; ord. no. 95-4 §I, 2-7-1995; ord. no. 98-2 §1, 2-17-1998; ord. no. 98-43 §1, 12-15-1998; ord. no. 99-49 §1, 12-21-1999; and ord. no. 51-2000 §1, 12-19-2000. This section was left reserved for the city's future use.**

# Chapter 240

## EMERGENCY MANAGEMENT

Cross References — Administration generally, Title I; planning and zoning commission, ch. 400.

**Section 240.010. Definition.** [1] [Code 1962 §8-3; CC 1979 §8-1; Ord. No. 93-29 §1(8.1), 8-24-1993]

As used in this Chapter *"Chief Executive Officer"* shall mean the City Manager or other official appointed by the City Council.

**Section 240.020. Emergency Management Agency — Establishment.** [Code 1962 §8-1; CC 1979 §8-2; Ord. No. 93-29 §1(8.2), 8-24-1993]

There is hereby created within and for the territory of the City of Neosho, Missouri, an emergency management organization to be known as the Neosho Emergency Management Agency, which is responsible for the preparation and implementation of emergency functions required to prevent injury and minimize and repair 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., 1978, and supplements thereto, and the Missouri Emergency Operations Plan adopted thereunder.

**Section 240.030. Emergency Management Agency — Organization.** [Code 1962 §8-1; CC 1979 §8-3; Ord. No. 93-29 §1(8.3), 8-24-1993]

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 240.040. Emergency Management Agency — Director.** [Code 1962 §8-2; CC 1979 §8-4; Ord. No. 93-29 §1(8.4), 8-24-1993]

A. The Director of the Emergency Management Agency shall be appointed by the City Manager, by and with the advice and consent of the City Council and shall serve until removed by the same.

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1. **Cross Reference — Rules of construction and definitions generally, §100.020.**

B. The Director shall have direct responsibility for the organization, administration and operations of local emergency management activities subject to the direction and control of the Mayor or City Council.

C. The Director shall be responsible for maintaining records and accounting for the use and disposal of all items of equipment placed under the jurisdiction of the Emergency Management Agency.

**Section 240.050. Emergency Management Agency — Functions.** [Code 1962 §8-4; CC 1979 §8-5; Ord. No. 93-29 §1(8.5), 8-24-1993]

The organization shall perform emergency management functions within the territorial limits of the City of Neosho, Missouri, 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., 1978, and supplements thereto.

**Section 240.060. Administration.** [Code 1962 §8-5; CC 1979 §8-6; Ord. No. 93-29 §1(8.6), 8-24-1993]

A. The City of Neosho 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 civil defense purposes; provide for the health and safety of persons, including emergency assistance to victims of any enemy attack; 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 Disaster and Emergency Planning.

2. Appoint, provide or remove rescue teams, auxiliary fire and police personnel and other emergency operations teams, units or personnel who may serve without compensation.

3. In the event of enemy attack, waive the provisions of Statutes requiring advertisements for bids for the performance of public work or entering into contracts.

4. Accept services, materials, equipment, supplies or funds granted or loaned by the Federal Government for disaster planning and operations purposes.

**Section 240.070. Oath.** [Code 1962 §8-6; CC 1979 §8-7; Ord. No. 93-29 §1(8.7), 8-24-1993]

No person shall be employed or associated in any capacity in the Neosho Emergency Management Agency 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 the 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 Neosho 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 240.080. Office Space.** [Code 1962 §8-7; CC 1979 §8-8; Ord. No. 93-29 §1(8.8), 8-24-1993]

The City Manager or City Council is authorized to designate space in any municipally owned or leased building for the Neosho Emergency Management Office.

**Section 240.090. Mutual-Aid Agreements.** [Code 1962 §8-8; CC 1979 §8-9; Ord. No. 93-29 §1(8.9), 8-24-1993]

A. The Chief Executive Officer of the City, with the approval of the Governor, may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the State for reciprocal emergency management aid. Such arrangements or agreements shall be consistent with the State survival plan, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual-aid arrangements or agreements.

B. The Director of the local organization for emergency management may assist in negotiation of reciprocal mutual-aid agreements between his/her organization and other public and private agencies and between the Governor and the adjoining states or political subdivisions thereof, and shall carry out arrangements or agreements relating to the local unit.

**Section 240.100. Use of Services, Facilities, Etc., of State Agencies, Etc.** [Code 1962 §8-9; CC 1979 §8-10; Ord. No. 93-29 §1(8.10), 8-24-1993]

In carrying out the emergency powers under the provisions of this Chapter, the Chief Executive Officer is directed to use the services, equipment, supplies and facilities of existing departments, offices and agencies of the State and of the political subdivisions thereof, and the officers and personnel of all such departments, offices and agencies are directed to cooperate with and extend such services and facilities to the Governor and the Missouri Civil Defense Agency upon request.

**Section 240.110. Gifts, Grants and Loans.** [Code 1962 §8-10; CC 1979 §8-11; Ord. No. 93-29 §1(8.11), 8-24-1993]

Whenever the Federal Government or the State government, or any officer or agency thereof, shall offer to the State, or through the State to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for the purpose of emergency management, the City through the Mayor, acting with the consent of the Governor may accept such offer and upon acceptance by the Governor or executive officer of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the State or the political subdivisions subject to the terms of the offer.

**Section 240.120. Procurement of Services, Supplies, Etc., in Emergency — Generally.** [2]
[Code 1962 §8-11; CC 1979 §8-12; Ord. No. 93-29 §1(8.12), 8-24-1993]

In the event of an emergency as defined in the Missouri Civil Defense Act of 1959, the Municipal Director of the Neosho Emergency Management Office is authorized, on behalf of the municipality, to procure such services, supplies, equipment or material as may be necessary for such purposes, in view of the exigency, without regard to the statutory procedures formalities normally prescribed by law pertaining to municipal contracts or obligations, as authorized by the Missouri Civil Defense Act of 1959; provided, that if the City Council meets at such time, he/she shall act subject to the directions and restrictions imposed by that body.

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[2]. **Cross Reference — Emergency purchases, §120.260.**

## Title III Notes

## TRAFFIC CODE

*Cross References – Municipal court, ch. 135; police, ch. 200; failure to stop on signal of police officer, §215.140; storage of junk vehicles, §215.380; littering from motor vehicle, §215.390; railroads, ch. 380; travel trailer and mobile home parks, ch. 420; streets, sidewalks and public places, ch. 535; transporting open containers of alcoholic beverages, §600.060; vehicles for hire, ch. 625.*

# Chapter 300

## GENERAL PROVISIONS

**Section 300.010. Model Traffic Code — Adoption and Exceptions.** [Ord. No. 326-2008 §1, 4-1-2008]

Chapter 300, RSMo., consisting of Sections 300.010 through 300.600, in the form that has been enacted by the Missouri General Assembly as of February 5, 2008, commonly known as the "Model Traffic Ordinance" is hereby adopted as and for the traffic ordinance of this City, except for the following Sections which are expressly deleted: 300.010(3), (6), (8), (10), (24) and (38); 300.320, 300.325, 300.460 and 300.485. Unless and until the City Council has rejected amendments to the Missouri Model Traffic Code enacted by the Missouri General Assembly, those amendments are hereby incorporated by reference upon their effective date.

**Section 300.020. Definitions.** [1] [Code 1962 §18-2; CC 1979 §16-2; Ord. No. 973 §1, 10-4-1977; Ord. No. 1095, 11-4-1980; Ord. No. 88-30 §1, 6-21-1988]

Except as may otherwise be provided, whenever the following words and phrases are used in this Title, they shall have the meanings respectively ascribed to them in this Section:

ALLEY OR ALLEYWAY — Any street with a roadway of less than twenty (20) feet in width.

ALL-TERRAIN VEHICLE — Any motorized vehicle manufactured and used exclusively for off-highway use which is fifty (50) inches or less in width, with an unladen dry weight of six hundred (600) pounds or less, traveling on three (3), four (4) or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control.

ANGLE PARKING — The standing of any vehicle, whether occupied or not, upon a highway, road or street in a manner where the longitudinal axes of vehicles form an angle with the alignment of the roadway.

AUTHORIZED EMERGENCY VEHICLE — Is a vehicle of any of the following types:

1. A vehicle operated by the State Highway Patrol, those vehicles operated by enforcement personnel by the division of transportation of the Department of Economic Development, Police or Fire Department, Sheriff, Constable or Deputy Sheriff, Federal Law Enforcement Officer authorized to carry firearms and to make

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[1]. **Cross Reference — Rules of construction and definitions generally, §100.020.**

arrests for violations of the laws of the United States, Traffic Officer or coroner or by a privately owned emergency vehicle company;

2. A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

3. Any vehicle qualifying as an emergency vehicle under Section 307.175, RSMo.;

4. Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

5. Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

6. Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established under the provisions of Chapter 44, RSMo.

BICYCLE — Every device propelled by human power upon which any person may ride, having two (2) or more tandem wheels either of which is twelve (12) or more inches in diameter.

BUS — A motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses.

BUSINESS DISTRICT — The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, 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.

CENTERLINE — A line marking the center of a roadway on which traffic moves in both directions, or dividing the roadway between traffic moving in opposite directions.

CENTRAL BUSINESS (OR TRAFFIC) DISTRICT — All streets and portions of streets within the area described by City ordinance as such.

CHIEF OF POLICE — The Chief of Police of the City.

COMMERCIAL MOTOR VEHICLE — A motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight (8) passengers but not including vanpools or shuttle buses.

CONGESTED AREA — A highway, street or alley intermittently or continuously overcrowded due to a lack of mobility or means and method of progression and where traffic cannot execute regular movements with a reasonable degree of safety.

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 — That portion of a roadway ordinarily included within the prolongation or connection of curb and property lines at intersections, or any pedestrian crossing, indicated by lines or other markings on the surface.

CURB — The lateral boundaries of that portion of the street designated for the use of vehicles, whether marked with curbstones or not.

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.

DRIVE-IN — A place where the occupants of motor vehicles are served while seated in the vehicle, including but not limited to drive-in theaters, restaurants and filling stations.

DRIVER — Any person who drives or is in actual physical control of the vehicle, including the rider of a horse or other animal and the rider of a bicycle.

FARM TRACTOR — A tractor used exclusively for agricultural purposes.

FREIGHT CURB LOADING ZONE — A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers).

HIGHWAY — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

IMPROVED HIGHWAY OR STREET — A highway, road or street which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that the same presents a hard, durable and smooth traveling surface.

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.

LIVE OR GROSS LOAD — The weight of the cargo of a commercial motor vehicle, in addition to that of the chassis and body of the vehicle.

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 (2) wheeled or three (3) 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.

MOTORTRICYCLE — A motor vehicle operated on three (3) wheels including a motorcycle while operated with any conveyance, temporarily or otherwise, requiring the use of a third (3rd) wheel.

NO-PASSING ZONES — Zones determined and indicated by signs or markings where overtaking and passing is deemed unsafe, and under this Title is declared unlawful.

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.

ONE-WAY STREET OR HIGHWAY — A street or highway where vehicles are required by regulation to move in one direction only and standard signs, signals and markings are so placed as to indicate the direction of such movement.

OPERATOR — Any person who is in actual physical control of a vehicle.

OWNER — A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event the mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Title.

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.

PARKING LOT — An area on public or private property where spaces are provided gratuitously or for hire for the parking of motor vehicles; provided, that nothing herein shall be construed to include driveways or other portions of single-family residential lots used by the occupant and his/her invitees for parking automobiles, nor to spaces on public streets where parking is permitted.

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.

PNEUMATIC TIRES — Tires of rubber or other substance and fabric, inflated with air.

POLICE OR TRAFFIC OFFICER — Every Officer of the City Police Department or any Officer lawfully and duly authorized, deputized, assigned or called upon to direct or regulate traffic or to make arrests for violations of traffic regulations, including members of the Police Reserve Force of the City.

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.

PROTECTIVE HEADGEAR — Protective headgear that meets reasonable standards and specifications established by the Director of Revenue of the State of Missouri.

RAILROAD — A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

RAILROAD SIGN OR SIGNAL — Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

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 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.

SCHOOL BUS — Any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes.

SCHOOL ZONE — A space or any portion of a highway, road, street or alley lawfully designated and duly posted for the general safety of persons proceeding to and from any public, private or parochial school.

SERVICE CAR — A motor vehicle other than a motor bus offered for or engaged in carrying passengers for hire over a designated route and for a fixed fare.

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.

SOLID TIRES — Tires of rubber or other resilient material, other than pneumatic tires.

SPEED LIMIT — Maximum speed as prescribed by ordinance within a zone determined and indicated with numerical signs or markings designating such speeds, travel in excess of which is unlawful under this Title.

SPEED ZONES — Zones determined from an engineering or traffic study, and indicated with posted prima facie speed limit numeral signs or markings, which designate maximum reasonable speeds, travel in excess of which is unlawful under this Title.

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.

TAXICAB — A motor vehicle other than a bus offered for or engaged in carrying passengers for hire.

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.

TRACTOR, TRUCK TRACTOR OR TRUCK-TRACTOR — A self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof.

TRAFFIC — Pedestrians, ridden or herded animals, bicycles, vehicles, streetcars and other conveyances, either singularly or together, while using any highway, road or street 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.

TRAILER — Any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

TRUCK — Every motor vehicle designed, used or maintained primarily for the transportation of property, having gross weight capacity of one and one-half (1½) ton or more.

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.

VEND OR VENDING — To peddle, sell or display for sale or exhibition any merchandise or materials which act tends to or may tend to create traffic confusion or congestion, and in the opinion of the authorities having jurisdiction creates or constitutes a traffic hazard.

## Chapter 305

## ADMINISTRATION AND ENFORCEMENT

**Section 305.005. Authority Granted to City.** [Code 1962 §18-23; CC 1979 §16-23; Ord. No. 973 §1, 10-4-1977]

A. The City Manager or a City Official designated by him/her is hereby authorized to perform the following acts with regard to traffic:

1. To paint, mark, place, erect and maintain official signs, signals and markings or traffic control devices as authorized herein or by State law, on the surface, suspended over with legal clearance, or by the side of the traveled highway, as informational to the traveling public and as a warning to all vehicle operators and pedestrians.

2. To designate and establish speed, safety and hazard zones of such kind, character and number, and at such places, as deemed warranted and necessary, which will be of the greatest benefit to the general public;

3. To erect warning and informational signs or markings at a distance from certain locations which are deemed by them to be dangerous and hazardous, and such other informational signs deemed beneficial to the general public or as a warning to the general public;

4. To designate and mark lanes for traffic and no-passing zones, as they are deemed warranted and beneficial to the general public, consistent with State laws and this Title;

5. To erect or place signs and markings establishing crossovers or crosswalks, or prohibiting or restricting the stopping, standing or parking of vehicles on any highway where, in their opinion, such stopping, standing and parking of any vehicle or obstruction would unduly interfere with the free movement of traffic thereon;

6. To designate, establish and prescribe rules and regulations for the operation of bus stops, loading and unloading zones and taxicab stands, and in such places and in such manner as they shall determine to be of the greatest benefit and convenience to the public, which bus stops, loading and unloading zones and taxicab stands shall be designated by appropriate signs;

7. To prescribe rules and regulations for the vending, display or sale of merchandise and other wares or products upon any portion of the highways, streets and alleys in the City;

8. To designate, post and mark one-way roadways, rotary traffic islands and City squares for one-way traffic to the right; and

9. To designate certain highways, streets and alleys in the City as throughways or through streets and highways.

**Section 305.010. Police Administration.**

There is established in the Police Department a Traffic Division to be under the control of an Officer of Police appointed by and directly responsible to the Chief of Police.

**Section 305.020. Duty of Traffic Division.**

The Traffic Division with such aid as may be rendered by other members of the Police Department shall enforce the street traffic regulations of the City and all of the State vehicle laws applicable to street traffic in the City to make arrests for traffic violations, to investigate accidents and to cooperate with the City Traffic Engineer and other Officers of the City in the administration of the traffic laws and in developing ways and means to improve traffic conditions and to carry out those duties specially imposed upon the division by this Code and the traffic ordinances of the City.

**Section 305.030. Records of Traffic Violations.**

A. The Police Department or the Traffic Division thereof shall keep a record of all violations of the traffic ordinances of the City or of the State vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations and the total of each. Said record shall accumulate during at least a five (5) 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 305.040. Traffic Division to Investigate Accidents.**

It shall be the duty of the Traffic Division, assisted by other Police Officers of the Department, to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

**Section 305.050. Traffic Accident Studies.**

Whenever the accidents at any particular location become numerous, the Traffic Division shall cooperate with the City Traffic Engineer in conducting studies of such accidents and determining remedial measures.

**Section 305.060. Traffic Accident Reports.**

The Traffic Division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the City Traffic Engineer.

**Section 305.070. Driver Files to Be Maintained.**

The Police Department or the Traffic Division thereof shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions, and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

**Section 305.080. Traffic Division to Submit Annual Traffic Safety Report.**

A. The Traffic Division shall annually prepare a traffic report which shall be filed with the Mayor. Such report shall contain information on traffic matters in the City as follows:

   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 division for future traffic safety activities.

**Section 305.090. Traffic Division to Designate Method of Identifying Funeral Processions.**

The Traffic Division shall designate a type of pennant or other identifying insignia to be displayed upon, or other method to be employed to identify, the vehicles in funeral processions.

**Section 305.100. City Traffic Engineer.**

A. The office of City Traffic Engineer is established. The City Engineer or other designated City official shall serve as City Traffic Engineer in addition to his/her other functions, and shall exercise the powers and duties with respect to traffic as provided in this Title.

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 305.110. 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.

**Section 305.120. Traffic Commission Established — Powers and Duties.** [Ord. No. 228-2005 §1, 10-18-2005]

A. There is established a Traffic Commission to serve without compensation consisting of the Director of Public Works or his/her designee, the Chief of Police or in his/her discretion as his/her representative the Chief of the Traffic Division, a representative of the City Council, one (1) representative from Code Enforcement, one (1) representative from the City Attorney's office, the Fire Chief or his/her designee, one (1) representative from the citizens at large and such number of other City Officers and representatives of unofficial bodies as may be determined and appointed by the Mayor. The Chairman of the Commission shall be appointed by the Mayor and may be removed by him/her.

B. It shall be the duty of the Traffic Commission, and to this end it shall have the authority within the limits of the funds at its disposal, to coordinate traffic activities, to supervise the preparation and publication of traffic reports, to receive complaints having to do with traffic matters and to recommend to the City Council of the City of Neosho and to the Director of Public Works, the Chief of the Traffic Division and other City Officials ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.

## 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 street traffic laws of the City and all of the State vehicle laws applicable to street traffic in the City.

B. Officers of the Police Department or such Officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, Officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

C. Officers of the Fire Department, when at the scene of a fire, 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 willfully fail or refuse to comply with any lawful order or direction of a Police Officer or Fire Department Official.

**Section 310.030. Persons Propelling Push Carts or Riding Animals to Obey Traffic Regulations.** [1]

Every person propelling any push cart 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.** [Code 1962 §18-7; CC 1979 §16-7; Ord. No. 973 §1, 10-4-1977; Ord. No. 345-2008 §§1 — 4, 8-19-2008]

A. *Definitions.* For the purpose of the Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein.

BICYCLE — A vehicle with two (2) wheels in tandem, usually propelled by pedals connected to the rear wheel by a chain and having handlebars for steering and a saddle-like seat.

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1. **Cross Reference — As to animals and fowl, see ch. 210.**

DESIGNATED AREA — City parks, recreational trails and any other public area which is designated as such by the City of Neosho.

ROLLER SKATE, STREET SKATE — A device having wheels affixed to shoes and used to glide over hard surfaces by an individual.

SCOOTER — A vehicle consisting of a narrow board mounted on two (2) wheels in tandem and guided by a handle attached to the front wheel. The individual stands with one (1) foot on the board and pushes the device with the other foot to achieve movement.

SKATEBOARD — A single platform which is mounted on wheels affixed to the underside and which is used by a person for coasting and guided by the distribution of weight of the user.

B. *Prohibited/Permitted Operation.*

1. No skateboard, roller skate, street skate, scooter or bicycle may be operated on any sidewalk and no skateboard, roller skate, street skate or scooter may be operated on any street, road, avenue, lane or alley within an area which creates a square identifiable by a line drawn from the center point of the City street right-of-ways of the following City streets: Lafayette intersecting Hickory; Hickory intersecting Jefferson; Jefferson intersecting McCord; and McCord intersecting Lafayette.

2. No skateboard, roller skate, street skate, scooter or bicycle may be operated on any private property of another without the expressed permission of the owner, the person entitled to immediate possession of the property or the authorized agent of either.

3. No person shall operate a skateboard, roller skate, street skate, scooter or bicycle in an irresponsible manner causing excessive, unnecessary or offensive noise which disturbs the peace and quiet of any neighborhood or which causes a dangerous situation for the operator or the public.

4. It is a violation of this Section to operate a skateboard, roller skate, street skate, scooter or bicycle in any water drainage way of the City.

5. Subject to restrictions identified in paragraph (1) above, it is not a violation of this Section to operate skateboards, roller skates, street skates, scooters or bicycles on any road, street, avenue, lane or alley provided all rules and regulations of the road are strictly adhered to.

6. Subject to the restrictions identified in paragraph (1) above, it is not a violation of this Section to operate a skateboard, roller skate, street skate, scooter or bicycle on any other path or sidewalk provided pedestrian traffic is given the right-of-way.

7. It is not a violation of this Section to operate a skateboard, roller skate, street skate, scooter or bicycle in designated areas as identified by the City of Neosho.

8. It is not a violation of this Section to operate a skateboard, roller skate, street skate, scooter or bicycle in a privately-owned parking lot open to the public if the owner of said lot has given express permission for that activity.

C. *Responsibilities Of Parents, Guardians And Legal Custodians.* The parent, guardian or legal custodian of a minor shall not authorize or knowingly permit such minor to violate any of the provisions of this Section.

D. *Penalties.*

1. First (1st) offense: Written warning

2. Second (2nd) offense: Surrender of skateboard, roller skate, street skate, scooter or bicycle for three (3) days. Must be picked up by offender who must be accompanied by parent, guardian or legal custodian.

3. Third (3rd) offense: Surrender of skateboard, roller skate, street skate, scooter or bicycle for ten (10) days. Must be picked up by offender who must be accompanied by parent, guardian or legal custodian.

4. Fourth (4th) and subsequent offenses: Surrender of skateboard, roller skate, street skate, scooter or bicycle for forty-five (45) days and punishable as an ordinance violation with penalties pursuant to Section 100.130 of the Neosho Code of Ordinances. If offender is a minor, the parent, guardian or legal custodian shall be cited pursuant to Subsection (C) of this Section.

**Section 310.045. (Reserved)** [2]

**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.** [3]

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.

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[2]. **Editor's Note — Ord. no. 355-2008 §1, adopted October 21, 2008, repealed section 310.045 "use of skateboards, roller skates prohibited on or near city square" in its entirety. Former section 310.045 derived from CC 1979 §26-13; ord. no. 1052 §§1 — 2, 11-6-1979; ord. no. 91-30 §§1 — 2, 6-4-1991.**

[3]. **Cross Reference — As offenses concerning public safety, see ch. 215 art. IV.**

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;

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 bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle.

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.** [Ord. No. 255-2006 §1, 8-1-2006]

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:

1. The driver of every other motor 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;

2. The driver of every other motor vehicle shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a Police or traffic officer.

B. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:

1. Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

2. Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

**Section 310.080. Immediate Notice of Accident.**

The driver of a vehicle involved in an accident 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 immediately by the quickest means of communication give notice of such accident to the Police Department if such accident occurs within the City.

**Section 310.090. 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 310.100. 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 310.080 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 310.090 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 310.110. Public Inspection of Reports Relating to Accidents.**

A. All written reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the Police Department or other Governmental Agencies having use for the records for accident prevention purposes, except that the Police Department or other Governmental Agency may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his/her presence at such accident.

B. No written reports forwarded under the provisions of this Section shall be used as evidence in any trial, civil or criminal arising out of an accident except that the Police Department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Department in compliance with law, and if such report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved, and the investigating Officers.

**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 highway or on any publicly or privately owned parking lot or parking facility 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 privately owned parking lot or parking facility for the purpose of investigating an accident and performing all necessary duties regarding such accident.

**Section 310.130. Commercial Motor Vehicle/Designated Truck Routes.** [Ord. No. 47-2000 §1, 11-7-2000; Ord. No. 358-2008 §1, 12-2-2008]

A. *Definition.* As used in this Chapter, the following term and its derivations shall have the meaning given herein unless the context otherwise indicates:

COMMERCIAL MOTOR VEHICLE — A motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen (15) passengers, but not including vanpools or shuttle buses, and any vehicle required by the Revised Statutes of Missouri to display hazardous material placards or markings.

B. *Routes.*

1. From the north, beginning at the western most City limits on Business Highway 71, also known as Missouri Highway 86, and traveling east and south to the center point of the intersection with Harmony Street, also known as Missouri Highway 86, then east on Harmony Street to the center point of the intersection with Neosho Boulevard, also known as Business 60, then north on Neosho Boulevard, also known as Business 60, changing names to Coler Street, to the center point of the intersection with College Street.

2. From the north, beginning at the northern most City limits on Business 60, also known as College Street, and traveling south to the center point of the intersection with Coler Street, then south on College Street to the center point of the intersection with McCord Street, then east on McCord Street to the center point of the intersection with Lafayette Street, then south on Lafayette to the center point of the intersection with Main Street, then east on Main Street, also known as Missouri Highway 86, then south on Hamilton Street to the center point of the intersection with McKinney Street, also known as Missouri Highway 86, then east on McKinney Street to the center point of the intersection with Freeman Road, also known as Missouri Highway HH, then east on Carl Sweeny Parkway to the eastern most City limits on Carl Sweeny Parkway, also known as Missouri Highway HH.

3. From the east, beginning at the eastern most City limits on Missouri Highway 86, which is also known as McKinney Street, to the center point of the intersection with Missouri Highway 86, also known as Hamilton Street, then north on Hamilton Street to the center point of the intersection with Missouri Highway 86, also known as Main Street, then west on Main Street to the center point of the intersection with Missouri Highway 86, also known as Lafayette Street, then north on Lafeyette Street to the center point of the intersection with McCord Street, then west on McCord Street to the center point of the intersection with College Street, then north on College Street to the center point of the intersection with Coler Street, also known as Business Highway 60.

4. From the east, beginning at the eastern most City limits on U.S. Highway 59 to the western most City limits on U.S. Highway 60.

5. From the east, beginning at the eastern most City limits on "D" Highway, which is also known as Austin Drive, to the center point of the intersection of "D" Highway, which is also known as Doniphan Drive, then north on Doniphan Drive to the center point of the intersection with "D" Highway, which is also known as Lyon Drive, then west on Lyon Drive to the center point of the intersection with U.S. Highway 71, which is also known as Missouri Highway 59.

6. From the southeast, beginning at the south and east most City limits on HH Highway, which is also known as Carl Sweeney Parkway, then north and west to the center point of the intersection with HH Highway, which is also known as Freeman Road, and Missouri Highway 86, which is also known as McKinney Street.

7. From the center point of the intersection of Missouri Highway 59, which is also known as Business U.S. Highway 71, and Malcolm Mosby Drive, east to the center point of the intersection of Malcolm Mosby Drive and Second Street.

8. From the center point of the intersection of Missouri Highway 59, also known as Business U.S. Highway 71, and Industrial Drive, east to the center point of the intersection with Howard Bush.

9. From the center line of Industrial Drive at the intersection of Second Street South to the center- line intersection of Nelson Avenue. Then east on Nelson Avenue to the center point of the intersection with Howard Bush Drive.

10. From the center point of the intersection of Missouri Highway 59, also known as Business U.S. Highway 71, and Cockrell Drive, east to the center point of the intersection of Dodge Avenue, then east on Dodge Avenue to the center point of the intersection with Howard Bush Drive, then north on Howard Bush Drive to the center point of the intersection with "D" Highway, which is also known as Lyon Drive.

11. From the north and east, beginning at the north and east most City limits on Missouri Highway 60/59 to the southern most City limits on Missouri Highway 59.

12. From the north, beginning at the northernmost City limits on Business 60, also known as College Street, traveling south on College Street to the center point of the intersection with Coler Street, also known as Missouri Highway 86, then west and south on Coler Street, changing names to Neosho Boulevard, to the center point of the intersection with Harmony Street, also known as Missouri Highway 86, then west on Harmony Street, also known as Missouri Highway 86, to the center point of the intersection with Business 71.

13. From the northwest, beginning at U.S. Highway 71 and traveling east on Missouri Highway 86, also known as Business 71, to the center point of the intersection with Harmony Street, then south to the center point of the intersection with U.S. Highway 60, then south on Business 71 to City limits

14. From the center point of the intersection of U.S. Highway 60 and Howard Bush, south to the center point of the intersection with Nelson Avenue.

C. *Exemptions.* A commercial motor vehicle shall be exempt from the above-listed routes if the vehicle is making a scheduled delivery to a business or residence within the corporate City limits. However, vehicles making deliveries within the City limits shall maintain the above-listed truck routes to the nearest point of their delivery destination.

# 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 legislative body 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.

**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 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, than 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" 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 Traffic Engineer 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.

**Section 315.160. Traffic to Stop When Devices Not Working.** [Code 1962 §18-219; CC 1979 §16-219; Ord. No. 973 §1, 10-4-1977]

When a traffic signal is not operating through mechanical failure or for other reasons, all traffic shall come to a complete stop before operating into or through an intersection.

# Chapter 320

## SPEED REGULATIONS

Cross Reference — Speed of trains restricted, §380.020.

**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, but no City ordinance shall regulate the speed of vehicles upon controlled access highways of the State.

**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. Use and Results of Speed Meters Prima Facie Evidence.** [Code 1962 §18-106; CC 1979 §16-121; Ord. No. 973 §1, 10-4-1977]

The use of and results determined by any speed meter, machine or mechanism which seeks to reduce the error of manual operation to a minimum shall be acceptable as evidence where driving in excess of posted speed limits is the cause of action; except the use thereof shall not be construed to exclude any competent evidence secured by any other manner or means.

**Section 320.040. Speed Limit Generally.** [Code 1962 §18-107; CC 1979 §16-122; Ord. No. 973 §1, 10-4-1977]

A. No motor vehicle shall be driven upon the public square of the City or within one (1) block thereof, or in any school zone of the City, at a rate of speed in excess of fifteen (15) miles per hour. No motor vehicle shall be driven anywhere in the City at a rate of speed in excess of the speed limit posted upon the street upon which the motor vehicle is being driven, and where no speed limits are posted, no motor vehicle shall be driven in excess of twenty-five (25) miles per hour. No motor vehicle shall be driven at a rate of speed in excess of ten (10) miles per hour in any open public alley of the City.

B. No person shall operate a vehicle on any road, street, highway, parking lot or drive-in, or on any driveway or access road thereto, at a rate of speed in excess of posted limits; and the operator of such vehicle is charged with the duty of operating at such lesser speed as will be consistent with the safety of others using such places, taking into consideration the amount of vehicular and pedestrian traffic, the visibility and atmospheric conditions and condition of the pavement.

**Section 320.050. Slow Speed, Regulation of.**

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 a misdemeanor.

## 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.

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 (½) of the roadway nearest the center line thereof and by passing to the right of such center line 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 center line 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.

**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.**

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

**Section 325.060. Turning on a Curve or Crest of a Grade.** [Code 1962 §18-140; CC 1979 §16-147; Ord. No. 973 §1, 10-4-1977]

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade or hill, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

**Section 325.070. 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 his/her vehicle, if the movement of other vehicles may reasonably be affected by such checking of speed, shall extend his/her arm at an angle below horizontal so that the same may be seen in the rear of his/her vehicle;

    2. An operator or driver intending to turn his/her vehicle to the right shall extend his/her arm at an angle above horizontal so that the same may be seen in front of and in the rear of his/her vehicle, and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which he/she is proceeding before turning;

    3. An operator or driver intending to turn his/her vehicle to the left shall extend his/her arm in a horizontal position so that the same may be seen in the rear of his/her vehicle, and shall slow down and approach the intersecting highway so that the left side of his/her vehicle shall be as near as practicable to the center line of the highway along which he/she 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 Subdivision shall not apply to any trailer which does not interfere with a clear view of the hand signals of the operator or of the signalling device upon the vehicle pulling said trailer; provided further that the provisions of this section as far as mechanical devices on vehicles so constructed that a hand and arm signal would not be visible both to the front and rear of such vehicle as above provided shall only be applicable to new vehicles registered within this State after the first (1st) day of January, 1954.

**Section 325.080. Corner Cutting.** [Ord. No. 99-19, 6-1-1999]

It shall be unlawful for any person to drive any motor vehicle upon or across any sidewalk, driveway, filling station or other commercial driveway or other similar surface located at the corner of any intersection protected by a traffic light or other traffic signal or sign, for the purpose of evading the regulations governing the turning of motor vehicles at intersections.

# Chapter 330

## ONE-WAY STREETS

**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 center line of the roadway.

B. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this Section.

## Chapter 335

## STOP AND YIELD INTERSECTIONS, RAILROAD CROSSINGS

**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;

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.

**Section 335.100. School Stops.** [Code 1962 §18-123; CC 1979 §16-134; Ord. No. 973 §1, 10-4-1977]

At those street intersections or crosswalks lawfully designated as school stops, signs shall be erected by the City Manager or his/her designate and when such signs are placed facing traffic, every driver of a vehicle facing such sign shall bring his/her vehicle to a complete stop and yield the right-of-way to all children and other persons crossing thereat, and shall not proceed until safe to do so.

## Chapter 340

## MISCELLANEOUS DRIVING RULES

**Section 340.010. Following Fire Apparatus Prohibited.** [1]

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (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. Crossing Fire Hose.** [2]

No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

**Section 340.030. Driving Through Funeral or Other Procession.**

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this Title. This provision shall not apply at intersections where traffic is controlled by traffic control signals or Police Officers.

**Section 340.040. 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 340.050. Permit Required.** [3] [Code 1962 §18-250; CC 1979 §16-237; Ord. No. 973 §1, 10-4-1977]

No parade or procession shall occupy, march or proceed along any highway, road or street, except in accordance with a permit issued by the Police Department and such other regulations as may apply.

**Section 340.060. "Parade" and "Procession" Defined.** [Code 1962 §18-249; CC 1979 §16-236; Ord. No. 973 §1, 10-4-1977]

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1. **Cross Reference — Fire department, ch. 205.**

2. **Cross Reference — Fire department, ch. 205.**

3. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

Any group of twenty-five (25) or more persons or five (5) or more vehicles, except the forces of the United States Army or Navy, the military forces of the State and the forces of the Police and Fire Departments shall be deemed to be a *"parade"* or *"procession"* for the purposes of this Chapter.

**Section 340.070. Vehicle Shall Not Be Driven on a Sidewalk.** [4]

The driver of a vehicle shall not drive within any sidewalk area except on a permanent or temporary driveway.

**Section 340.080. Riding Motorcycle on Sidewalk, in Public Park, Etc.** [Code 1962 §18-145; CC 1979 §16-72; Ord. No. 973 §1, 10-4-1977]

No person shall ride a motorcycle upon or along any public sidewalk or along any street crossing of the City, or into or through any public park in the City.

**Section 340.090. 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 340.100. 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 340.110. Riding on Motorcycles, Additional Passenger, Requirements.** [Code 1962 §18-87; CC 1979 §16-95; Ord. No. 973 §1, 10-4-1977; Ord. No. 96-39 §1, 9-3-1996]

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.

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4. **Cross Reference — Streets, sidewalks and public places, ch. 535.**

C. No person shall operate or ride as a passenger on any motorcycle or motorized bicycle unless such person is wearing protective headgear at all times the vehicle is in motion.

D. No person shall operate or ride as a passenger on any motorcycle unless such motorcycle is equipped with a windshield, intact and firmly attached, or unless the operator and passenger is wearing shatterproof goggles or glasses which shield the eyes from wind and foreign objects.

E. Notwithstanding any other Section of this Code, the sole penalty for violation of this Section shall be a fine of twenty-five dollars ($25.00) and no court costs shall be imposed on any person due to a violation of this Section.

**Section 340.120. All-Terrain Vehicles, Prohibited — Exceptions, Operation of Under an Exception — Prohibited Uses.**

A. No person shall operate an all-terrain vehicle, as defined in Section 300.020, 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;

2. All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation;

3. All-terrain vehicles whose operators carry a special permit issued by this City pursuant to Section 304.013, RSMo.

B. No person shall operate an off-road vehicle, as defined in Section 304.001, RSMo., within any stream or river in this City, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this State at such road crossings as are customary or part of the highway system. 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 operator's or chauffeur's license, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty (30) miles per hour. When operated on a street or highway, an all-terrain vehicle shall have a bicycle safety flag, which extends not less than seven (7) feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty (30) square inches and shall be day-glow in color.

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.

**Section 340.130. Riding Bicycles, Sleds, Roller Skates, by Attaching to Another 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.

**Section 340.140. Controlled Access.** [Code 1962 §18-92; CC 1979 §16-100; Ord. No. 973 §1, 10-4-1977]

No person shall drive a vehicle onto or from any limited access roadway, except at such entrances and exits as are established by public authority.

**Section 340.150. 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 fifteen (15) 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 340.160. Driving Through Safety Zone Prohibited.**

No vehicle shall at any time be driven through or within a safety zone.

**Section 340.170. Driving on Divided Highways.** [Code 1962 §18-93; CC 1979 §16-101; Ord. No. 973 §1, 10-4-1977]

Whenever any highway has been divided into two (2) roadways leaving an intervening space or a physical barrier or a clearly indicated divided section which seeks to avoid friction between opposing movements of traffic and so constructed or marked, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within any such clearly constructed or marked dividing space, barrier or section, except through an opening therein or at a crossover or intersection established by public authority.

**Section 340.180. Driving Over New Pavement.** [Code 1962 §18-94; CC 1979 §16-102; Ord. No. 973 §1, 10-4-1977]

It shall be unlawful for any person to drive any vehicle of any nature, or any animal, over or across any newly-made pavement within the City, or over or across any street or sidewalk where there is a barrier, sign, light or person warning the driver thereof that such street or sidewalk is closed to traffic.

**Section 340.190. Driving Across Freshly Painted Street Markings.** [Code 1962 §18-83; CC 1979 §16-91; Ord. No. 973 §1, 10-4-1977]

No driver of a vehicle shall drive across any freshly painted lines or markings upon any street or highway in the City which are designated by flags, cones, signs or other warning devices.

**Section 340.200. Riding on Outside of Passenger Motor Vehicle Prohibited.** [Code 1962 §18-95; CC 1979 §16-103; Ord. No. 973 §1, 10-4-1977]

No person shall stand, sit or ride upon the outside of any passenger motor vehicle while the same is in motion.

**Section 340.210. Passing Regulations.** [Code 1962 § 18-80; CC 1979 §§16-88, 16-104; Ord. No 973 § 1, 10-4-77; Ord. No. 93-49 § 1, 11-16-1993]

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 his/her 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 or more lines of vehicles in each direction;

   3. Upon a one-way street;

   4. Upon any highway outside of a City with unobstructed pavement of sufficient width and clearly marked for four (4) or more lines of traffic.

The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway. The provisions of this Subsection shall not relieve the driver of a

slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

C. Except when a roadway has been divided into three (3) traffic lanes, no vehicle shall be driven to the left side of the center line of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

D. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

2. When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct, tunnel or when approaching within one hundred (100) feet of or at any intersection or railroad grade crossing.

E. No person, in or on any vehicle whatsoever, while proceeding on any two (2) lane roadway shall pass and/or overtake another vehicle by driving off the paved or main traveled portion of the roadway.

F. No driver of a vehicle proceeding on any two (2) laned roadway shall overtake and pass another vehicle moving in the same direction within an intersection.

**Section 340.220. Drive on Right of Highway — Traffic Lanes — Signs.**

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 under 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 Sections 304.014 to 304.026, RSMo., or traffic regulations thereunder or of municipalities;

3. When the right half of a roadway is closed to traffic while under construction or repair;

4. Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.

B. 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 340.230. Right-of-Way at Intersection.**

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 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 about to enter or cross a highway from an alley, building or any private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

E. 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.

**Section 340.240. Stops for School Bus Required — Exceptions.** [Code 1962 §18-76; CC 1979 §16-84; Ord. No. 973 §1, 10-4-1977; Ord. No. 88-4 §16-84, 2-2-1988]

A. The driver of a vehicle upon any public road, alley, street or highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging 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. The driver of a vehicle upon a road or highway with separate roadways need not stop upon meeting or overtaking a school bus which is on a different roadway.

C. The driver of a vehicle need not stop upon meeting a school bus which is proceeding in the opposite direction on a highway containing four (4) or more lanes of traffic.

D. If any vehicle is witnessed by a Peace Officer or the driver of a school bus to have violated the provisions of this Section and the identity of the operator is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name such vehicle is registered committed the violation.

**Section 340.250. Manner of Discharging or Taking on School Bus Passengers.** [Code 1962 §18-77; CC 1979 §16-85; Ord. No. 973 §1, 10-4-1977]

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 he/she take on or discharge passengers while the vehicle is upon the road or highway proper unless the vehicle so stopped is plainly visible for at least three hundred (300) feet in each direction to drivers of other vehicles upon the highway or road, and then only for such time as is actually necessary to take on and discharge passengers.

**Section 340.260. Following Too Closely.** [Code 1962 §18-78; CC 1979 §16-86; Ord. No. 973 §1, 10-4-1977]

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and his/her ability to stop if necessary and the traffic upon and condition of the roadway.

**Section 340.270. Damaging Streets or Public Places.** [Code 1962 §18-48; CC 1979 §16-92; Ord. No. 973 §1, 10-4-1977]

No person shall drive, convey or operate upon, over or across any improved public street or highway or other public place in the City any wagon, engine, tractor, truck or vehicle of any kind having on its wheels any clamps, ridges, extensions, projections, bars, bolts, rods, curves, gutters or other contrivances that will cut or mash holes, gashes or crevices into the streets or otherwise tear up, injure or damage such streets, or any part thereof.

**Section 340.280. Passenger Limitations.** [Code 1962 §18-85; CC 1979 §16-93; Ord. No. 973 §1, 10-4-1977]

It shall be unlawful to operate a motor vehicle which has more than three (3) persons over the age of sixteen (16) years in the front seat, nor shall any person extend any part of his/her body outside the vehicle except the hand and arm for signaling purposes only.

**Section 340.290. Certain Vehicles Prohibited.** [Code 1962 §18-88; CC 1979 §16-96; Ord. No. 973 §1, 10-4-1977]

When signs are erected giving notice thereof, no person shall operate a vehicle or motor vehicle the gross weight of which, including the load, exceeds the weight indicated upon any of the streets or parts of streets described in an ordinance of the Council.

**Section 340.300. Commercial Vehicles Prohibited.** [5] [Code 1962 §18-89; CC 1979 §16-97; Ord. No. 973 §1, 10-4-1977]

When signs are erected giving notice thereof, no person shall operate commercial motor vehicles, except local trucks making deliveries to residents thereon of goods, wares, merchandise and household deliveries, including household moving trucks, upon any of the streets or parts of streets so designated.

**Section 340.310. Dangerously or Carelessly Loaded Vehicles.** [Code 1962 §18-90; CC 1979 §16-98; Ord. No. 973 §1, 10-4-1977]

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[5]. **Cross Reference — Vehicles for hire, ch. 625.**

No person shall drive a vehicle in an overloaded condition or when any part of the load is likely to fall upon and litter the street or cause injury or damage to persons or property; nor shall he/she permit any part of the load to fall upon and remain on the street; nor shall he/she drive when any part of the load extends more than twenty-four (24) inches beyond the vehicle without attaching to such extending part a red flag during the day or a red light at night.

**Section 340.320. Loads Which Might Become Dislodged to Be Secured — Failure, Penalty.** [Code 1962 §18-91; CC 1979 §16-99; Ord. No. 973 §1, 10-4-1977]

A. All motor vehicles and every trailer and semitrailer operating upon the public streets 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 semitrailer as a result of wind pressure or air pressure and/or by the movement of the vehicle, trailer or semitrailer 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 semitrailer while being transported or carried.

B. Operation of a motor vehicle, trailer or semitrailer in violation of this Section shall be a misdemeanor, and any person convicted thereof shall be punished as provided in Section 100.130 of this Code.

**Section 340.330. Careless and Imprudent Driving.** [Code 1962 §18-70; CC 1979 §16-78; Ord. No. 973 §1, 10-4-1977]

Any person who drives any vehicle or bicycle with a wilful and wanton disregard for the safety of persons, property, life, limb or traffic shall be deemed guilty of careless and imprudent driving.

**Section 340.340. Duty to Drive With Care.** [Code 1962 §18-66; CC 1979 §16-74; Ord. No. 973 §1, 10-4-1977]

Every person operating a motor vehicle on the streets, alleys and highways of the City shall operate and drive the same in a careful and prudent manner, exercising the highest degree of care and at a rate of speed so as not to endanger property of another or the life or limb of any person, taking into consideration the time of day, the amount of vehicular and pedestrian traffic, the condition of the street or the highway, the atmospheric conditions and the location with reference to intersecting streets or highways, curves, residences or schools.

# Chapter 342

## TRAFFIC REGULATIONS CONCERNING DRUGS AND ALCOHOL

**Section 342.010. Definitions.**

As used in this Chapter, the following words and phrases shall the meanings respectively ascribed to them:

DRIVE, DRIVING, OPERATES OR OPERATING — Physically driving or operating or being in actual physical control of 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. A person commits the offense of "driving while intoxicated" if he/she operates a motor vehicle while in an intoxicated or drugged condition.

B. Driving while intoxicated is a misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two (2) years.

**Section 342.030. Driving With Excessive Blood Alcohol Content.** [Ord. No. 71-2001 §1, 7-3-2001]

A. A person commits the offense of driving with excessive blood alcohol content if he/she operates a motor vehicle in this City with eight-hundredths of one percent (0.08%) or more by weight of alcohol in his/her 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 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 Tests for Alcohol Content of Blood — Consent Implied — Administered, When, How.**

A. 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 his/her breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of his/her blood if arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition. The test shall be administered at the direction of the arresting Law Enforcement Officer whenever the person has been arrested for the offense.

B. The implied consent to submit to the chemical tests listed in Subsection (A) of this Section shall be limited to not more than two (2) such tests arising from the same arrest, incident or charge.

C. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid under the provisions of Sections 577.020 to 577.041, RSMo., shall be performed according to methods approved by the State 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.

D. The State Department of Health shall approve satisfactory techniques, devices, equipment, or methods to be considered valid under the provisions of Sections 577.020 to 577.041, RSMo., and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the State Department of Health.

E. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his/her own choosing and at his/her expense administer a test in addition to any administered at the direction of a Law Enforcement Officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a Law Enforcement Officer.

F. Upon the request of the person who is tested, full information concerning the test shall be made available to him/her.

## 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 (½) 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. Soliciting Rides or Business.** [1] [Code 1962 §18-271; CC 1979 §16-258; Ord. No. 973 §1, 10-4-1977]

No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.

**Section 345.110. Pedestrians Crossing at Certain Intersections.** [Code 1962 18-273; CC 1979 §16-260; Ord. No. 973 §1, 10-4-1977]

Pedestrians intending to cross the streets upon the Neosho Public Square or at any point within two (2) blocks of the Neosho Public Square or within one (1) block of any public school shall do so at marked crosswalks or at street intersections only.

**Section 345.120. Handicapped Persons With White Cane or Dog, Driver to Take All Necessary Precautions — Cane or Dog Not Required to Enforce Rights, When.**

The driver of a vehicle approaching a blind or visually handicapped, deaf or partially deaf person or physically disabled person who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide dog, hearing dog or service dog shall yield to such blind pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused such pedestrian; provided that a totally or partially blind pedestrian not carrying such cane or using a guide dog, hearing dog or service dog in any of the places, accommodations or conveyances listed in Section 209.150, RSMo., shall have all of the rights and privileges conferred by law upon other persons.

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1. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

## Chapter 350

## 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.

**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 or upon any streetcar tracks.

**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 350.040. Permits for Loading or Unloading at an Angle to the Curb.**

A. The City Traffic Engineer is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

B. It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

**Section 350.050. Parking Regulations for Residence Facing Street.** [CC 1979 §16-190; Ord. No. 86-2 Art 2(16-190), 1-21-1986; Ord. No. 91-45 §2(16-190), 2, 9-17-1991]

Any person whose place of residence faces a street within the City that is regulated as to the amount of time a person may park on that street may apply in writing to the City Council for exemption from said parking regulation. Said exemption will apply only to parking between the hours of 6:00 P.M. to 7:00 A.M. of the following morning.

**Section 350.060. Parking Space for Physically Disabled May Be Established — Violations — Enforcement.**

A. The City, by ordinance or resolution, may designate reserved parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to Section 301.071 or 301.142, RSMo., as close as possible to the nearest accessible entrance. Such designation shall be made by posting immediately adjacent to, and visible from, each space, a sign upon which is inscribed the international symbol of accessibility in white on a blue background, 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.

B. Any person who parks in a space reserved for physically disabled persons and is not displaying distinguishing license plates or a card is guilty of an infraction and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00). Any vehicle which has been removed and which is not properly claimed within thirty (30) days thereafter shall be considered to be an abandoned vehicle.

C. Law Enforcement Officials are empowered to enter upon private property open to public use to enforce the provisions of this Section.

**Section 350.070. Parking of Large Trucks, Tractors or Trailers.** [Ord. No. 48-2000 §1, 11-7-2000]

No person shall park a truck, tractor or trailer with a capacity larger than eighteen thousand (18,000) pounds on any residential street, drive, court, avenue, terrace or boulevard within the corporate City limits of the City of Neosho, except while loading or unloading. No person shall park such truck, tractor or trailer upon any real property so as to obscure the vision of an operator of a motor vehicle who is operating said vehicle upon a City roadway, street, drive, court, avenue, terrace or boulevard within the immediate location of said parked truck, tractor or trailer, except while loading or unloading. No person shall use any street for the purpose of repairing or reconditioning any such truck, tractor or trailer, or any part thereof, except when such repairs are necessitated by an emergency.

## Chapter 355

## STOPPING, STANDING AND PARKING PROHIBITED IN SPECIFIED PLACES

**Section 355.005. Owner Prima Facie Responsible for Illegal Parking.** [Code 1962 §18-158; CC 1979 §16-163; Ord. No. 973 §1, 10-4-1977]

If any vehicle is found upon a street, alley, highway, public place, parking lot, drive-in, driveway or entrance drive, in violation of any provision of this Chapter regulating the stopping, standing or parking of vehicles, the owner or person in whose name such vehicle is registered shall be held prima facie responsible for such violation.

**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 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;

i. At any place where official signs prohibit stopping;

2. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

a. In front of a public or private driveway;

b. Within fifteen (15) feet of a fire hydrant;

c. Within twenty (20) feet of a crosswalk at an intersection;

d. Within thirty (30) feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway;

e. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance (when properly signposted);

f. At any place where official signs prohibit standing.

3. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

a. Within fifty (50) feet of the nearest rail of a railroad crossing;

b. At any place where official signs prohibit parking.

B. No person shall move a vehicle not lawfully under his/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 a roadway for the principal purpose of:

1. Displaying such vehicle for sale; or

2. Repair such vehicle except repairs necessitated by an emergency.

**Section 355.050. Parking Adjacent to Church or School Property.** [Code 1962 §18-161; CC 1979 §16-166; Ord. No. 973 §1, 10-4-1977]

No person shall stop, stand or park on any portion of a highway, street or alley within the corporate limits, adjacent and contiguous to the property of any school, church or public building owned by and related to the general use of the public, when the same would interfere with and be hazardous to such places, or to the public.

**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. Parking for Purpose of Sale of Merchandise, Etc.** [Code 1962 §18-169; CC 1979 §16-174; Ord. No. 973 §1, 10-4-1977]

No car shall be parked on any City street for the purpose of selling directly or offering for sale any produce or merchandise of any kind whatsoever, except that farmers selling produce, solicitors and peddlers may go from house to house as provided by State law, the provisions of this Code and other ordinances of the City.

## Chapter 360

## STOPPING FOR LOADING OR UNLOADING ONLY

**Section 360.010. Power to Designate Bus and Taxi Stands, Loading Zones, No Parking Zones, Etc.** [Code 1962 §18-171; CC 1979 §16-176; Ord. No. 973 §1, 10-4-1977]

A. Nothing in this Chapter shall be construed as prohibiting the City from providing for bus stops, taxicab stands and other matters of similar nature, including the loading or unloading of trucks, vans or other commercial vehicles.

B. The City Manager or his/her designate is hereby expressly given the authority to establish additional safety zones, no parking zones, limited time parking zones or zones in which parking is prohibited at certain hours when in his/her discretion it becomes necessary for the public safety. No person shall park any vehicle in any zone marked as a no parking zone nor in any zone at a time when it is improper according to clearly designated markings, whether such prohibitions are established directly by this Chapter or through the discretion given the City Manager or his/her designate in this Section.

**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) per year or fraction thereof and may by general regulations impose conditions upon the use of such signs and for reimbursement of the City for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of one (1) year.

**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 pick-up and loading of materials in any

place marked as a freight curb loading zone during hours when the provision 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 Chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a Police Officer or official traffic control device.

**Section 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.** [Code 1962 §18-167; CC 1979 §16-172; Ord. No. 973 §1, 10-4-1977]

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets or parts of streets so designated.

**Section 365.040. Restricted Parking Generally.** [Code 1962 §18-166; CC 1979 §16-171; Ord. No. 973 §1, 10-4-1977]

When signs are erected giving notice thereof, no person shall park a vehicle during the times or for a longer period than indicated upon any of the streets or parts of streets so signed.

**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 on 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. No Parking Zones.** [CC 1979 §16-188; Ord. No. 86-2 Art.2(16-188) ,1-21-1986]

A. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a Law Enforcement Officer, or traffic control device within two hundred (200) feet east or west of the intersection of College and Coler Streets; or within one hundred (100) feet to the north of said intersection; or within three hundred (300) feet to the south of said intersection on the east side of College Street.

B. The Chief of Police shall designate additional locations within the City where the parking of motor vehicles is prohibited. Painting the curb yellow or posting by signs is hereby deemed appropriate marking to prohibit parking along that section of the street on which said curb has been painted yellow or which has been designated by posted signs.

**Section 365.090. Two-Hour On-Street Parking.** [CC 1979 §16-185; Ord. No. 86-2 Art. 2(16-185), 1-21-1986]

A. No person shall park any vehicle within the following listed boundaries on any public street and leave the same continuously parked for a period greater than two (2) hours, to wit: All of the area bounded on the west by the east curb line of Jefferson Street and on the north by the south curb line of McCord Street and on the east by the west curb line of Lafayette Street and on the south by the south curb line of Hickory Street except on Wood Street where the south boundary is one hundred forty (140) feet south of Hickory Street.

B. Any person guilty of violating the provisions of this Section shall be subject to a fine of one dollar ($1.00) if paid within seventy-two (72) hours. However, any person guilty of violating the provisions of this Section more than once in any day shall be subject to a fine of five dollars ($5.00) for each violation, if paid within seventy-two (72) hours.

C. If said fine is not paid within seventy-two (72) hours, any person found guilty of violating this Section shall be subject to a fine of ten dollars ($10.00) and court costs.

**Section 365.100. Off-Street Parking on Public Lots.** [CC 1979 §16-186; Ord. No. 86-2 Art. 2(16-186), 1-21-1986]

No person shall park any motor vehicle on or within City-owned public off-street parking lots and leave the same continuously parked for a period greater than twenty-four (24) hours, or as otherwise posted by the authority of the City Manager. Neither shall any

person park or leave any trailer or non-motorized vehicle on or within a City-owned public parking lot for any period of time.

**Section 365.110. Parking in the Public Square.** [Code 1962 §18-172; CC 1979 §16-177; Ord. No. 973 §1, 10-4-1977; Ord. No. 1009 §1, 8-15-1978; Ord. No. 97-8 §1, 4-1-1997]

No motor vehicle, whether used for commerce or pleasure, shall be parked upon the public square or on a street within one (1) block therefrom, when pulling a trailer. No tractor-trailer truck shall be parked on the public square for any purpose at any time except for the purpose of loading or unloading merchandise.

**Section 365.120. Length of Vehicle on Square Regulated.** [CC 1979 §16-189; Ord. No. 86-2 Art. 2(16-189), 1-21-1986]

No person shall park any vehicle on the public square or within one (1) block of the square which has a length of over twenty (20) feet except for loading and unloading.

# Chapter 370

## TRAFFIC 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 Traffic Violations Bureau shall have the option of paying such fine within the time specified in the notice of arrest at the Traffic Violations Bureau upon entering a plea of guilty and upon waiving appearance in court; or may have the option of depositing required lawful bail, and upon a plea of not guilty shall be entitled to a trial as authorized by law.

B. The payment of a fine to the Bureau shall be deemed an 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 Traffic Violations Bureau.**

A. The following duties are hereby imposed upon the Traffic 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. Traffic Violations Bureau to Keep Records.**

The Traffic 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 Traffic 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 Traffic Violations Bureau.**

The Traffic Violations Bureau shall follow such procedure as may be prescribed by the traffic ordinances of the City or as may be required by any laws of this State.

## 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 to 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 Rule Number 37.

**Section 375.030. Uniform Traffic Ticket 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 for the driver to answer to the charge against him/her within five (5) days during the hours and at a place specified in the traffic ticket.

**Section 375.040. Warning of Arrest Sent Upon Failure to Appear.**

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a uniform traffic ticket affixed to such motor vehicle within a period of five (5) days, the Traffic Violations Bureau shall send to the

owner of the motor vehicle to which the traffic ticket was affixed a letter informing him/her of the violation and warning him/her that in the event such letter is disregarded for a period of five (5) days a warrant of arrest will be issued.

**Section 375.050. Police May Remove Vehicle — When.**

A. Members of the Police Department are authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the Police Department, or otherwise maintained by the City under the circumstances hereinafter enumerated:

1. When any vehicle is left unattended upon any bridge, viaduct, or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;

2. When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide its custody or removal;

3. When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

B. Whenever an Officer removes a vehicle from a street as authorized in this Section and the Officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such Officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

C. Whenever an Officer removes a vehicle from a street under this Section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three (3) days, then and in that event the Officer shall immediately send or cause to be sent a written report of such removal by mail to the State Department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

**Section 375.060. Leaving Vehicle on Street for Over Twenty-Four Hours Prohibited — Exceptions — Towing — Storage — Costs — Sale.** [1] [Code 1962 §18-168; CC 1979 §16-173; Ord. No. 973 §1, 10-4-1977; Ord. No. 1097 §16-173, 11-4-1980]

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1. **Cross Reference — Sale of unclaimed property, §120.290.**

A. No person shall park a vehicle on any street for an uninterrupted period of time longer than twenty-four (24) hours, except in an emergency.

B. The Police Department, and all members thereof assigned traffic duty, are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car or other vehicle illegally parked as defined in this Title, where such parked vehicle creates or constitutes a traffic hazard, obstructs the free flow of traffic, blocks the use of a fire hydrant, or obstructs or may obstruct the movement of any emergency vehicle. Cars or vehicles so towed away for illegal parking shall be stored in a safe place and shall be restored to the owner or operator of such car upon payment of a fee of actual costs incurred for towing within twenty-four (24) hours after the time such car was removed, plus five dollars ($5.00) for each additional twenty-four (24) hours or fraction thereof.

C. When a motor vehicle or other vehicle is abandoned on a highway or street in the City for forty-eight (48) hours or more, its removal by a towing service may be authorized by order of the Chief of the Police Department of the City of Neosho, Missouri; and when an abandoned, unattended, wrecked, burned or partially dismantled motor vehicle or other vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway by a towing service may be authorized by order of the Chief of the Police Department of the City; and when a vehicle removed from either public or private property is authorized by order of the Chief of the Police Department of the City of Neosho, Missouri, the record owner of the vehicle will be responsible for all towing costs.

D. When a motor vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, series name, body style, vehicle identification number if available, and license plate year and number displayed on the vehicle, if any. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the Officer authorizing the tow.

E. Any time before a motor vehicle or other vehicle is sold at a public sale or disposed of as provided herein, the owner, or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proper proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner or other person under this Section until all towing and storage charges have been paid.

F. Whenever an abandoned, lost, stolen, or otherwise unclaimed motor vehicle remains unclaimed by the registered owner or other person legally entitled to its possession for a period of sixty (60) days after having been taken into possession by the City of Neosho, the City Manager of the City of Neosho or its designated representative may dispose of it pursuant to the terms of Section 120.290 of this Code.

**Section 375.070. Removal of Chalk Marks.** [CC 1979 §16-187; Ord. No. 86-2 Art. 2(16-187), 1-21-1986]

For the purpose of enforcing the provisions of this Chapter, employees of the City may from time to time place chalk marks on the tires of vehicles parked within the City. No person shall, while parked within a parking space, intentionally remove said chalk marks from any vehicle. Any person found guilty of violating the provisions of this Section shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00).

# Chapter 380

# RAILROADS

Cross Reference — Streets, sidewalks and public places, ch. 535.

**Section 380.010. Conductor, Etc., to Give Warning at Street Crossings, Etc.** [Code 1962 §21-48; CC 1979 §25-1; Ord. No. 973 §1, 10-4-1977]

No conductor, engineer or other person in charge of any railroad locomotive, when the same is in motion within the City, shall fail, refuse or neglect to cause the engine bell and whistle to be sounded on the approach of such locomotive to any street crossing, or when any person or animal may be upon the railroad track, to avoid any danger or harm, or shall fail, neglect or refuse to slacken the speed of such locomotive, so as to give such person or animal a reasonable opportunity to avoid injury.

**Section 380.020. Speed Generally.** [Code 1962 §21-49; CC 1979 §25-2; Ord. No. 973 §1, 10-4-1977]

No person shall run, operate or cause to be run or operated any locomotive or cars upon any railroad track in the City at a greater rate of speed than twenty-five (25) miles per hour.

**Section 380.030. Speed at Unguarded Crossings.** [Code 1962 21-50; CC 1979 §25-3; Ord. No. 973 §1, 10-4-1977]

No person shall run or operate or cause to be run or operated any locomotive, train or cars upon any railroad track in the City so as to approach for a distance of five hundred (500) feet or cross any railroad crossing unguarded by mechanical or electrical warning signals at a speed greater than fifteen (15) miles per hour.

**Section 380.040. Obstructing Streets, Etc.** [Code 1962 §21-51; CC 1979 §25-4; Ord. No. 973 §1, 10-4-1977]

No person shall allow any locomotive or car to remain upon the track of any railroad within the City, in such manner as to obstruct any street or alley, for a longer period than fifteen (15) minutes at any one time, except as otherwise provided by the City Council.

**Section 380.050. Maintaining Dynamite, Etc., in Railroad Yards, Etc.** [Code 1962 §21-52; CC 1979 §25-5; Ord. No. 973 §1, 10-4-1977]

It shall be unlawful for any person to allow, permit or suffer any dynamite, nitroglycerine or other explosive whatsoever, in large quantities, to be or remain standing upon or about the public streets or alleys of the City, or upon or about the railroad tracks, or in the

yards, depots, warehouses or other buildings of such person, for a longer time than is reasonably necessary to remove the same therefrom, and in no event for a longer time than six (6) hours.

# Chapter 385

## MOTOR VEHICLE EQUIPMENT

Cross Reference — Equipment of taxicabs, see §625.030.

**Section 385.010. Lights — Generally.** [Code 1962 §18-39; CC 1979 §16-46; Ord. No. 973 §1, 10-4-1977]

A. No person shall operate a motor vehicle on any highway, road, street or alley in the City during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise, unless such vehicle shall display at least two (2) lighted lamps on the front, one on each side, having a light source of equal power, which shall project either white or yellow light.

B. 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, such 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 vehicles stands at a distance of seventy-five (75) feet ahead.

C. No person shall operate a motor vehicle on any highway, road, street or alley in the City during the period from one-half (½) hour after sunset to one-half (½) hour before sunrise, unless such vehicle is equipped with two (2) lighted lamps on the rear, which shall display a red light visible from the rear for a distance of at least five hundred (500) feet. Either such rear lamps 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 by the same control switch at all times.

**Section 385.020. Lights — Motorcycles.** [Code 1962 §18-40; CC 1979 §16-47; Ord. No. 973 §1, 10-4-1977]

All motorcycles shall carry one (1) lighted lamp to the front and one (1) lighted red or amber lamp to the rear, in all respects similar to those required of other motor vehicles.

**Section 385.030. Colors of Various Lamps.** [Code 1962 §18-42; CC 1979 §16-49; Ord. No. 973 §1, 10-4-1977]

A. Headlamps, when lighted, shall exhibit lights substantially white in color.

B. Auxiliary lamps, cowl lamps and spot lamps, when lighted, shall exhibit lights substantially white, yellow or amber in color.

C. 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 385.040. Seat Belts Required for Passenger Cars — Passenger Cars Defined — Exceptions — Failure to Comply, Effect on Evidence and Damages — Penalty — Passengers in Car Exceeding Number of Seat Belts Not Violation for Failure to Use.** [Ord. No. 112-2002 §1, 8-20-2002]

A. 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, motortricycles and trucks with a licensed gross weight of twelve thousand (12,000) pounds or more.

B. 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 passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this State, and persons less than eighteen (18) years of age operating or riding in a truck on a street or highway of this State shall wear a properly adjusted and fastened safety belt that meets Federal National Highway, Transportation and Safety Act requirements; except that, a child less than four (4) years of age shall be protected as required in Section 210.104, RSMo. No person shall be stopped, inspected or detained solely to determine compliance with this Subsection. The provisions of this Section 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. Non-compliance with this Subsection shall not constitute probable cause for violation of any other provision of law.

C. Each driver of a motor vehicle transporting a child four (4) years of age or more but less than sixteen (16) years of age shall secure the child in a properly adjusted and fastened safety belt.

D. Each driver who violates the provisions of Subsection (B) or (C) of this Section is guilty of an infraction for which a fine not to exceed ten dollars ($10.00) may be

imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this Section. In no case shall points be assessed against any person for a violation of this Section.

E. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the driver and passengers are not in violation of this Section.

**Section 385.050. 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.

**Section 385.060. Sirens, Whistles Prohibited.** [Code 1962 §18-44; CC 1979 §16-51; Ord. No. 973 §1, 10-4-1977]

It shall be unlawful to drive a motor vehicle to which is attached a gong, bell, or siren, or to sound such device in any street; provided, that, this Section shall not apply to authorized emergency vehicles.

**Section 385.070. Mufflers.** [Code 1962 §18-45; CC 1979 §16-52; Ord. No. 973 §1, 10-4-1977]

Muffler cutouts and straight pipes shall not be used and no vehicle shall be driven in such manner or condition that excessive and unnecessary noises are made by its machinery, motor, tires, signaling devices 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. 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.

**Section 385.080. School Bus Markings.** [Code 1962 §18-46; CC 1979 §16-53; Ord. No. 973 §1, 10-4-1977]

Every bus used for the transportation of school children shall bear upon the front and rear thereof 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."

**Section 385.090. School Buses to Have Signaling Devices.** [Code 1962 §18-47; CC 1979 §16-54; Ord. No. 973 §1, 10-4-1977]

Each school bus 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, indicating intention to stop.

**Section 385.100. Brakes.** [Code 1962 §18-48; CC 1979 §16-55; Ord. No. 973 §1, 10-4-1977]

All motor vehicles shall be provided with adequate brakes, which shall at all times be kept in working order.

**Section 385.110. Rear View Mirror.** [Code 1962 §18-49; CC 1979 §16-56; Ord. No. 973 §1, 10-4-1977]

All vehicles shall be equipped with a mirror so adjusted as to reveal the street behind the vehicle from the driver's seat.

**Section 385.120. Turn Signal Devices.** [Code 1962 §18-50; CC 1979 §16-57; Ord. No. 973 §1, 10-4-1977]

When any vehicle is so constructed or equipped that the giving of the arm signals as required by this Chapter is impossible, it shall be equipped with a mechanical or electrical signaling device.

**Section 385.130. Passenger Restraint System Required for Child Under Four Years of Age — Exceptions — Violation, Fine.**

A. Every person transporting a child under the age of four (4) years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this City, for providing for the protection of such child. Such child shall be protected by a child passenger restraint system approved by the Department of Public Safety.

B. Any person who violates this Section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars ($25.00) and court costs.

C. The provisions of this Section shall not apply to any public carrier for hire.

**Section 385.140. Parked Vehicles to Be Lighted — Exceptions.** [Code 1962 §18-41; CC 1979 §16-48; Ord. No. 973 §1, 10-4-1977]

A. Whenever a vehicle is lawfully parked upon a street or highway during the hours between one-half (½) hour after sunset and one-half (½) hour before sunrise, and 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 highway or shoulder adjacent thereto, whether attended or unattended, during the hours between one-half (½) hour after sunset and one-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 the highway, such vehicle 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. The location of such lamps shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this Subsection is installed as nearly as practicable to the side of the vehicle which is closest to passing traffic. Any lighted headlamp upon a parked vehicle shall be depressed or dimmed.

C. The provisions of Subsection (B) shall not apply to motor-driven cycles.

# Chapter 390

# LICENSING REQUIREMENTS

## ARTICLE I
## State Registration

**Section 390.010. State Registration Plate to Be Displayed.** [Code 1962 §18-8; CC 1979 §16-8; Ord. No. 973 §1, 10-4-1977]

A. No person shall operate a motor vehicle on the streets of the City unless there is displayed on such vehicle a State registration number plate, issued for such vehicle for the current year, entirely unobscured, unobstructed and all parts thereof plainly visible, kept reasonably clean and so fastened as not to swing.

B. On all motor vehicles one (1) plate shall be displayed on the front and the other on the rear of such motor vehicle, not less than eight (8) nor more than forty-eight (48) inches above the ground, except that on trailers, motorcycles, motor tricycles and motor scooters, one (1) plate shall be so displayed on the rear thereof. In the event only one (1) license plate is issued, such plate shall be displayed on the rear of the motor vehicle.

## ARTICLE II
## Operator's License

**Section 390.020. Operator's License Required.** [Code 1962 §18-61; CC 1979 §16-68; Ord. No. 973 §1, 10-4-1977]

A. No person shall operate a motor vehicle on the streets of the City unless he/she has in his/her possession a valid license which is current, unrevoked and not under suspension, issued to such person by this State or the State of his/her residence.

B. Such valid license shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed to any Police or Traffic Officer, or any other duly authorized person, for inspection when demand is made therefor. Failure of an operator to exhibit his/her license to a Police or Traffic Officer, or other duly authorized Officer, upon demand, shall be presumptive evidence that such person is not a duly licensed motor vehicle operator.

**Section 390.030. Operation With Another's License Prohibited.** [Code 1962 §18-65; CC 1979 §16-73; Ord. No. 973 §1, 10-4-1977]

No person shall operate a motor vehicle with an instruction permit, valid license issued to another.

**Section 390.040. Operation by Unlicensed Person Prohibited.** [Code 1962 §18-63; CC 1979 §16-70; Ord. No. 973 §1, 10-4-1977]

No person shall authorize or knowingly permit a motor vehicle owned by him/her or under his/her control to be driven upon any street or highway by any person who is not authorized to do so under the laws of the State.

**Section 390.050. Operation of Motorcycle or Motortricycle by Unauthorized Person Prohibited.** [Code 1962 §18-46; CC 1979 §16-71; Ord. No. 973 §1, 10-4-1977]

A. No person shall operate a motorcycle, motortricycle or other two (2) or three (3) wheeled self-propelled vehicle upon any street or highway if said persons operator's license does not indicate that said person has passed the examination for the operation of a motorcycle or has been issued an instruction permit therefore.

B. No person shall authorize or knowingly permit a motorcycle, motortricycle or other two (2) or three (3) wheeled self-propelled vehicle owned by him/her or under his/her control to be driven upon any street or highway by any person whose operator's license does not indicate that the person has passed the examination for the operation of a motorcycle or has been issued an instruction permit therefor.

**Section 390.060. Children Forbidden to Operate Motor Vehicle.**

No person shall cause or knowingly permit his/her child or ward under the age of sixteen (16) years to drive a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of Sections 302.010 to 302.260, RSMo.

## ARTICLE III
## Operation of Motor Vehicles Without Maintaining Financial Responsibility

**Section 390.070. Operation of Vehicle Without Financial Responsibility — Prohibited.** [Ord. No. 98-38 §1, 10-6-1998]

No person shall operate a motor vehicle registered in this State, whether owned by such operator or by another, upon the streets, alleys or highways of this City, unless such operator, or the owner of the vehicle, maintains financial responsibility which covers the operation of that vehicle by such operator.

**Section 390.080. Proof of Financial Responsibility — Required.** [Ord. No. 98-38 §1, 10-6-1998]

No person shall operate a motor vehicle registered in this State, whether owned by such operator or by another, upon the streets, alleys or highways of this City, unless such operator exhibits proof of his/her financial responsibility upon demand of any Police Officer who lawfully stops such operator while that officer is engaged in the performance of the duties of his/her office.

**Section 390.090. Financial Responsibility — Defined.** [Ord. No. 98-38 §1, 10-6-1998]

For purposes of this Article, the term *"financial responsibility"* shall mean the ability to respond in damages for liability occurring after the effective date of proof of such 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.

**Section 390.100. Proof of Financial Responsibility.** [Ord. No. 98-38 §1, 10-6-1998]

A. Proof of financial responsibility may be shown by any of the following:

1. An insurance identification card issued by a motor vehicle insurer or by the Director of Revenue of the State of Missouri for self-insurance, as provided by Section 303.024 of the Revised Statutes of Missouri. A motor vehicle 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 Missouri of a cash deposit as provided by Section 303.240 of the Revised Statutes of Missouri.

3. A surety bond filed with the Director of Revenue of the State of Missouri as provided by Section 303.230 of the Revised Statutes of Missouri.

**Section 390.110. Proof of Financial Responsibility — to Be Produced on Demand.** [Ord. No. 98-38 §1, 10-6-1998]

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 the motor vehicle shall exhibit the proof of financial responsibility on the demand of any Police Officer who lawfully stops such operator while that officer is engaged in the performance of the duties of his/her office.

**Section 390.120. Failure to Exhibit Proof.** [Ord. No. 98-38 §1, 10-6-1998]

Failure of any person who operates a motor vehicle on the streets, alleys or highways of this City to exhibit proof of financial responsibility on the demand of any Police Officer who lawfully stops such person shall be prima facie evidence that such person, or that the owner of the vehicle, does not maintain financial responsibility as required by this Article. It shall be an absolute affirmative defense to a violation charged under Section 390.070 that the operator of a motor vehicle, or the owner of the vehicle, did maintain

financial responsibility which covered operation of the vehicle by such operator on the date of the violation. It shall be a mitigating circumstance to a violation charged under Section 390.070 that the operator, subsequent to the date of the offense, and prior to a trial or guilty plea, obtained and maintained financial responsibility which covers operation of motor vehicle by such operator.

**Section 390.130. Penalty for Violation.** [Ord. No. 98-38 §1, 10-6-1998]

Any person convicted in violation of Section 390.070 shall be fined no less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment; provided that if certain mitigating circumstances exist as provided in Section 390.120, such fine shall be no more than twenty-five dollars ($25.00) for the first offense.

# Chapter 395

# BICYCLES

**Section 395.010. Traffic Laws Apply to Bicyclists.** [Code 1962 §18-276; CC 1979 §16-274; Ord. No. 973 §1, 10-4-1977]

Every person riding a bicycle within the City shall be granted all of the rights and shall be subject to all of the rules, regulations and duties applicable to the driver of a vehicle in this City, except as to special regulations and those provisions which by their nature can have no application.

**Section 395.020. Riding on Sidewalk Within Business District Prohibited — Pedestrians to Have Right-of-Way in Other Districts.** [Code 1962 §18-277; CC 1979 §16-275; Ord. No. 973 §1, 10-4-1977]

No person shall ride a bicycle upon a sidewalk within a business district. Whenever any person is riding a bicycle upon a sidewalk in any other district, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

**Section 395.030. Use of Bicycle Paths Required.** [Code 1962 §18-278; CC 1979 §16-276; Ord. No. 973 §1, 10-4-1977]

Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

**Section 395.040. Duty to Keep to Right.** [Code 1962 §18-279; CC 1979 §16-277; Ord. No. 973 §1, 10-4-1977]

Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

**Section 395.050. Riding Abreast Restricted.** [Code 1962 §18-280; CC 1979 §16-278; Ord. No. 973 §1, 10-4-1977]

Persons riding bicycles upon a roadway shall not ride more than two (2) abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.

**Section 395.060. Number of Riders Restricted.** [Code 1962 §18-281; CC 1979 §16-279; Ord. No. 973 §1, 10-4-1977]

No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

**Section 395.070. Carrying Persons on Handlebars Prohibited.** [Code 1962 §18-282; CC 1979 §16-280; Ord. No. 973 §1, 10-4-1977]

No person operating a bicycle shall carry another person on the handlebars of such bicycle.

**Section 395.080. Carrying Articles.** [Code 1962 §18-283; CC 1979 §16-281; Ord. No. 973 §1, 10-4-1977]

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one (1) hand upon the handlebars.

**Section 395.090. Emerging From Alley or Driveway.** [Code 1962 §18-284; CC 1979 §16-282; Ord. No. 973 §1, 10-4-1977]

The operator of a bicycle emerging from an alley, driveway, garage or private sidewalk shall stop the bicycle immediately prior to driving onto or across a public sidewalk, or onto or across a public sidewalk line projected across an alley, and shall exercise extreme care in making such movements.

**Section 395.100. 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, on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred (600) feet;

   3. Essentially colorless or amber reflectors on both the front and rear surfaces of all pedals. Each pedal reflector shall be recessed below the plane of the pedal or reflector housing. Each reflector shall be at least ninety one-hundredths square inches in projected effective reflex area, and must be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at two hundred (200) feet; and

   4. A side-facing essentially colorless or amber reflector visible on each side of the wheel mounted on the wheel spokes of the front wheel within three (3) inches of the inside of the wheel rim and a side-facing essentially colorless or red reflector mounted on the wheel spokes of the rear wheel within three (3)

inches of the inside of the wheel rim, or continuous retroreflective material on each side of both tires which shall be at least three-sixteenths (3/16) of an inch wide. All such reflectors or retroreflective tire sidewalls shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at three hundred feet. The provisions of this subdivision shall not apply to motorized bicycles which comply with National Highway Traffic and Safety Administration regulations relating to reflectors on motorized bicycles.

**Section 395.110. 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.

# Chapter 400

## PLANNING AND ZONING COMMISSION

Cross References — Administration, Title I; airport planning commission, ch. 145 art. II; parks and recreation, ch. 235; civil defense, ch. 240; zoning regulations, ch. 405; subdivision regulations, ch. 410; buildings and building regulations — generally, ch. 500; fire prevention code, §500.070 et seq.; electricity, ch. 505; plumbing, ch. 510; property maintenance code, ch. 520.

**Section 400.010. Created.** [Code 1962 §2-125; CC 1979 §22-16]

In order to make adequate provision for and to guide and direct the future development and growth of the City and to avail the City of the powers and benefits conferred by Sections 89.010 to 89.140, RSMo., 1969, there is hereby created a Commission to be known as the City Planning and Zoning Commission.

**Section 400.020. Composition — Qualifications and Compensation of Members — Ex Officio Members.** [Code 1962 §2-126; CC 1979 §22-17]

The City Planning and Zoning Commission shall consist of seven (7) appointed and two (2) ex officio members, who shall be citizens of the City and who shall serve without pay. The City Manager and the Building Inspector shall be ex officio members of such Commission.

**Section 400.030. Appointment and Term of Members — Vacancies.** [Code 1962 §2-127; CC 1979 §22-18]

Each member of the City Planning and Zoning Commission shall be appointed by the City Council by resolution. Initially two (2) members shall serve for one (1) year, two (2) for two (2) years, and three (3) for three (3) years. The term of each member shall be determined and assigned by the Council at the time of appointment. Subsequent terms shall be for three (3) years. In the event of a vacancy, a new member shall be appointed to fill such vacancy in the same manner and for the remainder of the unexpired term.

**Section 400.040. Officers — Organization, Etc. — Meetings.** [Code 1962 §2-128; CC 1979 §22-19]

The City Planning and Zoning Commission shall elect from its members a chairman, a vice-chairman and a secretary, and may adopt rules and regulations for its own organization and procedure as it may deem proper, not inconsistent with law and the ordinances of the City. Such Commission shall meet at such times and at such places as may be determined by the members of the Commission, suitable to their needs and

convenience and to the end that its final report on zoning to the City Council may be submitted without undue delay.

**Section 400.050. Employees and Expenditures.** [Code 1962 §2-129; CC 1979 §22-20]

The City Planning and Zoning Commission may employ such City planners, engineers, surveyors, clerks and other persons as may be authorized and approved by the City Council, whose salaries and compensation and the necessary expenses of the Commission shall be provided for at the discretion of the City Council by proper appropriations or ordinances, and no expenditures shall be incurred or made without the consent and approval of the City Council, nor shall any expenditure exceed the amount appropriated or consented to by the City Council.

**Section 400.060. Powers and Duties Generally.** [Code 1962 §2-130; CC 1979 §22-21]

The City Planning and Zoning Commission shall make studies, investigations and surveys, hold public hearings, and do all things necessary, advisable and proper to determine and shall thereupon recommend by a report to the City Council the boundaries of the various original Zoning Districts and appropriate regulations to be enforced therein, and shall prepare and submit a suggested comprehensive Zoning Ordinance and plans, maps, outlines, and drawings, covering the whole City and the various recommendations of a zoning system for the City. The Commission shall make a preliminary report and shall hold public hearings thereon before submitting its final report to the City Council. The Commission shall prepare and submit plans for the physical development of the City, or portions thereof, and areas adjacent to the City which in the opinion of the Commission bears relation to the welfare, convenience and beauty of the City, together with its recommendations as to restrictions and other questions and issues relating to the development of the City and its adjacent areas, and such plans shall show the ideas and recommendations of the Commission relative to the location, width and arrangement of streets, alleys, bridges, parks, playgrounds, location of public buildings, public improvements, and other things pertaining to the welfare and appearance of the City or any portion thereof.

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# Chapter 405

# ZONING REGULATIONS

Cross References — Planning and zoning commission, ch. 400; subdivisions, ch. 410; mobile home parks, §405.175; building regulations, Title V.

Editor's Note — Ord. no. 366-2009 §1, adopted February 3, 2009, repealed ch. 405 "zoning regulations" and enacted new provisions set out herein. Former ch. 405 derived from CC 1979 App. B §§1 — 12, 14 — 26, 28 — 32, 34; ord. no. 85-12 §§1 — 12, 14 — 26, 28 — 32, 34, 4-2-1985; ord. no. 86-10 §§3, 8 — 12, 14 — 18, 4-1-1986; ord. no. 90-13 §1, 6-21-1990; ord. no. 91-23 §§1 — 3, 4-16-1991; ord. no. 92-47 §1, 10-6-1992; ord. no. 93-3 §§1 — 2, 1-5-1993; or. no. 94-10 §§I — II, 4-19-1994; ord. no. 95-6 §1, 2-7-1995; ord. no. 96-11 §1, 4-2-1996; ord. no. 99-51, 1-4-2000; ord. no. 235-2005 §1, 12-20-2005; ord. no. 254-2006 §§1 — 4, 8-1-2006. Subsequently, ord. no. 468-2011 §1, adopted March 15, 2011, repealed ch. 405 and enacted new provisions set out herein. Former ch. 405 derived from ord. no. 366-2009 §§1 — 2, 2-3-2009; ord. no. 423-2009 §1, 12-1-2009; ord. no. 434-2010 §1, 7-20-2010; ord. no. 444-2010 §1, 9-28-2010.

## ARTICLE I

## General Provisions

**Section 405.010. Definitions.** [Ord. No. 468-2011 §1, 3-15-2011]

For the purposes of this Chapter, the following words and terms as used herein are defined to mean the following:

Words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular; the word *"building"* includes the word *"structure";* the word *"shall"* or the word *"must"* is mandatory and not directory; the term *"used for"* includes the meaning *"designated for"* or *"intended for".*

ACCESSORY BUILDING OR USE — A subordinate building having a use customarily incident to and located on the lot occupied by the main building; or a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral 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 and designed as an integral part of the main building.

ALLEY — A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

ALTERATION — Any addition, removal, extension, or change in the location of any exterior wall of a main building or accessory building.

ANTENNA — An antenna, usually a dish antenna, whose purpose it is to receive communication or other signals primarily from orbiting satellites.

APARTMENT — A room or a suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single-family or group of individuals living together as a single housekeeping unit.

APARTMENT HOTEL — An apartment house which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

APARTMENT HOUSE — A building arranged, intended, or designed for more than two (2) families.

BABYSITTING — A facility where four (4) or less children are cared for a financial fee.

BASEMENT — A story below the first (1st) story as defined under "story" counted as a story for height regulations if subdivided and used for dwelling purposes other than by a janitor or watchman employed on the premises.

BLOCK — A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Building Inspector shall determine the outline of the block.

BOARDING HOUSE OR LODGING HOUSE — A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five (5) or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

BUILDING — An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two (2) buildings connected by a breezeway shall be deemed as one (1) building.

CONDOMINIUM — A building, group of buildings or property in which units are owned individually and the common elements are owned by all the owners on a proportional, undivided basis.

COURT — An open, unoccupied space, other than a yard, bounded on three (3) or more sides by exterior walls of a building, or by exterior walls of a building and lot lines on which walls are allowable.

CURB LEVEL — The mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.

DAY NURSERY — A day care facility in which five (5) or more children are cared for a financial fee.

DWELLING — A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, but not hotels or trailers.

DWELLING, MULTIPLE — A building or portion thereof arranged, intended or designed for occupancy by three (3) or more families, including apartment houses, row houses, tenements and apartment hotels.

DWELLING, ONE-FAMILY — A detached building arranged, intended, or designed for occupancy by one (1) family. Single-family dwelling or single-family residence shall include, but not be limited to, any home in which eight (8) or fewer unrelated mentally or physically handicapped persons reside, and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home. Single-family dwelling or single-family residence shall include, but not be limited to, any private residence licensed by the Division of Family Services or Department of Mental Health to provide foster care to one (1) or more but less than seven (7) children who are unrelated to either foster parent by blood, marriage or adoption.

DWELLING, TWO-FAMILY — A building arranged, intended, or designed for occupancy by two (2) families.

FAMILY — One (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than five (5) (excluding servants) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a non-profit cost-sharing basis.

GARAGE, COMMUNITY — A building or portion thereof, other than a public, private or storage garage, providing storage for motor vehicles with facilities for washing, but not other services, such garage to be in lieu of private garages within a block or portion of block.

GARAGE, PRIVATE — An accessory building for storage only of motor vehicles.

GARAGE, PUBLIC — A building or portion thereof designed or used for the storage, sale, hiring, care or repair of motor vehicles, which is operated for commercial purposes.

GARAGE, STORAGE — A building or portion thereof, except those defined as a private, a public, or a community garage, providing storage for more than four (4) motor vehicles, with facilities for washing but no other services.

GROUP HOUSING PROJECT — A dwelling project consisting of three (3) or more buildings, to be constructed on a plot of ground which is not subdivided into customary streets or lots, or where the existing or contemplated street or streets or lot layouts make it impractical to apply the requirements of this Chapter to the individual building units in such housing project.

HEIGHT OF BUILDINGS — The vertical distance measured from the highest of the following three (3) levels:

1. From the street curb level;

2. From the established or mean street grade in case the curb has not been constructed;

3. From the average finished ground level adjoining the building if it sets back from the street line; to the level of the highest point of the roof beams of flat roofs or roofs inclining not more than one (1) inch to the foot, or to the mean height level of the top of the main plates and highest ridge for other roofs.

HEIGHT OF YARD OR COURT — The vertical distance from the lowest level of such yard or court to the highest point of any boundary wall.

HOMES FOR AGED OR RETIRED — A building not for the public or transients other than a hotel, boarding house, lodging house or nursing home with a single kitchen facility operating on other than a family unit basis, where lodging and means are provided for persons who have reached the age of retirement as defined under the "Social Security Act".

HOTEL — A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than nine (9) sleeping rooms, and no provisions for cooking in individual rooms.

LOT — A parcel of land occupied or to be occupied by one (1) main building or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this Chapter, and having its principal frontage upon a public street or approved place. A lot as used herein may consist of one (1) or more platted lots, or tract or tracts, as conveyed, or parts thereof.

LOT, CORNER — A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has least dimension, unless otherwise specified by the Building Inspector.

LOT DEPTH — The mean horizontal distance from the front street line to the rear line.

LOT IN SEPARATE OWNERSHIP AT THE TIME OF THE PASSAGE OF THIS CHAPTER — A lot whose boundary lines, along their entire length, touched lands under other ownership as shown by plat or deed recorded in the office of the Recorder of Deeds of Newton County on or before the date of the adoption of this Chapter.

LOT, INTERIOR — A lot whose side lines do not abut upon any street.

LOT LINE, FRONT — The boundary between a lot and the street on which it fronts.

LOT LINE, REAR — The boundary line which is opposite and most distance from the front street line; except that in the case of uncertainty the Building Inspector shall determine the rear line.

LOT LINE, SIDE — Any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place or a side street line.

LOT, THROUGH — An interior lot having frontage on two (2) streets.

LOT LINES — The lines bounding a lot as defined herein.

LOT WIDTH — The horizontal distance between side lines, measured at the front building line.

MOBILE HOME — A structure transportable in one (1) or more sections, which when erected on site measures eight (8) feet or more in width and is designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and/or electrical systems contained therein.

MOBILE HOME LOT — A parcel of land for the placement of one (1) mobile home, its accessory building or structures, and accessory equipment for the exclusive use of the occupants.

MOBILE HOME PARK — A contiguous parcel of land which has been developed for the placement of two (2) or more mobile homes and is owned by an individual, a firm, trust, partnership, public or private association or corporation.

MODULAR — Structures built or erected from one (1) or more three-dimensional cubical or box-shaped units which are substantially factory-finished and require only to be connected together at the building site.

MOTEL — A building with two (2) or more tourist sleeping units at which the required parking areas are located.

MOTOR HOME — See *"RECREATIONAL VEHICLES"*.

NON-CONFORMING USE, BUILDING OR YARD — A use, building or yard which does not, by reason of design, use, or dimensions, conform to the regulations of the district in which it is situated. It is a legal non-conforming use if established prior to the passage of this Chapter.

NURSING HOME — A private home, institution, building, residence or other place, whether operated for profit or not, which provides, through its ownership or management, maintenance, personal care or nursing for three (3) or more individuals not related to the operator, who by reason of illness, physical infirmities or advanced age are unable to care for themselves; or provides sheltered care to three (3) or more individuals not related to the operator, which includes treatment or services which meet some need of the individual beyond the basic requirements for food, shelter and laundry.

PLACE — An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereon.

RECREATIONAL VEHICLE — A vehicular type unit including motor homes and any self-propelled vehicle designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper and motor home.

SIGN — Any words, numerals, figures, devices, designs or trademarks by which information is made known, such as are used to identify a building, structure or object, or designate or mention an individual, profession, firm, business or commodity.

STABLE, PRIVATE — An accessory building for the keeping of horses, ponies, mules or cows, owned by occupants of the premises, and not kept for remuneration, hire or sale.

STABLE, RIDING — A structure in which horses or ponies, used exclusively for pleasure riding or driving, are housed, boarded or kept for remuneration, hire or sale.

STORY — That part of a building included between the surface of one (1) floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. 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 the highest story having its interior floor surface not more than four (4) feet above the curb level, established or mean street grade, or average ground level, as mentioned in "height of buildings" of this Section.

STREET — A thoroughfare which affords principal means of access to property abutting thereon.

STREET LINE — The dividing line between the street and the abutting property.

STRUCTURAL ALTERATIONS — Any alteration involving a change in or addition to the supporting members of a building, such as bearing walls, columns, beams or girders.

STRUCTURE — Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground; including, but not limited to, signs, and excepting utility poles, fences and retaining walls.

TRAILER — See *"MOBILE HOME"* for definition.

TRAILER CAMP — See *"MOBILE HOME PARK"* for definition.

TOURIST COURT — A tract or parcel of land upon which two (2) or more tourist sleeping units and the required parking areas are located.

VARIANCE — Relief from or variation of the provisions of these regulations, other than use regulations, as applied to a specific piece of property, as distinct from rezoning, as further set out hereinafter in powers and duties of the Board of Adjustment.

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, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used. Where lots abut a street that is designated a major street on the major street plan, all yards abutting said major street shall be measured from a line one-half (½) the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots all yards abutting a street shall be measured from a line twenty-five (25) feet from the centerline, or from the lot line, whichever provides the greater setback.

YARD, FRONT — A yard across the full width of the lot from the front line of the main building to the front line of the lot.

YARD, REAR — A yard between the rear lot line and the rear line of the main building and the side lot lines.

YARD, SIDE — A yard between the main building and the adjacent side line of the lot, and extending entirely from a front yard to the rear yard.

**Section 405.020. Short Title.** [Ord. No. 468-2011 §1, 3-15-2011]

These regulations shall be known and may be cited as the Zoning Code of Neosho, Missouri.

**Section 405.030. Districts.** [Ord. No. 468-2011 §1, 3-15-2011]

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration, moving or use of buildings, structures or land, all lands within the corporate limits of Neosho are hereby divided in fourteen (14)[1] districts as follows:

| | |
|---|---|
| District "AG" | Agriculture District |
| District "R-1" | First Dwelling House District |
| District "R-2" | Second Dwelling House District |
| District "R-3" | Apartment House District |
| District "T-1" | Towers |
| District "C-O" | Non-Retail District |
| District "C-1" | Retail Business District |
| District "C-2" | General Business District |
| District "C-3" | Commercial Business District |
| District "C-5" | Commercial Planned Shopping Center District |
| District "C-P" | Planned Business District |
| District "M-1" | Light Industrial District |
| District "M-2" | Heavy Industrial District |
| District "M-H" | Mobile Home Park District |

Any use not listed herein may be placed in a suitable district classification by the Council, after recommendation of the Planning and Zoning Commission.

**Section 405.040. District Map Adopted.** [Ord. No. 468-2011 §1, 3-15-2011]

A. Boundaries of the districts, as enumerated in Section 405.030 of this Chapter, are hereby established as shown on a map prepared for that purpose, which map is hereby designated as the Zoning District Map; and said map and all the notations, references and information pertaining to zoning shown thereon are hereby made as much a part of this Chapter as if the same were set forth in full herein. The City Planning and Zoning Commission shall keep on file in their offices an authentic copy of said map, and all changes, amendments or additions thereto.

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1. **Editor's Note — The original ordinance read "thirteen (13)", however the number of districts is fourteen (14).**

B. When definite distances in feet are not shown on the Zoning District Map, the district boundaries are intended to be along existing street, alley or platted lot lines, or extensions of the same, and if the exact location of such lines is not clear, it shall be determined by the Building Inspector, due consideration being given to location as indicated by the scale of the Zoning District Map.

C. When streets or alleys on the ground differ from the streets or alleys as shown on the Zoning District Map, the Building Inspector may apply the district designations on the map to the streets or alleys on the ground in such manner as to conform to the intent and purpose of this Chapter.

D. Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall be automatically extended to the centerline of any such street or alley.

**Section 405.050. Requirements Must Be Observed.** [Ord. No. 468-2011 §1, 3-15-2011]

A. Except as hereinafter provided:

1. No building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than is permitted in the district in which such building, structure or land is situated.

2. No building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limit or the yard or parking requirement herein established for the district in which such building or structure is located.

3. No lot area shall be reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by these requirements, nor shall the density of the population be increased in any manner, except in conformity with the area regulations established herein.

4. Every building hereafter erected or altered shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one (1) lot except as provided herein.

ARTICLE II

**District Regulations**

**Section 405.060. District "AG" Agricultural Use.** [2] [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In District "AG" 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:

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2. **Cross Reference — Mobile homes in "AG" districts, §405.175.**

1. Farming, dairy farming, livestock (except commercial feed lots, also except hogs, swine and commercial poultry raising), game birds, pasturing of livestock, and all uses commonly classed as agricultural.

2. Fish hatcheries, apiaries, and aviaries.

3. Fishing lakes and picnic groves, provided no concession or retail sales shall be permitted.

4. Forest and wildlife reservations, or similar conservation projects.

5. Fur farming for the raising of fur-bearing animals, excluding skunks and civet cats.

6. Mushroom barns and caves.

7. Nurseries, greenhouses and truck gardens.

8. Accessory uses, including repair shops, sheds, garages, barns, silos, irrigation wells, and pumps, bunkhouses, incidental dwellings, buildings and structures customarily required for any of the above uses. One (1) sign not to exceed four (4) feet shall be considered an accessory use.

There shall be no restrictions as to the operation of such vehicles or machinery as are customarily incidental to such usages, and there shall be no restrictions as to the sale or marketing of products raised on the premises; provided that any building, structure or yard for the raising, breeding, pasturing, housing or sale of livestock or products shall be located at least one hundred (100) feet from Districts "R-1" First Dwelling House District to "R-3" Apartment House District and "C-O" Non-Retail District to "C-P" Planned Business District, inclusive.

B. *Height And Area Regulations.* In District "AG" the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. *Height.* Buildings or structures shall not exceed thirty-five (35) feet and shall not exceed two and one-half (2½) stories in height.

2. *Front yards.* There shall be a front yard, the minimum depth of which shall be fifty (50) feet.

3. *Side yards.* There shall be a side yard on each side of a building not less than fifteen percent (15%) of the width of the lot; except that such side yard shall not be less than fifteen (15) feet and need not be more than twenty-five (25) feet.

4. *Rear yards.* There shall be a rear yard, the minimum depth of which shall be fifty (50) feet.

**Section 405.070. District "R-1" First Dwelling House District.** [3] [Ord. No. 468-2011 §1, 3-15-2011]

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3. **Cross Reference — Garage sales in "R-1" first dwelling house district zone, §630.040.**

A. *Use Regulations.* In "R-1" First Dwelling House 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: (for exceptions see Section 405.180 "Special Use Permits" and Section 405.200 "Non-Conforming Uses")

1. Dwellings, one-family.

    a. Homes where physically or mentally handicapped persons reside shall be limited to one (1) per neighborhood.

2. Churches and publicly owned and operated community buildings, public museums, public libraries, if located in accordance with at least one (1) of the following:

    a. On a lot already devoted to the use for which the building permit is requested.

    b. On a lot having a side line common to a public park, playground, or cemetery, or directly across the street from any one (1) or combination of said uses.

    c. On a corner lot having a minimum of one hundred (100) feet frontage.

    d. On a lot three (3) sides of which adjoin streets.

    e. On a lot approved by the Board of Adjustment, following public hearing, as being a location where such building will not materially injure neighboring property for residential use.

3. Public parks and playgrounds, including public recreation or service buildings within such parks, public administrative buildings, Police and Fire stations.

4. Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning including stadiums and dormitories in conjunction with the school, if located on the campus.

5. Golf courses and clubhouses appurtenant thereto (except miniature golf courses, driving ranges and similar activities operated as a business).

6. Railroad rights-of-way, excluding railroad yards.

7. Gardens, non-commercial.

8. Accessory uses, including automobile parking lots, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a business or industry.

    a. The term *"accessory use"* shall include, but not be limited to, the following customary home occupations: physician, dentist, surgeon, dressmaker, babysitter, musician or artist (but shall exclude barbers or beauticians or hairstylists) under the following restrictions:

        (1) That such uses are located in the dwelling used by such person as his/her private residence.

(2) That no assistant other than a member of the family household is employed and no window display or sign, either illuminated or more than one (1) square foot in area, is used to advertise the same.

(3) That no power other than electric and not more than one-fourth (¼) horsepower is used in any one (1) machine, and not more than one (1) horsepower total is used in such activities.

b. For any dwelling house there shall be permitted one (1) detached garage or covered carport, with space for not more than one (1) vehicle for each two thousand (2,000) square feet of lot area, or servants' quarters, provided that such garage or servants' quarters shall be located not less than sixty (60) feet from the front lot line, nor less than three (3) feet from any side lot line, nor less than one (1) foot from any alley line, except that when the rear lot line is common to a side or rear lot line of another lot, such outbuilding must be located a minimum of three (3) feet from said rear lot line, and in case of corner lots not less than the distance required for residences from side streets; and further provided that such servants' quarters shall be occupied only by servants employed on the premises. If both garage and servants' quarters are detached, they shall be combined in one (1) building. A garage may be constructed across a common lot line by mutual agreement between property owners. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building, except that on a corner lot, a private garage, when attached to the main building, may extend into the required rear yard to a point not less than eighteen (18) feet from the rear lot line, and shall not occupy more than thirty percent (30%) of the required rear yard. No part of a detached accessory building shall be closer than ten (10) feet to the main building.

c. A private stable will be permitted on a lot having an area of more than twenty thousand (20,000) square feet, provided that said stable is located not less than one hundred (100) feet from the front lot line and not less than fifty (50) feet from any side or rear lot line, and further provided that no fence, lot, pasture, pen, paddock, or other enclosure, within whose confines livestock is kept, may be located at a distance less than fifty (50) feet from any dwelling on adjoining, adjacent or surrounding lots or plots used for human habitation. On such lots there shall not be kept more than one (1) horse, or one (1) pony or one (1) mule for each ten thousand (10,000) square feet of lot area, or one (1) cow for each twenty thousand (20,000) square feet of lot area. Twenty-five (25) fowl shall be permitted for each twenty thousand (20,000) square feet of lot area. No such fowl shall be housed nearer than one hundred (100) feet to the front lot line, or fifty (50) feet from any side or rear lot line.

d. Temporary real estate sale office located on property being sold, and limited to period of sale, but not to exceed two (2) years without a special use permit.

e. A hobby shop may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation, and not for profit.

f. Nurseries, greenhouses and truck gardens limited to the propagation and cultivation of plants; provided that no obnoxious fertilizer is stored upon the premises and no obnoxious soil or fertilizer renovation is conducted thereon. Commercial greenhouses may be constructed by special use permit.

g. A sign as provided in Section 405.240.

g. Such use shall not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.

B. *Height And Area Regulations.* In "R-1" First Dwelling House District the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows: (for exceptions see Section 405.210, "Height and Area Exceptions")

1. *Height.* Buildings or structures shall not exceed thirty-five (35) feet and shall not exceed two and one-half (2½) stories in height.

2. *Front yards.* Any building hereafter constructed shall provide for a front yard, the minimum depth of which shall be at least twenty-five (25) feet.

3. *Side yards.* There shall be a side yard on each side of a building not less than ten percent (10%) of the width of the lot; except that such side yard shall not be less than seven (7) feet, and need not be more than fifteen (15) feet. Buildings on corner lots shall provide a side yard on the street side of not less than fifteen (15) feet, provided this regulation shall not be so interpreted as to reduce the buildable width of a corner lot in separate ownership at the time of the passage of this Chapter to less than thirty-five (35) feet.

4. *Rear yards.* The depth of the rear yard shall be at least twenty percent (20%) of the depth of the lot, but such depth need not be more than thirty (30) feet.

5. *Lot area per family.* Every dwelling hereafter erected, moved, or altered shall provide a lot area of not less than seven thousand (7,000) square feet per family, provided that where a lot had less area than herein required in separate ownership at the time of the passage of this Chapter, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than fifteen thousand (15,000) square feet per family.

6. *Lot width.* The minimum width of a lot shall be seventy (70) feet, provided that where a lot has less width than herein required in separate ownership at the time of the passage of this Chapter, this regulation shall not prohibit the erection of a one-family dwelling.

7. *Minimum dwelling size.* Six hundred fifty (650) square feet of living floor area per family.

8. *Parking regulations.* See Section 405.230 "Off-Street Parking and Loading".

**Section 405.080. District "R-2" Second Dwelling House District.** [4] [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In "R-2" Second Dwelling House 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: (for exceptions see Section 405.180, "Special Use Permits" and Section 405.200, "Non-Conforming Uses")

1. Any use permitted in "R-1" First Dwelling House District.

2. Dwellings, two-family.

3. Accessory uses as provided in "R-1" First Dwelling House District, except that in "R-2" Second Dwelling House District a private garage or carport may provide space for not more than one (1) motor vehicle for each fifteen hundred (1500) square feet of lot area.

B. *Height And Area Regulations.* In "R-2" Second Dwelling House District the height of buildings, the minimum dimensions of lot and yards and the minimum lot area per family permitted on any lot shall be as follows: (for exceptions, see Section 405.210 "Height and Area Exceptions")

1. *Height.* Same as "R-1" First Dwelling House District.

2. *Front yards.* Same as "R-1" First Dwelling House District.

3. *Side yards.* Same as "R-1" First Dwelling House District, including regulations for corner lots.

4. *Rear yards.* Same as "R-1" First Dwelling House District.

5. *Lot area per family.* Every dwelling hereafter erected, moved, or altered shall provide a lot area of not less than seven thousand (7,000) square feet per family for one-family dwelling, or three thousand five hundred (3,500) square feet per family for two-family dwellings, provided that where a lot has less area than herein required, in separate ownership, at the time of the passage of this Chapter, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than fifteen thousand (15,000) square feet per family.

6. *Lot width.* Same as "R-1" First Dwelling House District.

7. *Minimum dwelling size.* Same as "R-1" First Dwelling House District for one-family dwelling.

8. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.090. District "R-3" Apartment House District.** [5] [Ord. No. 468-2011 §1, 3-15-2011]

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4. **Cross Reference — Garage sales in "R-2" second dwelling house district zone, §630.040.**

A. *Use Regulations.* In "R-3" Apartment House 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: (for exceptions see Section 405.180, "Special Use Permits" and Section 405.200, "Non-Conforming Uses")

1. Any use permitted in "R-2" Second Dwelling House District.

2. Apartment uses or multiple dwellings, except condominiums which are listed under Chapter 415, "Cluster Developments and Condominiums".

3. Boarding and lodging houses.

4. Day nurseries.

5. Fraternity or sorority houses and dormitories.

6. Homes for aged or retired, subject to the following:

   a. Rooms in homes for aged or retired shall not be occupied by more than two (2) persons and unless occupied by two (2) people married to each other, separate accommodations shall be provided for each sex.

   b. Separate toilet and bathing facilities shall be provided for each sex on each floor where rooms are provided for both sexes.

   c. All hallways and stairways shall be adequately lighted at all times. Stairways shall be equipped with sturdy handrails.

   d. Kitchen facilities shall be kept clean and shall be open to inspection by the City Health Inspector.

   e. Private entrances to a hall or to the outside shall be provided for each sleeping or bedroom unit.

   f. The City Building Inspector shall be admitted to the premises at reasonable times and hours to see that the ordinances of the City are being complied with. In the event that violations of the ordinances of the City are discovered, notice shall be given to the owner or person in charge of the premises to correct any infractions within a period of thirty (30) days. Failure to comply with requirements made by the Building Inspector shall result in the revocation of the special use permit, if in effect.

7. Hospitals.

8. Hotels, apartment hotels, and motels.

9. Nursing homes, licensed as such by the State of Missouri.

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5. **Cross Reference — Garage sales in "R-3" apartment house district zones, §630.040.**

10. Private clubs or fraternal orders, except those whose chief activity is carried on as a business.

11. Philanthropic or eleemosynary institutions, other than penal institutions.

12. Private and not-for-profit schools and colleges.

13. *Residential care facilities.* The facility shall conform to the following requirements:

    a. The facility shall be issued a license to operate by the State of Missouri.

    b. The party or parties responsible for the operation of the facility shall be governed by a Board of Directors or other legally constituted agency which shall bear the ultimate responsibility for all operational liabilities.

    c. That no facility shall be allowed to operate until inspected and certified as meeting or exceeding all health, fire, safety, and building codes of the City of Neosho.

14. Accessory uses customarily incident to any of the above uses, and located on the same lot, not involving the conduct of a business or industry.

    a. Private or storage garages, located as provided in "R-1" First Dwelling House District for private garages, may provide space for not more than one (1) motor vehicle for each seven hundred fifty (750) square feet of lot area. No business occupation or service connected with motor vehicles, except washing, shall be permitted.

B. *Height And Area Regulations.* In "R-3" Apartment House District the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows: (for exceptions see Section 405.210, "Height and Area Exceptions")

1. *Height.* Buildings or structures shall not exceed forty-five (45) feet or three (3) stories in height.

2. *Front yards.* Same as "R-1" First Dwelling House District.

3. *Side yards.* Same as "R-1" First Dwelling House District, including regulations for corner lots.

4. *Rear yards.* Same as "R-1" First Dwelling House District.

5. *Lot area per family.* Every building or portion of a building hereafter erected, moved, or altered shall provide a lot area for one- and two-family dwellings, the same as in "R-2" Second Dwelling House District. The minimum lot area for multiple-family dwellings shall be twelve hundred (1,200) square feet per family; provided that where a lot has less area than herein required in single ownership, at the time of the passage of this Chapter, this regulation shall not prohibit the erection of a one-family dwelling. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than fifteen thousand (15,000) square feet per family.

6. *Lot width.* Same as "R-1 " First Dwelling House District.

7. *Minimum dwelling size.* Same as District "R-2" Second Dwelling House District.

8. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.091. District "RD-1" Redevelopment District.** [Ord. No. 501-2012 §1, 5-15-2012]

A. *Use Regulations.* In "RD-1" Redevelopment 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 two (2) or more of the following uses:

1. Business and professional offices for the following uses: administrative, executive, legal, clerical, architecture, accounting, advertising, engineering, consulting, auditing, tax preparation, insurance, bookkeeping services, non-profit organizations, fraternal associations, political organizations, governmental agencies, and other similar enterprises determined to be acceptable by the City Administration.

2. Child care centers and day care centers, which provide a designated on-site recreation area.

3. Drive-through facilities (for any permitted use) provided they are sufficiently buffered from residential uses and sufficient traffic circulation is provided.

4. Financial institutions, including banks and credit unions.

5. Fine arts studios, schools, photography studios, and professional learning centers.

6. Medical or dental offices or clinics.

7. Multi-family dwellings.

8. Recreational areas or social facilities, institutions or community recreational centers, and swimming pools, or tennis clubs as a component of a mixed use development.

9. Restaurants and eating establishments.

10. Retail business such as dairy products, baked goods, ice cream, personal use items (drugs, health care, dry goods, notions, hardware, books, magazines, periodicals, stationery and office supplies), florist shops, hobby and craft stores, gifts, antiques, jewelry, hardware and household supplies, tobacco products, toilet articles, wearing apparel and personal accessories, toys, and similar products.

11. Single-family dwellings.

B. *Parking Regulations.* See Off-Street Parking and Loading Section.

**Section 405.095. District "T-1" — Towers.** [Ord. No. 468-2011 §1, 3-15-2011]

A. Subject to applicable State and Federal regulations, television, microwave and radio towers over sixty (60) feet in height only may be constructed on land zoned "T-1".

B. The only other structure or building allowed to be constructed or erected on land zoned "T-1" would be those ancillary or accessory to said towers, such as:

1. Guy wires;
2. Anchor pads;
3. Fencing to restrict access;
4. Buildings to house equipment necessary to operate tower only;
5. Auxiliary equipment to operate the tower as needed;
6. Ground fields.

C. Any use permitted in District "R-3".

**Section 405.100. District "C-O" Non-Retail District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In "C-O" Non-Retail 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: (for exceptions see Section 405.180, "Special Use Permits" and Section 405.200, "Non-Conforming Uses")

1. Any use permitted in "R-3" Apartment House District.
2. Office buildings to be used only for the administrative functions of companies, corporations, social, or philanthropic organizations or societies.
3. Other offices, limited to the following:
   a. Accountants.
   b. Architects.
   c. Brokers.
   d. Engineers.
   e. Dentists.
   f. Lawyers.
   g. Physicians, osteopaths, chiropractors.
   h. Real estate and insurance.
   i. Outpatient facilities for the treatment of alcohol and other drug abuse.
4. Mortuaries.
5. Customary accessory uses, including signs as provided in Section 405.240.

*Note:* No merchandise shall be handled or displayed, except at mortuaries, and no equipment, material, or vehicle other than motor passenger cars shall be stored outside a building in this district.

B. *Height And Area Regulations.* In "C-O" Non-Retail District the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows; provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of "R-1" First Dwelling House District. For exceptions see Section 405.210, "Height and Area Exceptions".

1. *Height.* Same as "R-1" First Dwelling House District.
2. *Front yards.* Same as "R-1" First Dwelling House District.
3. *Side yards.* There shall be a side yard on each side of a building not less than twenty percent (20%) of the width of the lot; except that such side yard shall not be less than fifteen (15) feet and need not be more than fifty (50) feet.
4. *Rear yards.* Same as "R-1" First Dwelling House District.
5. *Lot area per family.* Meets State standards.
6. *Lot width.* No minimum.
7. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.110. District "C-1" Retail Business District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In "C-1" Retail Business 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: (for exceptions see Section 405.180, "Special Use Permits" and Section 405.200, "Non-Conforming Uses")

1. Any use permitted in "C-O" Non-Retail District.
2. Art gallery.
3. Art shop.
4. Automobile parking lots (patron parking only).
5. Barbershop.
6. Beauty shop.
7. Candy or confectionery.
8. Camera shop.
9. Catering service.

10. Clinic (dental or medical, allowing overnight patients only in emergency cases).
11. Craft shop.
12. Dental laboratory (accessory to dental clinic only).
13. Dressmaking shop, including tailoring.
14. Drugstore.
15. Fabric shop and notion store.
16. Florist.
17. Gift shop.
18. Interior decorator.
19. Leather goods store.
20. Library.
21. Luggage shop.
22. Music store.
23. Novelty store.
24. Pastry shop, provided no food is served on premises.
25. Photographic or portrait studio.
26. Pottery shop and ceramics (no baking or kiln operation is permitted).
27. Signs as provided in Section 405.240.
28. Stationery store, including office supplies and repair.
29. Stores for books, magazines and newspapers (new and used).
30. Telegraph offices.
31. Tobacco store.
32. Toy store.
33. Rental storage facilities.
34. The accessory use customarily incident to any of the above uses.

*Note:* The above specified uses shall be retail or service establishments exclusively; no drive-in or curb service shall be permitted.

Such use shall not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, or fumes.

B. *Height And Area Regulations.* In "C-1" Retail Business District the height of the buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows; provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of "R-1" First Dwelling House District: (for exceptions, see Section 405.210, "Height and Area Exceptions")

1. *Height.* Buildings or structures shall not exceed forty-five (45) feet and shall not exceed three (3) stories.

2. *Front yards.* Same as "R-1" First Dwelling House District.

3. *Side yards.* No side yard is required except that where a side line of a lot in this district abuts upon the side line of a lot in "R-1" First Dwelling House District to "C-O" Non-Retail District inclusive, a side yard of not less than seven (7) feet shall be provided, and a side yard of fifteen (15) feet shall be provided on the street side of a corner lot.

4. *Rear yards.* The depth of the rear yard shall be at least fifteen percent (15%) of the depth of the lot, but such depth need not be more than twenty (20) feet, except that on a corner lot no rear yard is required within fifty (50) feet of a side street, unless the rear line adjoins a "R-1" First Dwelling House District to "C-O" Non-Retail District inclusive.

5. *Lot area per family.* Meets State standards.

6. *Lot width.* No minimum.

7. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.120. District "C-2" General Business District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In "C-2" General Business 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: (for exceptions see Section 405.180, "Special Use Permits" and Section 405.200, "Non-Conforming Uses")

1. Any use permitted in "C-1" Retail Business District.

2. Antique shop, including secondhand stores.

3. Automobile parking lots.

4. Banks.

5. Bicycle repair shops.

6. For-profit schools and colleges.

7. Computer sales and service.

8. Department and clothing stores (new and used).
9. Earth station antenna sales and service for the purpose of satellite reception.
10. Eating establishments.
11. Electric appliance and "fix-it" shops.
12. Food market.
13. Frozen food lockers for individual or family use.
14. Furniture store, including secondhand.
15. Glass shop.
16. Hardware store.
17. Household merchandise.
18. Jewelry store.
19. Ornamental iron sales rooms, but not forging, stamping, or casting.
20. Pet shop, including grooming.
21. Radio and television store and service.
22. Shoe store, including repairs and service.
23. Sporting goods store.
24. Storage garages for automobiles, boats, trucks and recreational vehicles.
25. Theaters, excluding drive-in theaters.
26. Wholesale sales office or sample room.
27. Accessory uses customarily incident to any of the above uses.

*Note:* No dismantled or inoperable vehicles, parts, equipment, or material may be stored or displayed in front or side yard and such use shall not be obnoxious or offensive.

B. *Height And Area Regulations.* In "C-2" General Business District the height of building, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows, provided that buildings erected for dwelling purposes exclusively shall comply with the front, side and rear yard requirements of "R-1" First Dwelling House District: (for exceptions see Section 405.210, "Height and Area Exceptions")

1. *Height.* Buildings or structures shall not exceed forty-five (45) feet and shall not exceed three (3) stories in height.

2. *Front yards.* No front yard is required except that where a lot in "C-2" General Business District lies within the same block and fronts upon the same street with a portion of a "R-1" First Dwelling House District to "C-1" Retail Business District inclusive, and no lot within said "C-2" General Business District is occupied by a building with a front yard of less depth than required in that portion of a "R-1" First Dwelling House District to "C-1" Retail Business District inclusive adjoining, then in such case the front yard requirements of each adjoining "R-1" First Dwelling House District to "C-1" Retail Business District inclusive shall likewise apply to such lot in "C-2" General Business District.

3. *Side yards.* Same as "C-1" Retail Business District except that on a corner lot no side yard need be provided.

4. *Rear yard.* No rear yard is required.

5. *Lot area per family.* Meets State standards.

6. *Lot width.* No minimum.

7. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.130. District "C-3" Commercial Business District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In "C-3" Commercial Business 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: (for exceptions see Section 405.180, "Special Use Permits" and Section 405.200, "Non-Conforming Uses")

1. Any use permitted in "C-2" General Business District.

2. Assembly halls and fraternal orders.

3. Automobile and truck, boat, trailer, recreational vehicle, farm, or irrigation equipment, motorcycles, and other motor vehicles, rooms, or yards, sales, service, maintenance or repair.

4. Bakeries, employing five (5) or less persons.

5. Bowling alleys.

6. Buildings, structures, and premises for public utility services, or public service corporations, which buildings or uses the Council, after report to the Planning and Zoning Commission, deems reasonably necessary for public convenience or welfare.

7. Bus passenger stations.

8. Car wash.

9. Commercial recreation buildings.

10. Convenience stores.

11. Dancing, aerobics, karate, and reducing salons.

12. Dry cleaning establishments, employing five (5) or less persons, and using non-explosive cleaning fluids.

13. Equipment rental.

14. Fuel stations.

15. Greenhouses (commercial).

16. Gymnasium.

17. Hospital for small animals (if within an enclosed building).

18. Laundries employing five (5) or less persons.

19. Miniature golf courses.

20. Package liquor stores.

21. Plumbing and heating and air-conditioning shops.

22. Printing and publishing plants (including book binding).

23. Public garages.

24. Radio and television broadcasting stations and studios, except towers (excluding church broadcasting stations).

25. Riding stables and tracks.

26. Shops for custom work, or manufacture of articles to be sold at retail only, on premises, and provided that the space occupied by the manufacturing permitted therein shall not exceed fifty percent (50%) of the total floor area of the entire building, and further provided that such manufacturing use is not obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.

27. Skating rinks.

28. Storage in bulk of, or warehouse for, such materials as are incidental to the sale at retail on the premises.

29. Swimming pools (commercial), water slides, and other water-related activities.

30. Taverns and nightclubs.

31. Tourist courts, subject to the following:

    a. The number of tourist units shall not exceed the number obtained by dividing the total square foot area of the site by one thousand two hundred (1,200).

    b. A distance of at least ten (10) feet to be maintained between buildings.

    c. Each tourist cabin unit have a minimum enclosed area of two hundred (200) square feet, and be provided with heating facilities, a lavatory, toilet, and tub or

shower with hot and cold running water. Sanitary and water supply facilities and stalls shall be subject to approval of the City Health Officer.

32. Retail lumberyards.

33. Accessory uses customarily incident to any of the above uses.

*Note:* No dismantled or inoperable vehicles, parts, equipment, or material may be stored or displayed in front or side yard, and such use shall not be obnoxious or offensive.

B. *Height And Area Regulations.* In "C-3" Commercial Business District the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows, provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of "R-1" First Dwelling House District: (for exceptions see Section 405.210, "Height and Area Exceptions")

1. *Height.* Buildings or structures, but for stand-alone signage, shall not exceed fifty-five (55) feet. If located within one-half (½) mile of an interstate highway, there shall be no limitation on the height of stand-alone signage; provided, however, the physical location of the sign shall not be closer to any adjoining City street or road than the height of the sign plus ten (10) feet. All other stand-alone signage within the City's C-3 zoning classification shall not exceed forty-five (45) feet. [Ord. No. 40-2013 §1, 7-16-2013; Ord. No. 15-2014 §1, 4-1-2014]

2. *Front yards.* Any building hereafter constructed shall provide a front yard the minimum depth of which shall be fifteen (15) feet.

3. *Side yards.* Same as "C-1" Retail Business District.

4. *Rear yards.* No rear yard required.

5. *Lot area per family.* Same as "R-3" Apartment House District.

6. *Lot width.* No minimum.

7. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.140. District "C-5" Commercial Planned Shopping Center District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *General Description.* This commercial 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.* Property and buildings in a "C-5" Planned Shopping Center District shall be used only for the uses enumerated below; provided however, that these uses shall be

located in a unified shopping center which shall be a major outlet of 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. The shops and store of the shopping center shall have a combined total gross floor area of not less than twenty thousand (20,000) square feet.

1. Any of the following uses may be permitted:

Antique shop.

Appliance store.

Apparel store: family, children, men or women.

Artist supplies.

Automobile parking lot.

Bakery goods store.

Bank.

Barbershop.

Beauty shop.

Book or stationery store.

Camera shop.

Candy store.

Catering establishment.

Cleaning and pressing collection station.

Computer sales and service.

Curio shop.

Drugstore.

Dry goods store.

Dairy products or ice cream store.

Delicatessen.

Florist shop.

Furniture store.

Gift shop.

Grocery store.

Hardware store.

Jewelry store.

Meat market.

Medical facility.

Movie theater.

Music store.

Newspaper or magazine sales.

Notions store.

Office supply store.

Optometrist sales and service.

Paint and decorating shop.

Photographer studio.

Pharmacy.

Radio and television sales and service.

Restaurant.

Sewing machine sales and service.

Sporting goods sales.

Shoe store or repair shop.

Specialty shop for women.

Supermarket.

Tailor shop.

Toy store.

Variety store.

2. Any other use other than those above will be considered only by a special use permit.

3. Office uses; provided however, that the total gross floor area of all office uses, exclusive of those listed in Subsection (B)(1) above, shall not exceed twenty percent (20%) of the gross floor area of the shopping center.

4. Gasoline service or filling stations which will be planned as an integral part of the center but may be constructed in advance. All storage tanks shall be installed underground.

5. Advertising signs relating to the shopping center, the stores and shops therein and 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.

6. Accessory buildings and uses customarily incidental to the above uses.

C. *Area Regulations.*

1. *Minimum area.* The parcel of land on which a planned shopping center is located shall be not less than four (4) acres in area.

2. *Yards.* It is intended that the grouping of the buildings and parking area be designed to protect, insofar as possible, adjacent residential areas, and the ornamental screening from noise and light be provided where necessary; provided however, that in no case shall the design of the shopping center provide less than the following standards:

a. All buildings shall set back from all street right-of-way lines not less than thirty-five (35) feet.

b. On the side of a lot adjoining a dwelling district, there shall be a side yard of not less than thirty-five (35) 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.

d. *Coverage.* Buildings shall not cover more than twenty percent (20%) of the site on which the shopping center is located.

e. Adjacent residents may waive required screening if they so desire.

D. *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 use.

E. *Common Parking Facilities.* Off-street parking requirements 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; provided however, that in no case shall the amount of off-street parking area, including driveways required for ingress and egress and circulation, to be less than two and one-half (2½) times the gross floor area of the shopping center.

F. *Administration Procedures For Shopping Center Development.*

1. The developer shall first make an application to the City for construction of a shopping center under this zoning. 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 or fence, 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 Governing Body of the City and Zoning Commission the ability and intent of the developer to carry out the development of the shopping center in accordance with the plans submitted in accordance with Subparagraph (1)(a) of this Subsection.

   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 shall begin construction of the shopping center within one (1) year after the effective date of approval of the application 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 one (1) year after the effective date of the shopping center rezoning, the Zoning Commission shall review the status of the development, and if it shall find that the developer cannot proceed immediately with the development, in conformity with the requirements of this Chapter, this fact and the reasons thereof shall be reported to the Governing Body of the City. The Governing Body of the City may, at its discretion, rezone the Shopping Center District to a zoning district classification consistent with the general plan.

   d. *Review of plan change.* Any substantial deviation from the plat or building plans approved by the Commission shall constitute a violation of the building permit authorizing construction of the shopping center. Substantial changes in plans shall be resubmitted to the Governing Body of the City and the Zoning Commission to ensure compliance with the requirements and purpose and intent of this Chapter, and no building permit shall be issued for any construction which is not in substantial conformity with the approved plan.

**Section 405.150. District "C-P" Planned Business District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *General Provisions.*

1. A "C-P" Planned Business District may be established on a tract of land in single ownership or under unified control, provided that a preliminary development plan for a planned business district has been prepared and submitted in compliance with the regulations and requirements of this Section.

2. Application shall be made to the Planning and Zoning Commission for the rezoning of property for the planned business district.

3. The new area of land to be included in a "C-P" Planned Business District and so designed shall be at least three (3) acres in size. The term *"net area"*, as used herein, shall not include any areas within dedicated highways, streets, alleys, or any other public ways or public property.

4. The location of any "C-P" Planned Business District shall be on property which has an acceptable relationship to major thoroughfares, and the Planning and Zoning Commission must satisfy itself as to the adequacy of the thoroughfare to carry the additional traffic generated by the development.

5. The plan for the proposed development must present a unified and organized arrangement of buildings and service facilities which shall be a fundamental relationship to the properties comprising the planned development.

6. The requirements and regulations herein prescribed pertaining to height, open space, setbacks, parking and loading may be adjusted or modified by variance by the Board of Adjustment before a "C-P" Planned Business District is established, so that the property in question may be developed in a reasonable manner and at the same time will not be detrimental to the public welfare and the interest of the community, but in keeping with the general intent and spirit of the zoning regulations.

B. *Preliminary Plan.*

1. The proponents of a planned business district shall prepare and submit a preliminary development plan to the Planning and Zoning Commission for its inspection and review, upon which plan the Commission shall advertise and hold a public hearing. This preliminary plan of the property proposed to be zoned as a "C-P" Planned Business District drawn to scale shall show the boundaries of the property proposed to be zoned, the existing topography with contour intervals not greater than two (2) feet, unless waived by the Commission, and the proposed size, location and arrangement of buildings, parking areas, with proposed arrangement of stalls and number of cars, entrance and exit driveways, and their relationship to existing and proposed streets, alleys, and other public ways or public property, drainage plan, and any additional information which may be reasonably required by the Commission. The plan shall show sufficient proposed control grades to interpret the intent of the developer. The preliminary plan shall also show the development of adjacent properties within two hundred (200) feet, including the location and type of buildings and structures thereon. If the planned business district is proposed in an unplatted area, the preliminary plan shall be accompanied by a plat, giving the full legal description of the boundaries of the property to be included in the areas sought to be zoned as a planned business district.

2. It shall also be accompanied by a plan, drawn to scale, showing the general arrangement of streets within the remainder of this ownership, which plat need not include more than one thousand (1,000) feet from the boundaries of the area to be zoned as a planned business district.

3. The developer shall indicate, on the preliminary plan, the stages which will be followed in the construction of the planned center.

4. If this preliminary plan is found to comply with the intent of the requirements and regulations set forth in this Section, the Planning and Zoning Commission shall, upon approval of the preliminary plan, prepare and submit to the City Council a request for an amendment to the Zoning District Map, which amendment is to provide for and establish a "C-P" Planned Business District for the land covered by a preliminary plan. A public hearing shall be held at the time this amendment is pending before the Council, as provided by law, and approval of the amendment shall constitute approval of the plan.

5. Upon approval of the zoning change by amendment to the Zoning District Map, the proponent shall submit a final development plan to the Planning and Zoning Commission for its review and recommendation. The final development plan may be submitted separately for the first (1st) and each successive stage of construction.

C. *Final Plan.*

1. It shall be the responsibility of the Planning and Zoning Commission to determine that each stage, or all, of the final development plan conforms to the intent of the preliminary plan on which the zoning change was made. The Commission, having reviewed the final development plan for any or all stages of the development, and finding that it conforms to the intent of the preliminary plan, shall approve such plan and submit it to the City Council for approval. Upon approval of the Council, such plan shall be filed for record in the office of the City Clerk.

2. If the final development plan fails to conform to the intent of the preliminary plan submitted in support of the rezoning, such final development plan may be submitted to the Planning and Zoning Commission as an amended preliminary plan, upon which the Commission shall advertise and hold a public hearing. The procedure shall be the same as for the original preliminary plan.

3. No building permit shall be issued for any construction in this center until the Planning and Zoning Commission and the City Council shall have approved the final development plan, covering at least the first (1st) stage of development.

4. A final development plan, prepared for each succeeding stage, shall also be reviewed by the Commission and the Council, and, when approved, shall be filed in the office of the City Clerk.

5. The proponents of a planned business district shall prepare and submit a schedule of construction in one (1) or more stages, which construction shall begin within a specified period following the Council's final approval of the final development plan or any stage thereof. Failure to begin the construction as scheduled shall void the plan, as approved, unless a request for an extension of time is made by the proponents to the Planning and Zoning Commission, and approved by said Commission and by the City Council. If, for any reason, the plan is abandoned, or if the construction is terminated, during or after the completion of any stage and there is ample evidence that further development is not contemplated, the amendment establishing such "C-P"

Planned Business District may be repealed by the Council and the zoning of the entire tract, or the portion which is undeveloped as a "C-P" Planned Business District, may be changed to a suitable classification.

6. After the final development plan has been approved and the zoning change made, and when, in the course of carrying out this plan, adjustments or rearrangements of building, parking areas, entrances, heights or open spaces are requested by the proponents, and such requests conform to the standards established by the approved final development plan, for the area to be covered by buildings, parking spaces, entrances, heights, setback and other requirements, such adjustments may be approved by the Council upon application, and after receiving the recommendations of the Planning and Zoning Commission.

7. The plan shall meet the following requirements as to use, height, open space, off-street parking and loading and all driveways or public access.

D. *Use Regulations.* In "C-P" Planned Business District no building, structure, land or premises shall be used, and no building shall be erected, constructed, reconstructed, or altered, except for one (1) or more of the following uses:

1. Any use permitted in "C-3" Commercial Business District, except those permitted in "R-1" First Dwelling House District to "R-3" Apartment House District inclusive.

2. Accessory uses customarily incident to any of the above uses, provided that there shall be no billboards, and that only flat wall signs, or signs on the face of a building or under a marquee, showing the name of each place of business, and the commodities or services offered, will be permitted in a "C-P" Planned Business District, except that in addition there shall be permitted one (1) sign or structure to identify each planned business district. Such signs or structures shall be of permanent construction and the design shall be submitted as a part of the preliminary and final development plan. In addition, a filling station may have one (1) freestanding sign to be approved as a part of the preliminary plan as to size and location.

E. *Height And Area Regulations.* In a "C-P" Planned Business District the height of buildings and the minimum dimensions of open spaces shall be as follows: (for exceptions see Section 405.210, "Height and Area Exceptions")

1. *Height.* Buildings or structures shall not exceed forty-five (45) feet and shall not exceed three (3) stories in height.

2. *Open spaces.* There shall be a setback from any street of at least fifty (50) feet for any building, and ten (10) feet for any parking lot. Along any other property line, within or adjoining a zoned business district, there shall be a setback for any building or structure of at least ten (10) feet; or along any property line abutting or adjoining a zoned dwelling house district, there shall be a setback for any building or parking lot of at least twenty (20) feet. The planned business district shall be permanently screened from such abutting or adjoining properties zoned for dwelling house use by wall, fence, shrub border, or other suitable enclosure. Such trees and shrubs shall be properly and adequately maintained by the developer or owner.

3. *Parking and loading regulations.*

   a. In any "C-P" Planned Business District there shall be provided off-street customer parking space for motor cars in the ratio of at least ten (10) parking spaces for each one thousand (1,000) square feet of sales or service floor area, exclusive of storage space.

   b. The off-street parking space required above shall be provided in addition to any space used for commercial parking lot, taxicab stand, truck or bus parking; off-street parking space for drive-in service establishments shall be provided in addition to the parking space described for all other business activities.

   c. Ample off-street space for standing, loading and unloading of supplies shall be provided within the development.

**Section 405.160. District "M-1" Light Industrial District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In "M-1" 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: (for exceptions see Section 405.180, "Special Use Permit" and Section 405.200, "Non-Conforming Uses")

   1. Any use permitted in "C-3" Commercial Business District, with the following exceptions; no new dwelling houses, clubs, hotels, educational or institutional facilities will be allowed; however, property within District "M-1" which currently contains a dwelling house, club, hotel or educational or institutional facility shall be exempt from this exception and said use will be allowed, provided that the necessary watchman, caretakers, etc., will be permitted to live on the premises of industrial plants.

   2. Bakeries.

   3. Bottling works and distribution plants.

   4. Bus barns or lots.

   5. Canneries.

   6. Carpenter, cabinet or pattern shops, provided that no mechanical power in excess of five (5) horsepower is used in the operation of any one (1) machine.

   7. Cemeteries, mausoleums, or crematories for the disposal of the human dead.

   8. Carpet cleaning establishments.

   9. Chemical laboratories not producing noxious fumes or odors.

   10. Cleaning, pressing, and dyeing plants.

   11. Cold storage plants.

   12. Dog pounds, if within an enclosed building.

13. Electroplating works.
14. Fabrication or assembling of irrigation pipe and equipment.
15. Flour mills, feed mills, and grain processing.
16. Freight terminals (rail or truck).
17. Galvanizing works.
18. Grain elevators.
19. Ice plants.
20. Laundries and dry cleaners.
21. Sawmills and wholesale lumberyards, and concrete mixing plants.
22. Machine shops, provided that no mechanical power in excess of five (5) horsepower is used in the operation of any one (1) machine.
23. Manufacture of products such as artificial flowers, feathers, plumes, awnings, bags, blacking, small boats, bone products, brooms and brushes, buttons and novelties, candy, canvas products, cement products, concrete blocks, chemicals (non-offensive), cigars, cleaning and polishing preparations, clothing, coffee (roasting), cosmetics, cotton seed, peanuts or similar products, drugs or medicines, electrical signs, extracts, food products, fruit juices, gas or electric fixtures, ice cream, leather products, sausage, shell products, shoes and boots, syrup, terracotta or tile handicraft products, textiles, toys, and wooden ware.
24. Monument or marble works, finishing and carving only, excluding stone cutting.
25. Moving, transfer, or storage plants.
26. Photo engraving plants.
27. Planing mills, provided that no mechanical power in excess of five (5) horsepower is used in the operation of any one (1) machine.
28. Plumbing and sheet metal shops (allowing punching of material of one-eighth (1/8) inch or less in thickness).
29. Produce markets (wholesale).
30. Railroad freight yards.
31. Sales rooms, yards, and service for contractor's equipment, and oil well supplies.
32. Sign painting plants.
33. Stables (public) or wagon sheds.
34. Storage in bulk of, or warehouse for, such materials as asphalt, brick building materials, cement, coal, contractors' equipment, cotton, feed, fertilizer, grain, gravel,

grease, hay, ice, lead, lime, machinery, metals, oil, plaster, poultry, roofing, rope, sand, stone, tar, tarred or creosoted products, terracotta, timber, wood, wool.

35. Tracks (team, loading, or storage).

36. Veterinary hospitals.

37. Accessory uses customarily incident to any of the above uses.

B. *Height And Area Regulations.* In "M-1" Light Industrial District, the height of buildings, minimum dimensions of lots and yard and the minimum lot area per family permitted on any lot shall be as follows; provided that the buildings erected for dwelling purposes exclusively shall comply with the front, side and rear yard requirements of "R-1" First Dwelling House District: (for exceptions see Section 405.210, "Height and Area Exceptions")

1. *Height.* Buildings or structures shall not exceed forty-five (45) feet and shall not exceed three (3) stories in height.

2. *Front yards.* Same as "C-2" General Business District, except that a setback of not less than fifty (50) feet shall be provided along all Federal and State highways.

3. *Side yards.* Same as "C-1" Retail Business District.

4. *Rear yards.* Same as "C-1" Retail Business District.

5. *Lot area per family.* Same as "R-3" Apartment House District.

6. *Lot width.* No minimum.

7. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.170. District "M-2" Heavy Industrial District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Use Regulations.* In "M-2" Heavy 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: (for exceptions see Section 405.180, "Special Use Permits" and Section 405.200, "Non-Conforming Uses")

1. Any use permitted in "M-1" Heavy Industrial District, except dwelling houses, clubs, hotels, educational and institutional uses, provided that the necessary watchman, caretakers, etc., will be permitted to live on the premises of industrial plants.

2. Ammonia, bleaching powder, chemical plants.

3. Asphalt mixing plants.

4. Assaying works (other than gold or silver).

5. Blooming or rolling mills.

6. Breweries or distilleries.

7. Carpenter, cabinet, or pattern shops.
8. Chemical laboratories.
9. Cider mills.
10. Coal car dumps.
11. Coal distillation and by-products plants.
12. Coal hoists, pockets or trestles.
13. Coke ovens.
14. Cooperage works.
15. Cotton ginning or bailing works.
16. Dog kennels (commercial).
17. Dog pounds.
18. Enameling works.
19. Electric power plants.
20. Forges.
21. Foundries (iron, brass, bronze, aluminum).
22. Hides and skins (storage, curing or tanning).
23. Japanning works.
24. Lumber mills.
25. Machine shops.
26. Manufacturing of such products as adding machines, cash registers, typewriters, alcohol, asphalt, basket material, boats, boilers, boxes, bronze, cans, carbon batteries, electric lamps, carbon or lamp black, carriage or wagon parts, celluloid or similar materials, clay, shale and glass products, creosote, cutlery or tools, disinfectants, insecticides, dyes, electrical machinery, engines, furniture, glass, iron and steel, locomotives, motorcars, bicycles, airplanes, pumps, nuts, bolts, screws, etc., oil cloth, linoleum, paint, Japan, lacquer, oil turpentine, varnish, enamel, etc., railway cars, rubber, synthetic rubber, rubber products, shoddy, soap, starch, glucose, dextrin, tar products, tobacco (chewing), tools, vinegar, wine.
27. Metal stamping, shearing, punching works, etc.
28. Mines or quarries, including the removing, screening, crushing, washing, or storage of ore, sand, clay, stone, gravel or similar materials.
29. Monument or marble works.
30. Oil compounding and barreling plants.

31. Planing mills.
32. Plumbing and sheet metal shops.
33. Radio, television, and microwave towers.
34. Railroad roundhouses or shops.
35. Reservoirs, wells, towers, filter beds, or water supply plants.
36. Salt works.
37. Salvage or junk yards provided such yards shall be completely enclosed and effectively screened by a solid fence or wall at least eight (8) feet high.
38. Steel furnaces.
39. Stone cutting.
40. Structural iron or pipe works.
41. Sugar refineries.
42. Tar distillation or manufacture.
43. Wire or rod mills.
44. Wood distillation plants (charcoal, tar, turpentine, etc.).
45. Wood scouring works.
46. Accessory uses customarily incident to any of the above uses.

*Note:* The following additional uses may be permitted after the location of such shall have been approved by the City Council, after report by the Chief of the Fire Department, and the Planning and Zoning Commission:

1. Acid manufacture.
2. Cement, lime, gypsum, or plaster of Paris manufacture.
3. Distillation of bones.
4. Explosives manufacture or storage.
5. Fat rendering.
6. Fertilizer manufacture.
7. Gas manufacture or storage, except LP gas.

   Garbage, offal, or dead animals, reduction of; dumping.
8. Glue manufacture.
9. Petroleum, or its products, refining of.

10. Smelting of tin, copper, zinc or iron ore.

11. Stockyards or slaughter of animals.

12. Wholesale storage of gasoline.

B. *Height And Area Regulations.* In "M-2" Heavy Industrial District the height of buildings and the minimum dimensions of lots and yards shall be as follows: (for exceptions see Section 405.210, "Height and Area Exceptions")

1. *Height.* Same as "M-1" Light Industrial District.

2. *Front yards.* Same as "M-1" Light Industrial District.

3. *Side yards.* Same as "C-1" Retail Business District.

4. *Rear yards.* Same as "C-1" Retail Business District.

5. *Width of lots.* No minimum.

6. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 405.175. District "M-H" Mobile Home Park District.** [6] [Ord. No. 468-2011 §1, 3-15-2011]

A. *Penalties.* Any person who violates any provision of this Section shall upon conviction be punished by a fine of not less than ten dollars ($10.00) nor more than two hundred fifty dollars ($250.00); and each day's failure of compliance with any such provision shall constitute a separate violation.

B. *Conflicting Provisions.*

1. In any case where a provision of this Section is found to be in conflict with a provision of any other ordinances or Code of the City existing on the effective date of this Section (February 1, 2000), the provision which, in the judgment of the City Attorney, establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

2. In any case where a provision of this Section is found to be in conflict with a provision of any other ordinance or Code of the City existing on the effective date of this Section (February 1, 2000) which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Section shall be deemed to prevail, and such other ordinances or Code are hereby declared to be repealed to the extent that they may be found in conflict with this Section.

C. *Location Outside Trailer Parks.*

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6. **Editor's Note — The language of this Subsection was changed by the attorney to reflect current city procedures in supp. #14, 5/11.**

1. It shall be unlawful, within the limits of the City, for any reason to park any mobile home on any street, alley or highway, or other public place, or on any tract of land owned by a person, occupied or unoccupied, within the City except as provided in this Section.

2. Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than two (2) hours subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street or highway.

3. No person shall park or occupy any mobile home on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling either of which is situated outside an approved mobile home or recreational vehicle park.

4. Mobile homes may be permitted on any industrial site in the Crowder area, specifically zones "AG" and "M-2", used solely for security purposes provided that the mobile homes must be placed on a permanent foundation and tie down straps installed. No such mobile home may be located any closer than five hundred (500) feet from a residential home. All such mobile homes must be connected to an approved water system and have an approved means of wastewater disposal.

D. *License Required.* It shall be unlawful for any person to maintain or operate a mobile home park within the City unless such person shall first obtain a license thereof and maintain such license in a currently valid status thereafter.

E. *Applications For Licenses — Processing Of Application — Approval Of Applications And Issuance Of Licenses — Transfer Of License.*

1. *Application for initial license.* An application for an initial mobile home park license shall be filed with the Planning and Zoning Commission at City Hall. The application shall be in writing, signed by the applicant and shall include the plan and the information required by this Subsection.

2. The application and all accompanying plans and specifications shall be filed in triplicate. The Planning and Zoning Commission shall investigate and review the applicant, the application and the proposed plans and specifications. If the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with the Code and other applicable ordinances and Statutes, the Planning and Zoning Commission shall recommend to the City Council the approval of the application, and upon approval by the Council and completion of the park according to the plans, the City Council shall issue the license.

3. *Application for renewal license.* Upon application in writing by a licensee for renewal of a license and upon payment of the annual license fee, and upon approval of the Planning and Zoning Commission, the City Council shall issue a certificate renewing such license for another year.

4. *Application for transfer of license.* Upon application in writing by a licensee for transfer of a license and upon payment of the transfer fee, and upon approval of the Planning and Zoning Commission, the City Council shall approve such transfer.

F. *Fees For Licenses And License Transfers — Due And Delinquent Dates — When Licenses Become Invalid Due To Delinquency.*

1. The annual license fee for each mobile home shall be due October first (1st) and shall be delinquent the last day of November. The annual license fee shall be determined from time to time by the City by means of resolution and maintained by the City License and Permit Clerk.

2. The fee for transfer of a license shall be determined from time to time by the City by means of resolution and maintained by the City License and Permit Clerk.

3. The license of a delinquent licensee shall become invalid as of the date such delinquency occurs.

G. *Revocation And Reinstatement Of License.* The City Council may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this Section or other applicable provisions of this Code, State law or other City ordinances, rules or regulation. After such cause for conviction has been remedied and the City Council has reason to believe that the park will be maintained and operated in full compliance with law, such license may be reinstated.

H. *Plan And Site Regulations.*

1. All applications for a mobile home park license involving construction of a new park or modification of an existing park must be accompanied with a set of preliminary plans, and upon approval, a set of final plans, drawn to scale and completely dimensioned. Such plans must be drawn to a scale of not less than one (1) inch equals fifty (50) feet (l "=50') by a registered engineer, professional land use planner or registered land surveyor. Such plans must show the area to be used for the proposed mobile home park district; the ownership and use of neighboring properties; all proposed entrances, exits, driveways, walkways and off-street parking spaces; the location of mobile home spaces, recreational areas and service buildings; the location of refuse receptacles; the proposed plan of water supply, sewage disposal and electric lighting. The Planning and Zoning Commission shall 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:

a. Name and address of the owner and operator.

b. Address, location and legal description of the mobile home park.

c. Extent of the area and dimensions of the site.

d. Size, location and number of mobile home lots.

e. Entrance, exits, driveways and walkways.

f. Number, location and detailed floor plans, including elevations, of all service buildings and other proposed structures and accessory buildings.

g. Number, size, location of automobile parking accommodations.

h. Location and size of recreation area including development plan showing type of landscaping, surface treatment, drainage, apparatus and/or special equipment.

i. Plan of water system.

j. Method and plan of sewage disposal and site drainage.

k. Method of garbage disposal and plan of storage areas.

l. Lighting plan of outside areas and service outlets.

m. Method and plan of service building heating.

n. Location and type of fire-fighting and fire prevention equipment and facilities.

Every mobile home lot shall be of a size and shape which will provide reasonable area for private use and development and for convenient placement of one (1) occupied mobile home and shall be identified with an individual site number in logical numerical sequence in conformity with the universal "911" system, and so shown on the official plot plan for the mobile home park.

2. Mobile home parks constructed or altered after February 1, 2000, shall comply with the following requirements:

a. The minimum lot size shall be six thousand nine hundred (6,900) square feet in area with a minimum width of sixty (60) feet and a minimum depth of one hundred fifteen (115) feet. Lots irregular in size and those fronting on a cul-de-sac may be permitted upon application with the Planning and Zoning Commission and presentation of a plot thereof.

b. Every new mobile home park shall contain at least ten (10) acres of land with two (2) locations of direct access to public street right-of-way containing a width of at least fifty (50) feet.

c. Each mobile home park shall be provided with a Portland cement or asphalt concrete pad large enough to provide storage area underneath any mobile home parked thereon and at a grade which will drain. Such storage area shall be a minimum of ten (10) by fourteen (14) feet.

d. Each mobile home shall be skirted complete with access door to the storage area.

e. The plan boundaries of the mobile home park shall be a minimum of twenty-five (25) feet from all public right-of-way and a minimum of fifteen (15) feet

from all other abutting property. The screening required by Subparagraph (2)(u) of this Subsection shall be located on or within the park boundaries.

f. All park or service buildings located on community ground shall be located at least twenty (20) feet away from any mobile home lot boundary shown on the mobile home park plan.

g. For each mobile home lot there shall be provided and maintained at least one hundred eighty (180) square feet (of dimensions nine (9) feet by twenty feet (20), or ten (10) feet by eighteen (18) feet). If central parking lots are provided, they shall be paved with Portland cement or asphalt concrete and each space separated by striping or other adequate means and identified to the official lot number of the occupant and reserved for his/her sole use.

h. At least one thousand five hundred (1,500) square feet of gross recreation space for each mobile home space shall be reserved within each mobile home park as common recreation space for the residents of the park. Such areas shall, along with driveways and walkways, be adequately lighted for safety. At least one thousand (1,000) square feet of the gross one thousand five hundred (1,500) square feet of recreational space for each mobile home shall be suitable for recreational activity.

i. No mobile home or other structure within a mobile home park shall be closer to each other than forty (40) feet, except that storage or other auxiliary structures for the exclusive use of the mobile home may be no closer to another mobile home than twenty (20) feet.

j. No mobile home shall be located closer than thirty (30) feet of the exterior boundary of the park or a bounding street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than forty (40) feet to the exterior boundary or the right-of-way of a bounding street.

k. The layout and general development plan for major and minor access driveways within the mobile home park, together with the location and dimensions of access junctions with public street rights-of-way, shall be approved by the Planning and Zoning Commission.

l. All access roadways, parking areas and service drives shall be asphalt, concrete or Portland cement.

m. *Walks.*

(1) *General requirements.* All parks shall be provided with safe, convenient, all season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.

(2) *Common walk system.* A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated.

Such common walks shall have a minimum width of three and one-half (3½) feet.

(3) *Individual walks.* All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two (2) feet.

n. Water connections for individual mobile homes shall be provided and located on the same side of the lot as the sewer lateral and shall consist of a riser terminating at least four (4) inches above the ground surface. Such water connection shall be equipped with a shut-off valve and shall be protected from freezing and from damage from mobile home wheels and shall have the ground surface around the riser pipe graded to divert surface drainage away from the connection.

o. Waste from showers, bathtubs, flush toilets, urinals, lavatories and slop sinks in service and other buildings within the park shall be discharged into a public sewer system in compliance with applicable Sections of this Code or other ordinances or into a private sewer and disposal plant or septic tank system of such construction and in such manner as will meet the standards and specifications required by the State of Missouri and County health officials.

p. Sewer laterals shall be provided at each mobile home lot, shall be trapped and vented, terminate above grade on the same side of the lot as the water connection, be at least four (4) inches in diameter and be equipped with approved leak and fly proof device for coupling to mobile home drainage systems. Such lateral sewer connections shall be protected at its terminal with a concrete collar at least three (3) inches thick and extending from the connection in all directions. When not in use, the connection shall be capped with a gas-tight plug or similar device. Adapters, allowing for a tight physical connection, shall be on the mobile home or provided by the mobile home park operator for the use of mobile homes.

q. All plumbing in the mobile home park shall comply with the City Plumbing Code.

r. All electrical work shall be installed and maintained in accordance with the electrical requirements of the City Electrical Code.

s. *Fuel supply and storage.*

(1) *Natural gas system.*

(a) Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(b) Each mobile home and/or travel trailer lot provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. Such valve shall not be located under a mobile home.

The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.

(2) *Liquefied petroleum gas systems.*

(a) Liquefied petroleum gas systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(b) Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.

(c) Systems shall have at least one (1) accessible means for shutting off gas. Such means shall not be located under a mobile home and shall be maintained in effective operating condition.

(d) All LPG outside of the mobile homes and/or travel trailer shall be well supported and protected against mechanical injury. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in mobile homes and/or travel trailers.

(e) Liquified petroleum gas containers installed on a mobile home and/or travel trailer lot shall be securely but not permanently fastened to prevent accidental overturning. Such containers shall have a minimum capacity equal to twenty percent (20%) of the average annual fuel consumption.

(f) No liquified petroleum gas vessel shall be stored or located inside or beneath any storage cabinet, carport, mobile home or any other structure.

t. All gas and/or oil-burning appliances shall be of an approved vented type.

u. An ornamental wall, fence or screen planting, acceptable to the Planning and Zoning Commission, and no less than six (6) feet in height, shall be erected and maintained along the side of and rear boundaries of a mobile home park. Where, in the opinion of the Planning and Zoning Commission, it is unreasonable to require a wall, fence or screen planting, due to the nature of the existing topography, or other existing conditions that might render such a wall or fence ineffective, the Commission may waive or modify the requirements.

v. *Refuse handling.*

(1) The storage, collection and disposal of refuse in mobile home park areas shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

(2) All refuse shall be located not more than one hundred fifty (150) feet from any mobile home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.

(3) Refuse collection stands shall be provided for all refuse containers. Such container stand shall be so designed so as to prevent containers from being tipped, to minimize spillage and container deterioration and facilitate cleaning around them.

(4) All refuse containing garbage shall be collected at least once weekly. All refuse shall be collected and transported in covered vehicles or covered containers.

w. *Insect and rodent control — noxious weeds.*

(1) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the municipality.

(2) Parking areas shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

(3) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building materials shall be stored at least one (1) foot above ground.

(4) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

(5) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parking areas shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

I. *Notices, Hearings And Orders.* Whenever the Building Inspector determines that there is reasonable ground to believe that there had been a violation of any provision of this Section, the Building Inspector shall give notice of such alleged violation to the person to whom the permit or license was issued, as hereinafter provided. Such notice shall:

1. Be in writing;

2. Include a statement of the reasons for its issuance;

3. Allow a reasonable time for the performance of any act it requires;

4. Be served upon the owner or his/her agents as the case may require; provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to his/her last known address, or when he/she has been served with such notice by any method authorized or required by the laws of this State;

5. Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Section.

   a. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Section may request and shall be granted a hearing on the matter before the Board of Adjustment; provided that such person file in the office of the City Clerk a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the day the notice is served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension except in the case of an order issued under Subparagraph (d). Upon receipt of such petition, the Board of Adjustment shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed; provided that upon application of the petitioner, the Chairman of the Board of Adjustment may postpone the date of the hearing for a reasonable time beyond such ten (10) day period when in his/her judgment the petitioner has submitted good and sufficient reasons for such postponement.

   b. After such hearing the Board of Adjustment shall make findings as to compliance with the provisions of this Section and shall issue an order in writing sustaining, modifying or withdrawing the notice which shall be served as provided in Subparagraph (4). Upon failure to comply with any order sustaining or modifying a notice, license of the mobile home and/or travel trailer park affected by the order shall be revoked.

   c. The proceedings at such a hearing, including the findings and decision of the Board of Adjustment and together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the City Clerk but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this Section. Any person aggrieved by the decision of the Board of Adjustment may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the State.

   d. Whenever the Building Inspector finds that an emergency exists which requires immediate action to protect the public health, he/she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he/she may deem necessary to meet the emergency including the suspension of the permit or license. Notwithstanding any other provisions of this Section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Board of Adjustment shall be afforded a hearing as soon as possible. The provision of Subparagraphs (c) and (d) shall be applicable to such hearing and the order issued thereafter.

J. *Exemptions.*

1. Where the Board of Adjustment finds that compliance with provisions of this Section would result in undue hardship, an exemption may be granted by the Board of Adjustment without impairing the intent and purpose of this Section. Deviations from design, construction and installation provisions shall be brought into compliance with this Section within a reasonable period of time based on economic feasibility of improvement, nature, significance, and extent of deviation, depreciation of materials, improvement and layout in use and other similar factors, within a minimum period not exceeding five (5) years and a maximum period not exceeding twenty-five (25) years.

2. Such period shall begin after the Board of Adjustment has given notice of a certain and specific deviation from this Section to the person to whom the permit or certification was issued.

3. Gradual improvements to a higher degree of conformity shall be permissive provided that there shall be complete conformity at the end of a period prescribed by the Board of Adjustment.

K. *Responsibilities For The Park Management.*

1. The person to whom a license for a mobile home and/or travel trailer park is issued shall operate the park in compliance with this Subsection and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in clean and sanitary condition.

2. The park management shall notify park occupants of all applicable provisions of this Subsection and inform them of their duties and responsibilities under this Subsection and regulations issued hereunder.

3. The park management shall supervise the placement of each mobile home and/or travel trailer on its stand which includes securing its stability and installing all utility connections.

4. The park management shall maintain a register containing the names of all park occupants identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.

5. The park management shall notify the health authority immediately of any suspected communicable or contagious disease within the park.

L. *Responsibilities Of Park Occupants.*

1. The park occupant shall comply with all applicable requirements of this Section and shall maintain his/her mobile home lot, its facilities and equipment in good repair and in clean and sanitary condition.

2. The park occupant shall be responsible for proper placement of his/her mobile home on its stand and proper installation of all utility connections in accordance with the instruction of the park management.

3. Pets, if permitted in the park, shall be prohibited to run at large or to commit any nuisance within the limits of any mobile home lot.

4. Skirting, porches, awnings and other additions shall be installed as approved by the park management. When installed, they shall be maintained in good repair. The space immediately underneath a mobile home shall be used for storage only if permitted by the park management. If permitted, the following conditions shall be satisfied:

   a. Stored items shall be located so as not to interfere with the underneath inspection of the mobile home.

   b. The storage area shall be enclosed by skirting.

5. The park occupant shall store and dispose of all his/her rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent-proof, insect-proof and water-tight.

M. *General Prohibitions.*

1. *Obstructions prohibited.* No obstructions of any kind shall be erected, placed or maintained on or about the mobile home lot, which would impede or prevent inspection of plumbing or electrical facilities.

2. Dependent mobile homes shall be prohibited from being accommodated in mobile home parks within the City. Dependent mobile homes are mobile homes connected to a separate structure, dwelling or other building and dependent on the other structure for utilities such as water, gas, electric or sewer services.

3. A mobile home park shall not accommodate any occupied trailers for which there are no available sites conforming to the provisions of this Section.

4. It shall be unlawful to camp overnight or to park an occupied trailer or vacation trailer overnight in a mobile home park or upon any public street including the street right-of-way. This provision shall not apply in cases where a mobile home or trailer is parked for the purpose of making emergency repairs.

5. The owner or operator of every mobile home park shall maintain in a conspicuous location in or adjacent to the mobile home park office, a copy of an approved plot plan of the mobile home park, a copy of the conditions of City approval, and a copy of the latest ordinance and regulations pertaining to such mobile home park.

6. In a mobile home park, no advertising signs or devices shall be permitted, except as approved by the Planning and Zoning Commission.

N. *Service Buildings And Other Service Facilities.*

1. *General.* The requirements of this Subsection shall apply to service buildings, recreation buildings and other community service facilities such as:

   a. Management offices, repair shops and storage areas;

   b. Sanitary facilities;

c. Laundry facilities; and

d. Indoor recreation areas.

2. *Structural requirements for buildings.*

a. All portions of the structure shall be properly protected from damage by ordinary use and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

b. All rooms containing sanitary or laundry facilities shall:

(1) Have sound-resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, non-absorbent, water-proof material or covered with moisture-resistant material.

(2) Have at least one (1) window or skylight facing directly to the outdoors. The minimum aggregate gross area of windows for each required room shall be not less than ten percent (10%) of floor area served by them.

(3) Have at least one (1) window which can be easily opened or a mechanical device which will adequately ventilate the room.

c. Toilets shall be located in separate compartments equipped with self-closing doors. The shower stalls shall be of individual type. The rooms shall be screened to prevent direct view of the interior when exterior doors are open.

d. Illumination levels shall be maintained as follows:

(1) General seeing tasks: 5 foot-candles.

(2) Laundry room work area: 40 foot-candles.

(3) Toilet room, in front of mirrors: 40 foot-candles.

e. Hot and cold water shall be furnished to every lavatory, sink, bathtub, shower and laundry fixture, and cold water shall be furnished to every water closet and urinal.

f. *Code compliance.* Every building in a mobile home park or recreational vehicle park shall be designed and constructed in accordance with Municipal Building Codes.

O. *Fire Protection.*

1. Mobile home parks shall be subject to the rules and regulations of the City fire prevention authority.

2. Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

3. Access to a mobile home for fire protection services shall be such as to permit fire apparatus to approach within one hundred (100) feet of each mobile home.

4. Portable fire extinguishers rated for Classes B and C fires shall be kept in service buildings and at other locations conveniently and readily accessible for use by all occupants and shall be maintained in good operating condition. Their capacity shall not be less than two and one-half (2½) pounds.

5. *Hydrants and fire extinguishers.*

a. Fire hydrants shall be installed in mobile home parks in accordance with the following requirements:

(1) The water supply system shall permit the operation of a minimum of two (2) one and one-half (1½) hose streams.

(2) Each of two (2) nozzles, held four (4) feet above the ground, shall deliver at least seventy-five (75) gallons of water per minute at a flowing pressure of at least thirty (30) pounds per square inch at the highest elevation point of the park.

b. Fire hydrants shall be located within two hundred fifty (250) feet of any mobile home, service building or other structure in the park.

c. In case of inadequate water supply for fire protection by regular fire-fighting equipment, a two (2) gallon fire extinguisher shall be provided and maintained by the park owner, in the ratio of one (1) to not more than ten (10) mobile homes or trailers. They shall be located conventionally throughout the court, and one (1) shall be placed in each public building, individual hose connections at each mobile home from the domestic water supply shall also be provided as an auxiliary source of water for fire protection.

**Section 405.176. Historic Preservation District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Building Design Standards.*

1. *Overview.*

a. These standards are prepared to provide general assistance to building, property and business owners of the City's downtown business district and the Historic Preservation District(s) ("HPD"). These standards are designed to advise building, property and business owners on the preservation and rehabilitation of properties located within a "HPD". The intent of these standards is to assist the long-term preservation of the area's significance through preservation of historical materials and features. The focus of rehabilitation includes materials, construction types, sizes and encompasses the facade of buildings within any area designated as a "HPD".

b. *"Rehabilitation"* is defined as the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property

which are significant to its historic, architectural and cultural values. It is recognized that rehabilitation may require repairs or alterations to provide efficient contemporary use; however, these repairs or alterations should not damage or destroy materials or features that are important in defining the building's historical character.

2. *Introduction to the standards.* Primary concerns for building rehabilitation focus on the building's important or "character defining" architectural materials and features yet make possible an efficient, contemporary use of the property. Identified below are key terms related to an approvable restoration/rehabilitation project:

   a. *Identify, retain and preserve.* It is important to identify, retain and preserve the architectural materials and features that are important in defining the historic character of the property. These architectural features should include, but are not limited to, windows, doors, ornamental ironwork, transoms, storefront ornamental brickwork.

   b. *Protect and maintain.* After materials and features are identified, issues to protect and maintain must be addressed. Protection and maintenance generally involves the least degree of intervention and is preparatory to other work.

   c. *Repair and replace.* Repair of character-defining materials and features is recommended whenever possible. Guidance for repair work is available from a variety of resources. Replacement of an entire feature with new material may be required due to a high degree of deterioration or damage. When replacement is appropriate, the entire feature should be replaced "in kind", as near to the original feature as possible, with a solution that is compatible to the property.

B. *Definitions.* The following definitions apply to this Section:

ALLEY — A thoroughfare through a block or buildings giving access to the rear of lots or buildings.

ALTERATION — Any act that changes one (1) or more of the features (including color) of a building's facade located within a "HPD".

BOARD OF ADJUSTMENT — The Board established pursuant to Section 405.270 of this Chapter.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Historic Preservation Commission (HPC) indicating its approval of the architectural appropriateness of plans for construction, alteration, removal or demolition of a building within a "HPD".

CERTIFICATE OF ECONOMIC HARDSHIP — A certificate issued by the HPC authorizing the alteration, construction, removal or demolition of a building in a "HPD", even though a certificate of appropriateness has previously been denied.

CITY — The City of Neosho, Missouri.

CONSTRUCTION — The act of adding an addition to an existing building or the erection of a new principal or accessory building.

DEMOLITION — Any act which destroys in part or in whole a building within a "HPD".

FACADE — The exterior surface of the building that is adjacent to a public thoroughfare or is in direct view of said thoroughfare. Alleys are not considered "public thoroughfare".

GOOD STANDING — A merchant or property owner who is current on all taxes, fees and assessments relating to such building or business within a "HPD".

HISTORIC PRESERVATION COMMISSION (HPC) — Members of the Historic Preservation Commission as outlined in City Ordinance Number 156-2003.

HISTORIC PRESERVATION DISTRICT ("HPD") — A geographic area designated as a historic preservation district by City ordinance.

MAINTENANCE — Preserving from failure or decline the facade of a building, without changing color, material or function.

REMOVAL — Any relocation of a building on its site or to another site.

REPAIR — Any change or emergency remedy that is not construction, removal, alteration or maintenance.

C. *Historic Preservation District Designation Procedure.* Overall boundaries for a Historic Preservation District(s) should be recommended by the Historic Preservation Commission to the City Council for passage.

D. *Certificate Of Appropriateness — When Required.* A certificate of appropriateness shall not be required for interior construction or interior alteration of any building within a "HPD". A certificate of appropriateness shall be required before the following actions affecting the facade of any building within a "HPD" may be undertaken:

1. Any construction, alteration, removal or any demolition in whole or in part regardless of whether a permit from the City is required.

2. Any construction, alteration, removal or demolition, in whole or in part, proposed by the City, for a City-owned landmark or building within a "HPD".

E. *Certificate Of Appropriateness — Procedure.*

1. An application for a certificate of appropriateness shall be made on forms provided by the City Clerk and approved by the HPC. The application shall identify the facts which support a determination that the proposed actions meet the standards for review and design guidelines set forth in this Section.

2. After determining that the application for certificate of appropriateness is complete, the City Clerk shall schedule the application for consideration by the HPC within thirty (30) days. If a fully completed application for a certificate of appropriateness has not been acted upon within thirty (30) days after the date the application was filed with the City Clerk, it shall be deemed approved unless tabled or continued with the consent of the applicant. No motion to table or continue shall be made without the consent of the applicant.

3. A denial of a certificate of appropriateness shall be accompanied by a statement of the reasons for the denial. The HPC shall make recommendations to the applicant concerning the changes, if any, in the proposed action that would cause the HPC to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the HPC. The applicant may resubmit an amended application that takes into consideration the recommendations of the HPC.

4. Any person aggrieved by the decision of the HPC may appeal to the Board of Adjustment by filing a notice of appeal with the City Clerk within thirty (30) days of the decision of the HPC. Notice of the HPC's decision shall be mailed to the applicant unless the applicant or the applicant's agent was present at the meeting at which the decision was made. The Board of Adjustment shall provide a hearing and render a decision.

F. *Certificate Of Appropriateness — Standards For Review And Design Guidelines.* In considering an application for a certificate of appropriateness, the HPC shall be guided by the following standards and design guidelines.

1. The distinguishing original qualities or character of a facade or site and its facade should not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

2. Changes which may have taken place in the course of time are evidence of the history and development of a building or site. Changes made prior to 1950 that have acquired significance in their own right should be treated the same as if they were part of the original facade.

3. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building or site should be preserved when possible.

4. Deteriorated architectural features should be repaired, rather than replaced, whenever practicable. If replacement is necessary, the new material should match the material being replaced in design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based upon accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings.

5. The surface cleaning of buildings should be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials should be avoided when possible.

6. Every reasonable effort should be made to protect and preserve archaeological resources affected by or adjacent to any project.

7. Contemporary design for alterations and additions to existing properties and for new construction may be permitted when such alterations, additions or new construction do not destroy significant historical, architectural or cultural material, and such design

is compatible with the size, scale, material, colors and character of the property, neighborhood.

8. Although alleys shall not be held to the standard of the building's facade, attention shall be given so as to not allow alleys to distract from the general qualities or character of the building's facade or the "HPD" in general. Alleys which are in direct view of a public thoroughfare shall be treated so as to aesthetically blend with the building. Any murals, paintings, images or advertisement shall be so designed as to identify, retain and preserve the features defining the historic character of the building.

9. Whenever possible, new construction, additions or alterations to buildings should be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the facade would be unimpaired.

10. The height of any proposed alteration should be compatible with the style and character of that building. The height of any proposed construction should be compatible with the style and character of the buildings within a "HPD".

11. The proportions and relationships between doors and windows should be compatible with the architectural style and character of the buildings within a "HPD".

12. The scale of the building after alteration, construction or partial demolition should be compatible with its architectural style and character and with buildings within a "HPD".

13. Facades should blend with other buildings with regard to directional expression. Buildings should be compatible with the dominant horizontal or vertical expression of buildings within the district. The directional expression of a building after alteration, construction or partial demolition should be compatible with its original architectural style and character.

14. Architectural details including materials and textures should be treated so as to make a building compatible with its original character or significant architectural style and to preserve and enhance the building or "HPD".

G. *Certificate Of Economic Hardship.*

1. A person whose application for a certificate of appropriateness has been denied or granted conditionally may apply for a certificate of economic hardship. Alternatively, an application for a certificate of economic hardship may be filed with the application for certificate of appropriateness. Applications shall be made on forms provided by the City Clerk and approved by the HPC. If a fully completed application for a certificate of economic hardship has not been acted upon within thirty (30) days after the date the application was filed with the City Clerk, it shall be deemed approved, unless tabled or continued with the consent of the applicant. No motion to table or continue shall be made without the consent of the applicant. The application shall identify facts which support a determination that denial of the application will deprive the owner of the property of reasonable use of or a reasonable economic return on the property.

2. An application for certificate of economic hardship may include the following information:

   a. Estimate of the cost of the proposed construction, alteration, repair, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the HPC for changes necessary for the issuance of a certificate of appropriateness.

   b. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation.

   c. Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, repair, demolition or removal; after any changes recommended by the HPC; and, in the case of a proposed demolition, after renovation of the existing property for continued use.

   d. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing building on the property.

   e. Applicant may demonstrate with factual data evidence that the hardship is not self-created. If the property is income producing, the applicant may provide detailed annual income and expense reports for the property for the last two (2) years, rent rates and capitalization rates for the property and comparable properties and any other pertinent information that would substantiate the applicant's claim concerning economic hardship.

   f. Appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property.

   g. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years.

   h. Assessed value of the property.

   i. Real estate taxes.

   j. Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture or other.

3. An application for a certificate of economic hardship, if not filed with the application for certificate of appropriateness, must be made within sixty (60) days of a decision on the application for certificate of appropriateness. The City Clerk shall schedule the application for consideration by the HPC within thirty (30) days.

4. Notice of the HPC's decision shall be mailed to the applicant unless the applicant or the applicant's agent was present at the meeting at which the decision was made.

5. Any person aggrieved by the decision of the HPC may appeal to the Board of Adjustment by filing a notice of appeal with the City Clerk within thirty (30) days of

the decision of the HPC. The Board of Adjustment shall provide a hearing and render a decision.

H. *Continuing Validity Of Certificates.* Certificates of appropriateness and certificates of economic hardship shall be issued for a period of eighteen (18) months and are renewable. Certificates of appropriateness and certificates of economic hardship shall become void if the work authorized by the certificate is not commenced within six (6) months of the date of issuance.

I. *Stop Work Orders.* The Building Inspector is authorized to issue a stop work order under the procedures set forth in the City's building code when any work on any building requiring a certificate of appropriateness is being performed without a certificate of appropriateness or a certificate of economic hardship or in violation of the terms of a certificate of appropriateness or a certificate of economic hardship.

J. *Signs.* All signs for buildings in a "HPD" not specified in the application for "HPD" designation must receive a certificate of appropriateness from the HPC, which shall review the proposed sign in accordance with the following general guidelines:

1. Signs should be designed and placed so as to appear an integral part of the building design and to respect the neighboring properties and the "HPD" in general.

2. Signs should be designed with appropriateness relative to the services of the establishment served.

3. Temporary signs for new businesses will be allowed while the certificate of appropriateness is being reviewed. These signs should follow the same guidelines as permanent signs.

4. Nothing contained in this Section should prevent the use of normal "for rent" and "for sale" signs, nor the use of normal advertising, promotional, seasonal or political signage.

K. Any owner offering property for sale which is located within a "HPD" is required to advise any potential purchasers or realtors listing property for sale that the property is located within a "HPD".

L. *City Property.* Proposed improvements, alterations, repairs, demolition or clearance to a building, site or object owned by the City within a "HPD" shall be approved according to the procedures and regulations of this Section.

M. *Property Owned By Public Agencies.* To accomplish the purposes of this Section, the City may enter into agreements with other units of government. The HPC may recommend and the City Council may authorize such agreements. Such agreements may address:

1. Designation of "HPD"s;

2. Improvements to properties within "HPD"s and properties adjacent to "HPD"s; and

3. Other mutually acceptable provisions.

N. *Churches.* Churches, mosques and synagogues in current use as houses of worship are exempt from the provisions of this Section; such houses of worship may voluntarily submit to the provisions of this Section. Any churches, mosques and synagogues created within a "HPD", subsequent to the execution of this Section, shall not be exempt.

O. *Violations.* In addition to the penalties provided for in this Chapter, any person who undertakes or causes an alteration, construction, repair, demolition or removal of any property within a "HPD" in violation of this Chapter shall be required to return the property to its appearance and setting prior to the violation. Any action to enforce this provision shall be brought by the City.

P. *Review.* District boundaries and designation status may be reviewed at the request of either the HPC or the petition of the owners of at least sixty percent (60%) of the Newton County tax parcels in the "HPD".

Q. Nothing contained in this Section shall affect any building permit, demolition permit or land disturbance permit issued for property which becomes part of a "HPD" if the permit was issued prior to such designation.

**Section 405.178. Downtown Historic Preservation District.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Establishment — Purpose — Permitted Uses.*

1. There is hereby established the Neosho Downtown Historic Preservation District.

2. The purpose of the Neosho Downtown Historic Preservation District "NDHPD" is to promote the educational, cultural, economic and general welfare of the community by:

   a. Preserving the distinctive historic, archaeological and architectural characteristics of Neosho which represent elements of the City's cultural, social, economic, political and architectural history;

   b. Fostering civic pride in the beauty and accomplishments of the past as represented in Neosho landmarks;

   c. Conserving and improving the value of property designated as landmarks; and

   d. Protecting and enhancing the attractiveness of the City to home buyers, tourists, visitors and shoppers and thereby supporting and promoting business and providing economic benefit to the City.

3. *Permitted uses.* Any use, accessory use or conditional use permitted in the zoning district in which the premises are situated and upon which the Neosho Downtown Historic Preservation District is superimposed.

B. *Boundaries.* Area boundaries within said area: The Neosho Downtown Historic Preservation District "NDHPD" encompasses the area bounded by:

B. Starting at the corner of Hickory and Jefferson, go east on Hickory to Lafayette turn north on Lafayette to McCord. Turn west on McCord until you come to the property line for Haas building. Turn north on the east side property line until you get to the north property

line and turn west. The idea is to include the Haas building property. Continue west in a straight line across Washington (this will be down the north property lines of the properties that are on the north side of McCord) until you come to Wood. Turn north on Wood to Brook. Turn west on Brook to Jefferson. Turn south on Jefferson to McCord. Turn west on McCord to College. Go west across College along property lines until you reconnect with McCord at the top of Big Spring Hill. Turn south on Big Spring Hill until you come to Big Spring Park. Continue south following the west boundary of Big Spring Park until you come to Hickory. Turn east on Hickory until you come to the east boundary of Big Spring Park and turn north. Continue north along the east boundary of Big Spring Park until you come to the property lines of the properties that sit on the south side of Spring. Turn east along the south side of those property lines until you come to Jefferson. Turn south on Jefferson until you come to Hickory, the point of beginning.

B. The boundaries of the "NDHPD" are hereby established as indicated on the map which is on file in the City offices and hereby made a part hereof.

C. *Definition.* As used in this Section, the following term shall have this prescribed meaning:

HISTORIC DISTRICT — An area designated as a historic district overlay by an ordinance of the City Council and which may contain within definable geographic boundaries one (1) or more landmarks and which may have within its boundaries other properties or structures which, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

D. *Superimposed Districts — Application.* To enable the superimposed district to operate in harmony with the plan for land use and population density embodied in the zoning regulations, the Neosho Downtown Historic Preservation District is created as a special district to be superimposed on the zoning districts contained in the zoning regulations or amendments hereto and are to be so designated by the City Council and depicted by a special symbol for their boundaries on the Zoning District Map. If there is a conflict between regulations of an underlying district and a superimposed district, the regulations of the superimposed district shall prevail.

ARTICLE III

**Additional Regulations**

**Section 405.180. Special Use Permits.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *General.*

1. Any use not permitted in the district in which it is located may be allowed in any district by special use permit of the City Council, after public hearing and after recommendation of the Planning and Zoning Commission, under such conditions as to the operation, site, development, parking, signs and time limit as may be deemed necessary in order that it will conform to the general intent and purpose of this Chapter. Such uses shall comply with the height and area regulations of the district in

which they may be located, except for any specific allowances made in the ordinance granting such special use permit.

2. Special use permits shall not be a substitute for rezoning but shall be allowed only where there are practical difficulties or particular hardships in the way of carrying out the strict letter of any of the provisions of this Chapter relating to the use, construction or alteration of buildings or structures or the use of land.

B. *Initial Applications.*

1. Applications for special use permits shall be considered at a public hearing before the Planning and Zoning Commission in the same manner as an application for rezoning of property. After such hearing the Planning and Zoning Commission shall make its findings of fact and recommendation to the City Council. The Planning and Zoning Commission may recommend such restrictions upon the operation, site, parking, signs and time limit of such permit as they find appropriate and necessary to ensure the guidelines set forth herein.

2. Special use permits may be permitted upon the showing of particular facts and circumstances which make the conditional use appropriate in the location in which the special use is proposed. Facts to be taken into account include the need for the special use, both in the neighborhood and in the community, and the effect on neighboring property values, on the use of neighboring property, on traffic patterns, and on the capacity of City facilities, such as water mains and sewer mains to serve the area.

3. However, in no case shall a special use permit be allowed to permit a non-conforming use which will materially interfere with the use of adjoining premises in conformity with the regulations applicable to the use district in which it is located.

C. *Renewals Of Permits.*

1. Special use may not be granted for more than three (3) consecutive years without a requirement that sixty (60) days prior to the expiration of such three (3) year period, the property owner shall successfully apply for a renewal of such permit for an additional three (3) year period. The initial grant of special use permit may limit the number of such renewals, but if no limit is set then the owner may apply for an additional three (3) year renewal without reference to the number previously granted such owner. Anything herein not withstanding, the initial grant of a special use permit may be limited to any period less than three (3) years.

2. *Procedure to renew.*

a. A property owner wishing to renew his/her special use permit shall make written application for same and pay a fee of fifty dollars ($50.00) to the City Collector. Immediately thereafter the City Building Inspector shall inspect the subject property determining if same is in compliance with the use granted. Within thirty (30) days of such application, the Building Inspector shall submit his/her findings to the Planning and Zoning Commission. Should the findings report the property as being in compliance with the use granted, Planning and

Zoning Commission shall enter upon its records the successful application and the date of its expiration.

b. Should the findings of the Building Inspector be that the subject property is not in compliance with the use granted, the Planning and Zoning Commission shall set a hearing, no later than forty-five (45) days from the date of application, at which time the said Commission shall consider the findings of the Building Inspector and, giving adequate notice to the property owner, shall consider evidence offered in behalf of the property owner. After being fully apprised, planning and zoning shall make a finding of whether the subject property is in fact in compliance with the granted use. If it is found to be in compliance, the application shall be successful and so noted on the records with the date of its expiration. Should the use be found not in compliance then the application shall be denied. An unsuccessful applicant may apply for rezoning or special use permit in accord with the procedures as though an initial application.

3. *Non-transferable.* Special use permits shall be granted to a particular owner(s) and may not be assigned or transferred to any other owner but shall automatically expire upon the transfer of ownership of any fee in such property.

D. *Miscellaneous.* A special permit granted by the Planning and Zoning Commission under this Section shall be considered as an amendment to the Zoning Code as applicable to such property. In granting such permit the Planning and Zoning Commission may impose conditions which shall be complied with by the grantee before any final public utility connection may be made with such building or property, and such conditions shall not be construed as conditions precedent to the granting of the special permit or the change in zoning of said property, but shall be considered a precedent to such final public utility connections.

**Section 405.190. Accessory Uses.** [Ord. No. 468-2011 §1, 3-15-2011]

A. A driveway or walk, as distinct from a dedicated street, to provide access to premises in a "C-1" Retail Business District to "M-2" Heavy Industrial District inclusive shall not be permitted in a "R-1" First Dwelling House District to "R-3" Apartment House District inclusive.

B. Buildings, structures, or uses which are accessory to the use permitted in one district shall not be permitted in a district of higher classification.

**Section 405.200. Non-Conforming Uses.** [Ord. No. 468-2011 §1, 3-15-2011]

A. *Non-Conforming Uses Discontinued.* The lawful use of a lot of record for storage purposes or advertising signs, and which contains no buildings, and which use for storage or signs is not permitted by this Chapter or by an amendment thereto, shall be discontinued within two (2) years from the date of the adoption of this Chapter or said amendment.

B. *Non-Conforming Uses Continued Or Changed.* The lawful use of a building existing at the time of the effective date of this Chapter may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming

use of a building may be changed to another non-conforming use of a higher classification. Whenever a non-conforming use has been changed to a use of higher classification, or to a conforming use, such use shall not thereafter be changed to a non-conforming use of lower classification.

C. *Non-Conforming Use Due To Change In Zoning.* Whenever the use of a building becomes non-conforming through an amendment to the Zoning Code or Zoning District Map, such use may be continued and if no structural alterations are made, it may be changed to another non-conforming use of a higher classification.

D. *Non-Conforming Use Stopped Or Discontinued.* In the event that a non-conforming use of any building or premises is discontinued, or its normal operation stopped, for a period of two (2) years, the use of the same shall thereafter conform to all regulations of the district in which it is located.

E. *Non-Conforming Use Enlarged.* A non-conforming use of a building may not be enlarged, extended, reconstructed, or altered unless such use is made to conform to the regulations of the district in which it is located; provided however, that in case of evident hardship a building containing a non-conforming use may be enlarged an amount not greater than twenty-five percent (25%) of its present ground floor area by variance from the Board of Adjustment after public hearing. A non-conforming use of a lot of record for storage purposes or for advertising signs, and which lot contains no buildings, shall not be extended, enlarged or expanded.

F. *Non-Conforming Use Destroyed Or Damaged.* When a building containing a non-conforming use is damaged by fire, explosion, or other casualty, act of God, or the public enemy to the extent of more than seventy-five percent (75%) of its reasonable value, exclusive of foundations, it shall not be restored, rebuilt, or repaired unless it is made to conform to the regulations of the district in which it is located. If a building containing a non-conforming use is damaged by fire, explosion, or other casualty, act of God, or the public enemy to the extent of less than seventy-five percent (75%) of its reasonable value, it may be restored to its original size, provided such restoration is completed within twelve (12) months of the date of destruction and further provided that any necessary litigation shall not be counted as part of the twelve (12) months allowed for restoration.

**Section 405.210. Height and Area Exceptions.** [Ord. No. 468-2011 §1, 3-15-2011]

A. The regulations and requirements as to height of buildings and area of lots which may be occupied by buildings, front yards, side yards, rear yards and other regulations and requirements in the foregoing Sections of this Chapter shall be subject to the following exceptions and additional regulations:

1. *Height.*

a. In any district, public or semi-public buildings, such as hospitals, hotels, churches, sanitariums, or schools, either public or private, where permitted, may be erected to height not exceeding seventy-five (75) feet provided that such buildings shall have yards which shall be increased one (1) foot on all sides for each additional foot that such buildings exceed in the specified height limit as

established by the regulations of the district in which such buildings are situated.

b. Dwellings in "R-1" First Dwelling House District or "R-2" Second Dwelling House District may be increased in height not exceeding ten (10) feet in addition to the limitations of two and one-half (2½) stories or thirty-five (35) feet, as prescribed in such districts, provided that two (2) side yards of not less than twenty (20) feet in width, each, are provided. In no case shall such dwelling, however, exceed three (3) stories in height.

c. Parapet walls and false mansards shall not extend more than six (6) feet above the height limit. Flagpoles, chimneys, cooling towers, elevator bulkheads, penthouses, finals, gas tanks, grain elevators, stacks, storage towers, radio towers, ornamental towers, monuments, cupolas, domes, spires, standpipes, and necessary mechanical appurtenances may be erected as to height in accordance with existing or hereafter enacted laws affecting the same.

d. On through lots one hundred twenty-five (125) feet or less in depth, the height of a building may be measured from the curb level of either street. On through lots of more than one hundred twenty-five (125) feet in depth, the height regulations for the street permitting the greater height shall apply to a depth of not more than one hundred twenty-five (125) feet from that street.

e. In any "C-3" Commercial Business District, hospitals may be erected to a height not exceeding sixty (60) feet or five (5) stories provided that the building is of fire-proof construction; and provided further, that there are streets on two (2) sides of the lot and that the building has two (2) side yards of less than twenty (20) feet.

2. *Area per family.*

a. On lots where a public or community sewer is not available, the Board of Adjustment may by variance reduce the minimum lot area per family after proof by established and approved tests that the soil conditions on that lot will safely permit a smaller absorption area.

b. For any building provided jointly for hotel and apartment house uses, the number of families permitted in apartments by the lot area requirements per family shall be reduced in the same proportion as the total floor area devoted to hotel or non-housekeeping rooms bears to the total floor area devoted to both uses.

c. For any building used jointly for business and dwelling purposes, the number of families permitted in apartments by the lot area requirements per family shall be reduced in the same proportion as the floor area devoted to business or industry bears to the entire floor area of the building, provided that floor area below the first (1st) floor of such buildings shall not be included in any calculation under this provision.

3. *Yard exceptions.*

a. In "R-1" First Dwelling House District, "R-2" Second Dwelling House District and "R-3" Apartment House District where lots comprising forty percent (40%) or more of the frontage, on the same side of a street between two (2) intersecting streets (excluding reverse corner lots) are developed with buildings having front yards with a variation of not more than ten (10) feet in depth, the average of such front yards shall establish the minimum front yard depth for the remainder of the frontage; provided that the Board of Adjustment may permit a variance in case of hardship or where the configuration of the ground is such as to make conformity with the front yard requirements impractical.

b. Where an official line has been established for future widening or opening of a street or highway upon which a lot abuts, then the depth or width of a yard shall be measured from such official line to the nearest line of the building.

c. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves; provided however, that none of the above projections shall extend into a court more than six (6) inches nor into a required yard more than thirty (30) inches; and provided further that canopies or open porches having a roof area not exceeding sixty (60) square feet may project a maximum of six (6) feet into the required front or rear yard; and existing open porches extending into the required yard shall not be enclosed.

d. An open fire escape may project into a required side yard not more than half of the width of such yard, but not more than four (4) feet from the building. Fire escapes, solid floored balconies and enclosed outside stairways may project not more than four (4) feet into the rear yard.

e. In any district, a detached accessory building not exceeding twenty-four (24) feet or two (2) stories in height, or in any case not higher than the main building, may occupy not more than thirty percent (30%) of a rear yard.

f. On any corner lot there shall be no planting, structure, fences or obstruction to vision more than three (3) feet higher than the curb level within twenty-five (25) feet of the intersection of the street lines.

g. Except as specifically required, buildings in "C-1" Retail Business District, "M-1" Light Industrial District, or "M-2" Heavy Industrial District, used wholly or partially for business or industrial purposes, need not provide a side yard, provided that portions of such buildings which are designed or used for dwelling purposes shall provide on any floor so used, in addition to the front and rear yard requirements, open space equivalent to the area of side yards for buildings used exclusively for dwelling purposes in the district in which such building is situated. Such open space may be in the form of additional front or rear yards or one (1) or more courts opening to the street or rear yard, provided that:

(1) No court shall have a width of less than ten (10) feet, nor a width of less than two and one-half (2½) inches for each foot of height of the court.

(2) That the width of any portion of a required side yard as provided in these regulations may be considered a part of such court.

h. No rear yard shall be required in "C-1" Retail Business District to "M-2" Heavy Industrial District inclusive on any lot used for business or industrial purposes, the rear line of which adjoins a railway right-of-way or which has a rear railway track connection.

i. In computing the depth of a rear yard for any building where such yard abuts an alley, one-half (½) of such alley may be assumed to be a portion of the rear yard.

j. A through lot having one (1) end abutting a limited access highway, with no access permitted to that lot from said highway, shall be deemed to front upon the street which gives access to that lot.

**Section 405.220. Housing Projects.** [Ord. No. 468-2011 §1, 3-15-2011]

A. The owner or owners of any tract of land comprising an area of not less than five (5) acres in any district except "M-2" Heavy Industrial District may submit to the Planning and Zoning Commission of the City of Neosho a plan for the use and development of all of the tract of land for residential purposes or for the repair and alteration of any existing housing development on an area comprising five (5) acres or more, and shall present specific evidence and facts showing whether or not the proposed plan meets the following conditions.

1. That property adjacent to the area included in the plan will not be adversely affected.

2. That the plan is consistent with the intent and purpose of this Chapter to promote public health, safety, morals and general welfare.

3. That the buildings shall be used only for single-family dwellings, two-family dwellings or multiple dwellings and the usual accessory uses, such as garages, storage space or community or administrative activities.

4. That the average lot area contained in the site will not be less than two thousand (2,000) square feet per family.

5. That the buildings do not exceed two (2) stories in height.

B. The plan need not provide for the customary street and lot layout, or the normal application of the yard and area requirements to individual building units.

C. If the Planning and Zoning Commission and the City Council approve the plans, after a public hearing thereon, building permits and certificates of occupancy may be issued even though the location of the buildings to be erected in the area, and the yards and open spaces contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.

**Section 405.230. Off-Street Parking and Loading.** [Ord. No. 468-2011 §1, 3-15-2011; Ord. No. 19-2014 §1, 5-20-2014]

A. For all buildings or structures hereafter erected, constructed, reconstructed, moved or altered, except those located in the "C-3" Commercial Business District, off-street parking in the form of private garages, carports or open areas made available exclusively for that purpose shall be provided. The parking area provided for each car space shall be at least eight and five-tenths (8.5) by twenty (20) feet plus the maneuvering space necessary to utilize each space. No portion of a parking area except the necessary drives shall extend into a public street or alley. Entrances to and exits from parking areas from a street shall be not greater than thirty-five (35) feet in width. Any lights used to illuminate said parking areas shall be directed away from any adjacent residential district.

1. *Parking for one- and two-family dwellings.* For all one- and two-family dwellings there shall be provided one (1) off-street parking space for each family unit, such parking area to be located in the front, side or rear yard on the same lot as the main building or buildings, or in a community garage in the same block.

2. *Parking for apartments, apartment hotels, hotels, clubs, motels, tourist courts and homes for aged or retired.* For all apartment houses and apartment hotels, there shall be provided one (1) off-street parking space in the front, side or rear yard for each family unit. For all hotels, clubs, motels, tourist courts and homes for aged or retired, there shall be provided one (1) off-street parking space for each sleeping room. In addition, any restaurant which is an accessory use to any of the above uses shall provide one (1) off-street parking space for each four (4) patron seats in said restaurant. Such parking area shall be located on the same lot as the main building, or on a lot within five hundred (500) feet either on land zoned for business or industry, or by special use permit on land zoned for residence.

3. *Parking for hospitals, nursing homes and institutions.* For all hospitals, nursing homes and institutions there shall be provided one (1) off-street parking space for each three (3) beds plus one (1) space for each two (2) staff members and employees. Penal institutions need only to provide parking for the staff and employees. Such parking area shall be located on the same lot as the main building, or on a lot within five hundred (500) feet either on land zoned for business or industry, or by special use permit on land zoned for residence.

4. *Parking for places of assembly.* For all theaters, churches, funeral chapels, stadiums and auditoriums there shall be provided one (1) off-street parking space for each four (4) patron seats. Such parking area shall be located on the same lot as the main building, or on a lot within five hundred (500) feet either on land zoned for business or industry, or by special use permit on land zoned for residence.

5. *Parking for business buildings.* For all business or commercial buildings there shall be provided one (1) off-street parking space for each two hundred (200) square feet of service floor area in the building. Such parking area shall be located on the same lot as the main building or on a lot within five hundred (500) feet either on land zoned for business or industry, or by special use permit on land zoned for residence.

6. *Parking for industrial buildings.* For all industrial buildings there shall be provided one (1) off-street parking space for each two (2) employees. Such parking area shall be located on the same lot as the main building or within five hundred (500) feet either on land zoned for business or industry or by special use permit on land zoned for residence.

7. Parking for agricultural business and commercial employee parking must be provided for off the street.

B. The Board may grant a variance reducing the number of spaces required above, provided that it is proven that such number of spaces required above is unnecessary for that specific use, or that to provide such number of spaces required above would work undue hardship on the applicant.

C. All parking areas required above shall be constructed of asphalt, concrete pavement or parking pavers, and a solid fence or wall not less than three (3) feet in height shall be constructed as a screen between any such parking area and abutting lot in "R-1" First Dwelling House District to "R-3" Apartment House District, inclusive.

**Section 405.240. Signs.** [Ord. No. 468-2011 §1, 3-15-2011]

A. Signs shall be permitted in all districts as follows:

1. *Districts "R-1" First Dwelling House District and "R-2" Second Dwelling House District.*

a. One (1) non-illuminated sign per building, not more than one (1) square foot in area, mounted on the building, indicating a permitted home occupation.

b. One (1) non-illuminated "For Sale" or "For Rent" sign per lot, not more than eight (8) square feet in area.

c. Two (2) illuminated or non-illuminated sign per church, not more than sixteen (16) square feet in area on church premises, indicating activities and services therein provided.

d. One (1) non-illuminated sign per building, not more than sixteen (16) square feet in area, showing names of architects, engineers, buildings or contractors, on the premises of a building being constructed, provided such sign shall be removed upon completion of the building.

e. Garage sale signs shall be allowed on the day of the sale and must be removed by the day after the sale. The maximum size for any one (1) sign shall be four (4) square feet.

2. *District "R-3" Apartment House District.*

a. Signs shall be permitted as provided under "R-1" First Dwelling House District above.

b. In "R-3" Apartment House District one (1) non-illuminated sign, not more than four (4) square feet in area, shall be permitted at each major entrance to the

building, provided such sign shall be attached flat against the wall of said building, projecting not more than three (3) inches therefrom, and shall bear no advertising.

3. *District "C-O" Non-Retail District.*

   a. Signs shall be permitted for uses permitted in "R-1" First Dwelling House District, "R-2" Second Dwelling House District and "R-3" Apartment House District, which are located in this district, as provided under "R-3" Apartment House District above.

   b. Not more than two (2) non-illuminated signs, not more than sixteen (16) square feet each in area, shall be permitted on each office building or mortuary, provided such sign shall be attached flat against the wall of said building, projecting not more than six (6) inches therefrom, and shall indicate only the name of the building or establishments housed therein. In addition, one (1) non-illuminated sign not more than four (4) square feet in area shall be permitted at each major entrance to the building, provided such sign shall be attached flat against the wall of said building, projecting not more than six (6) inches therefrom, and shall bear no advertising.

4. *District "C-1" Retail Business District.* Signs limited to those listing name of, or products, activities or services offered on the premises and as otherwise listed under "C-O" Non-Retail District. Such signs shall comply with the height and yard regulations of the "C-1" Retail Business District.

5. *Districts "C-2" General Business District, "M-1" Light Industrial District and "M-2" Heavy Industrial District.* In Districts "C-2", "M-1" and "M-2", signs of all types shall be permitted, where otherwise permitted by ordinance, provided such signs shall comply with the height and yard regulations of the district in which they are located. All signs visible from any point beyond the lot line shall be subject to these regulations.

## ARTICLE IV

## **Administration**

**Section 405.250. Building Permits.** [Ord. No. 468-2011 §1, 3-15-2011]

A. The Building Inspector or his/her duly authorized representative shall have the power to enforce the provisions of this Chapter. No building or other structure shall be erected, constructed, reconstructed or moved, nor shall it be altered without first obtaining a building permit from the Building Inspector to be issued in accordance with the terms of this Chapter. The Building Inspector is further empowered to word in writing the remedying of any condition found to exist therein or thereafter in violation of any provision of the regulations enumerated in this Chapter.

B. Applications for building permits shall be filed with the Building Inspector upon forms prescribed, setting forth, among other things, the legal description of the lot, tract or parcel

of land, together with a general description of the building or structure to be constructed, erected or altered thereon including the approximate size and shape, location of the building or structure upon the lot, tract or parcel and the intended use.

C. No such permit shall be issued for any building, structure or construction unless the same be in conformity in every respect with all the provisions of this Zoning Code.

D. The Building Inspector shall be empowered to act within the provisions of this Chapter upon all applications for building permits, and the same shall be approved or denied not later than the fifth (5th) business day succeeding the day of filing. In the event of refusal to issue a permit upon application, as herein provided, the applicant may perfect an appeal to the Board of Adjustment as provided in Section 405.270.

E. There shall be a separate permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the permit for the main building when construction is simultaneous.

F. A permit may be revoked by the Building Inspector at any time prior to the completion of the building or structure for which the same was issued when it shall appear that there is departure from the plans, specification or conditions as required under the terms of the permit, that the same was procured by false representation or was issued by mistake, or that any of the provisions of the Zoning Code are being violated. Upon the failure, refusal or neglect of any owner, his/her agent, contractor or duly authorized representative to secure such permit and pay the prescribed fee therefor, as herein provided, the Building Inspector may issue a stop order, provided however, twenty-four (24) hours' written notice of such revocation or order to stop shall be served upon the owner, his/her agent, or contractor, or upon any person employed upon the building or structure for which such permit was issued, and thereafter no such construction shall proceed.

**Section 405.260. Completion of Buildings.** [Ord. No. 468-2011 §1, 3-15-2011]

A. The Board of Adjustment may, during a period of one (1) year from the date of the adoption of this Chapter, and after public hearing, order the Building Inspector to issue a building permit for the erection, construction, reconstruction or alteration of a building or structure, which building or structure cannot reasonably comply with one (1) or more of the provisions of this Chapter, provided:

1. A vested right in such building or structure has been acquired by the applicant and that the existence of such vested right be proven beyond reasonable doubt.

2. A substantial amount of said vested right would be lost if all regulations of this Chapter were complied with.

3. Said erection, construction, reconstruction, or alteration be carried out diligently and be completed within one (1) year of the date of the building permit issued therefor.

**Section 405.270. Board of Adjustment — Powers and Duties.** [Ord. No. 468-2011 §1, 3-15-2011]

A. A Board of Adjustment is hereby established in accordance with the provisions of Chapter 89, RSMo., regarding the zoning of Cities. The word *"Board"*, when used in this Chapter, shall be construed to mean Board of Adjustment.

B. The Board shall consist of five (5) residents appointed by the Mayor and approved by the City Council. The term of the office of the members of the Board shall be for five (5) years, excepting that five (5) members first (1st) appointed shall serve respectively for terms of one (1) year; two (2) years; three (3) years; four (4) years; and five (5) years; thereafter members shall be appointed for terms of five (5) years each. The members shall elect their own Chairman and Secretary, who shall serve for one (1) year. Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Mayor and the City Council upon written charges and after public hearing. The Board shall adopt rules of procedure in accordance with the provisions of this Chapter. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his/her absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board for that purpose. The presence of three (3) members of the Board shall constitute a quorum for the transaction of business, provided however, that the concurring vote of four (4) members of the Board shall be necessary to effect a ruling in favor of an appellant.

C. *Appeals.* Appeals to the Board of Adjustment may be taken by any person aggrieved or by any office, department, or board of the City of Neosho affected by any decision of the Building Inspector. Such appeal shall be taken within thirty (30) days by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal in writing specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

D. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, 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/her opinion cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by the Circuit Court, on application or notice to said officer and on due cause shown.

E. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give public notice thereof by publication one (1) time in a local newspaper of general circulation not less than five (5) nor more than fifteen (15) days prior to said hearing, as well as due notice to the parties in interest. Upon the hearing, any party may appear in person or by agent or by attorney.

F. The Board shall render its decision within thirty (30) days of such hearing. The appellant and the officer appealed from shall be notified in writing of the decision of the Board.

G. The Board of Adjustment shall render decisions only on appeals from an action of the Building Inspector. The Board shall render a decision only when it has determined that a permit has been incorrectly issued or denied, or when it has determined that the ordinance has been incorrectly interpreted, or when the appellant proves undue and unnecessary hardship due to a provision or provisions herein contained as applied to a specific lot or tract. In case an unnecessary or undue hardship, due to peculiar characteristics of a specific lot or tract, is proven, the Board may issue a variance, signed by the Chairman, and setting out any conditions to be met. A copy of the variance shall be sent to the Building Inspector who shall issue a building permit setting out the terms of the variance. In no case shall the Board of Adjustment issue a variance or an order permitting a use to be placed in a district in which it is not permitted in this Chapter, except as provided in Section 405.260. In no case shall the Board decide an appeal from an action of the City Council. The concurring vote of four (4) members of the Board shall be necessary to effect a decision. In all cases the spirit and intent of this Chapter shall be observed, public safety and welfare secured, and substantial justice done.

H. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this Chapter, 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 officer from whom the appeal is taken.

I. Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, or any officer, department, board, or bureau of the City of Neosho may present to the Circuit Court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to the court within thirty (30) days after the filing of the decision in the office of the Board and thereafter proceedings shall be had thereon as provided by Section 89.110, RSMo., and amendments thereto.

**Section 405.280. Certificate of Occupancy.** [Ord. No. 468-2011 §1, 3-15-2011]

A. Subsequent to the effective date of this Chapter, no change in the character of use or in the occupancy classification of land or of a building shall be made, nor shall any new building be occupied, until a certificate of occupancy has been issued by the Building Inspector. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this Chapter.

B. No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and permit is issued.

C. A certificate of occupancy shall be required of all lawful non-conforming uses of land or buildings erected at the time of passage of this Chapter. Application for such certificates of occupancy for non-conforming uses shall be filed with the Building Inspector by the owner or lessee of the land or building occupied by such non-conforming use within two (2) years from the effective date of this Chapter.

D. It shall be the duty of the Building Inspector to issue a certificate of occupancy for a lawful non-conforming use, but failure to apply for such certificate of occupancy for non-conforming use or failure of the Building Inspector to issue such certificate of occupancy for non-conforming use shall be considered evidence that such non-conforming use did not lawfully exist at the effective date of this Chapter.

E. A record of all certificates of occupancy shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected by such certificate of occupancy.

**Section 405.290. Interpretation, Purpose and Conflict.** [Ord. No. 468-2011 §1, 3-15-2011]

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this Chapter 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 Chapter imposes a greater restriction, or higher standard, this Chapter shall control.

**Section 405.300. Procedure for Amendments, Special Use Permits, and Applications for Abandonment or Vacation of Streets and Alleys.** [Ord. No. 468-2011 §1, 3-15-2011]

A. Applications for amendment, revision or change of the Zoning District Map of Neosho may be made by any person, or his/her agent, who owns the land sought to be rezoned. 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 by the Planning and Zoning Commission 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 Code of Neosho, other than the Zoning District Map, or application for a special use permit, or application for vacation of streets and alleys, may be made by any interested person on forms prescribed by the Planning and Zoning Commission and duly filed with the City Clerk.

C. A fee of twenty-five dollars ($25.00), plus such sum as may be expended for publication and notice as hereinafter provided, shall accompany each application for an amendment or special use permit or application for vacation of streets and alleys. Immediately upon receipt of such application, the City Clerk shall note thereon the date of filing and make a permanent record thereof.

D. All such applications shall be set down for hearing before the Planning and Zoning Commission and not later than the second (2nd) regular monthly meeting of the Commission from the date of filing the same. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Commission be continued. Notice of such hearing shall be published in two (2) issues (not successive) of a newspaper of general circulation within the City of Neosho, the first (1st) of such notices to be published not more than fifteen (15) days and not less than five (5) days prior to date of said hearing before the Commission. In addition to published notice as herein provided, there shall be posted in four (4) places on the boundaries and at or near the corners of the area affected by

the proposed change, placards measuring at least eight (8) inches by ten (10) inches in dimension, and carrying wording substantially as follows:

THIS PROPERTY IS THE SUBJECT OF
AN APPLICATION FOR
ZONING CHANGE

FROM _____

CLASSIFICATION

TO _____

CLASSIFICATION

HEARING ON SAID APPLICATION WILL BE HELD BEFORE THE _____ ON THE ____ DAY OF _____ 20__ AT ___ O'CLOCK __M. AT THE _____

OR

SPECIAL USE PERMIT

TO ALLOW THE FOLLOWING SPECIAL USE:

_____

HEARING ON SAID APPLICATION WILL BE HELD BEFORE THE _____ ON THE _____ DAY OF _____ 20__ AT ___ O'CLOCK __M. AT THE _____

OR

VACATION OF A STREET

FROM _____

TO _____

HEARING ON SAID APPLICATION WILL BE HELD BEFORE THE _____ ON THE ____ DAY OF _____ 20__ AT ___ O'CLOCK __M. AT THE _____

| |
|---|
| |

E. Upon the final hearing of such application the Commission shall approve or deny the same and a report of such action, together with a recommendation for final approval or denial shall be made by the Commission to the City Council.

F. Before acting upon any application for amendment or special use permit, the Council shall set a time and place for a hearing thereon, notice of which hearing shall be published at least one (1) time in a newspaper of general circulation in the City of Neosho, not less than fifteen (15) days prior to the date of such hearing.

G. Recommendations for revision, or amendment of this Chapter, including the Zoning District Map, may also be made by Planning Commission upon its own motion, for final determination by the City Council; likewise the City Council may revise, modify or amend this Chapter, including the Zoning District Map, upon its own motion; provided however, such proposed changes shall first be submitted to the Planning and Zoning Commission for recommendation and report. In either case final action thereon shall be taken only upon notice and hearing, as provided herein.

H. In case of a protest against a change in regulations, restrictions or boundaries is duly signed and acknowledged by owners of thirty percent (30%) or more, either of the areas of the 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 amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the City Council. Provided further that as to the vacation or abandonment of streets, such vacation or abandonment shall not become effective except by favorable vote of two-thirds (2/3) of all members of the City Council, unless a consent of the persons owning two-thirds (2/3) of the property immediately adjoining thereto be obtained therefore in writing, which consent shall be acknowledged by the City Clerk and filed for record in the office of the City Clerk in said City.

I. A signature of an owner is deemed acknowledged only if it is signed before a notary public or before the City Clerk.

J. A signature by one (1) owner of a tenancy by the entirety is insufficient and void.

**Section 405.310. Violation and Penalty.** [Ord. No. 468-2011 §1, 3-15-2011]

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 this Chapter, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings 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 Inspector, 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 regulations enumerated herein.

B. The owner or general agent of a building or premises in or upon which a violation of any provision of this Chapter has been committed or shall exist; or the lessee or tenant of an

entire building or entire premises in or upon which violation has been committed or shall exist; or the owner, general agent, lessee or tenant of any part of the building or premises in or upon which such violation has been committed or shall exist; or the general agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars ($10.00) and not more than one hundred dollars ($100.00) for each and every day that such violation continues, but if the offense be willful, on conviction thereof the punishment shall be a fine of not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) for each and every day that such violation shall continue, or by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. Any such person who, having been served with an order to remove any such violation, shall fail to comply with said order within ten (10) days after such service, or shall continue to violate any provision of these regulations in the respect named in such order, shall also be subject to a civil penalty of two hundred fifty dollars ($250.00).

**Section 405.320. Saving Clause.** [Ord. No. 468-2011 §1, 3-15-2011]

All rights or remedies of the City of Neosho are expressly saved as to any and all violations of previous zoning regulations or amendments thereto of said City that have accrued at the time of the effective date of this Chapter (April 2, 1985); and as to such accrued violations, the City and the courts shall have all the powers that existed prior to the effective date of this Chapter; and all existing violations of previous zoning regulations which would otherwise become non-conforming uses under this Chapter shall not become legal non-conforming uses under this Chapter, but shall be a violation of this Chapter in the same manner that they were violations of prior zoning regulations.

# Chapter 410

## SUBDIVISION REGULATIONS

**Section 410.010. Interpretation and Purposes.** [CC 1979 App. A §2; Ord. No. 827 §2, 10-17-1972; Ord. No. 137-2002 §1, 4-1-2003]

In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements adopted for the protection of the public health, safety and welfare. To protect the public, among other purposes, such provisions are intended to provide for permanently wholesome community environment, adequate municipal services and safe streets.

**Section 410.020. Scope.** [CC 1979 App. A §3; Ord. No. 827 §3, 10-17-1972; Ord. No. 137-2003 §1, 4-1-2003]

This Chapter shall apply to any lot or lots forming a part of a subdivision created and recorded after the effective date of this Chapter. Nor is it intended by this Chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Chapter, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the City is a party. Where this Chapter imposes a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall control.

**Section 410.030. Approving Agency.** [CC 1979 App. A §4; Ord. No. 827 §4, 10-17-1972; Ord. No. 137-2003 §1, 4-1-2003]

The provisions of this Chapter shall be administered by the City Manager and/or designee. The Planning and Zoning Commission shall act as the public review and recommendation board prior to submission for Council approval.

**Section 410.040. Definitions.** [CC 1979 App. A §5; Ord. No. 827 §5, 10-17-1972; Ord. No. 1123, 11-3-1981; Ord. No. 137-2003 §1, 4-1-2003; Ord. No. 392-2009 §1, 5-5-2009]

For the purposes of this Section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word *"shall"* is always mandatory and not merely directory.

CITY — The City of Neosho, Missouri.

CITY COUNCIL — The City Council of the City of Neosho, Missouri.

FINAL PLAT — The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the City Manager and/or designee and the Planning and Zoning Commission for approval and which, if approved by the City Council, will be submitted to the County Recorder for recording.

LOT — A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map or by metes and bounds, for the purpose of sale or lease to, or separate use of, another.

LOT SPLIT — A division of a parcel of land into two (2) lots or parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land which may be ordered or approved by a court or affected by testamentary or in testate provisions, or a division of land for agricultural purposes into lots or parcels of ten (10) acres or more and not involving a new street shall not be deemed a subdivision. The term "subdivision" includes "resubdivision" and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

OFFICIAL MAP — The map established by the City showing the streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the City or additions thereto resulting from the approval of subdivision plats by the Neosho City Council and the subsequent filing of such approved plats.

OWNER — Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Chapter.

PLANNING COMMISSION — The Planning and Zoning Commission of the City of Neosho, Missouri.

PRELIMINARY PLAT — The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning and Zoning Commission for its consideration.

STREETS AND ALLEYS — *"Street"* is a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

1. *"Alley"* is a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street;

2. *"Cul-de-sac"* or *"Dead-end street"* is a minor street with only one (1) outlet;

3. *"Width, street"* is the shortest distance between the lines delineating the right-of-way of a street.

SUBDIVIDER — Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under this Chapter to effect a subdivision of land hereunder for himself/herself or for another.

SUBDIVISION — The division of a parcel of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land which may be ordered or approved by a court or affected by testamentary or in testate provisions, or a division of land for agricultural purposes into lots or parcels of ten (10) acres or more and not involving a new street shall not be deemed a subdivision. The term *"subdivision"* includes *"resubdivision"* and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The term shall include any division in an existing subdivision of two (2) or more parcels into three (3) or more parcels for the purpose of transfer of ownership or building development, whether the newly created parcels are divided simultaneously or in stages.

**Section 410.050. Application of Regulations.** [CC 1979 App. A §6; Ord. No. 827 §6, 10-17-1972; Ord. No. 137-2003 §1, 4-1-2003]

Except as provided in this Chapter, no person shall subdivide any tract of land which is located within the City except in conformity with the provisions of this Chapter.

**Section 410.060. Enforcement.** [CC 1979 App. A §7; Ord. No. 827 §7, 10-17-1972; Ord. No. 137-2003 §1, 4-1-2003]

A. *Recording Of Plat.* No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until it shall have been approved in the manner prescribed herein. In the event any such unapproved plat is recorded, it shall be considered invalid.

B. *Sale Of Land In Subdivision.* No owner or agent of the owner of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, exhibition of, or by the use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed herein. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of this Chapter.

C. *Permits.* The Building Inspector shall not issue building or repair permits for any structure on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed herein.

D. *Public Improvements.* The City hereby defines its policy to be that the City will withhold all public improvements of whatsoever nature, including the maintenance of streets and the furnishing of sewerage facilities and water service, from all subdivisions which have not been approved and from all areas dedicated to the public which have not been accepted by the Council in the manner prescribed herein.

E. *Revision Of Plat After Approval.* No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the Commission, and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning and Zoning Commission.

**Section 410.070. Procedure.** [CC 1979 App. A §8; Ord. No. 827 §8, 10-17-1972; Ord. No. 1030 §§1, 2, 4-17-1979; Ord. No. 18-2000 §1, 4-18-2000; Ord. No. 137-2003 §1, 4-1-2003]

A. *Preliminary Plat.*

1. *Contents.* The preliminary plat shall show, on a map, all the facts needed to enable the City Manager or designee and the City Planning and Zoning Commission to determine whether the proposed layout of the land in a subdivision is satisfactory from the standpoint of public interest.

2. *Preparation.* The preliminary plat shall be prepared by a registered engineer or surveyor. The design of all streets, stormwater retention, sewer and water shall be designed by a registered engineer and plans shall contain a registered engineer's stamp.

3. *Filing.* Fifteen (15) days prior to the Planning and Zoning Commission meeting at which consideration is desired the subdivider shall file an application for preliminary approval with the City Clerk and at least fifteen (15) copies of the preliminary plat according to the standards and other provisions of these regulations.

4. *Approval.*

a. *Time requirement.* The City Manager or designee and the City Planning and Zoning Commission shall act on the preliminary plat within sixty (60) days after filing unless such time is extended by agreement. If no action is taken by the City Manager or designee and the City Planning and Zoning Commission within said sixty (60) days after filing or such longer period as may have been agreed upon, the preliminary plat as filed shall be deemed approved and it shall be the duty of the Chairman of the Planning and Zoning Commission to comply with (b)(1) below.

b. *Notice of action taken.* The Planning and Zoning Commission shall determine whether the preliminary plat shall be approved, approved with modifications or disapproved and shall give notice to the subdivider in the following manner:

(1) If approved, the Chairman of the Planning and Zoning Commission shall affix his/her signature to the plat and attach thereto a notation that it has received preliminary approval and return it to the subdivider for compliance with final approval requirements.

(2) If approved with modifications or disapproved, the Chairman of the Planning and Zoning Commission shall attach to the plat a statement of the reasons for such action and return it to the subdivider. In any case, a notation of the action taken, and requisite reasons therefore, shall be entered in the records of the Planning and Zoning Commission.

c. *Effect of approval.* Approval of the preliminary plat by the Commission shall not constitute final acceptance of the subdivision by the Council.

d. *Right of subdivider after approval.* Preliminary approval shall confer upon the subdivider the right for a one (1) year period from the date of approval that the general terms and conditions under which the preliminary approval was granted will not be changed.

B. *Final Plat.*

1. *Scope.* The final plat will have incorporated all changes or modifications required by the City Manager or designee and the Planning and Zoning Commission, otherwise it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat, which the subdivider proposes to record and develop at the time, provided that such portion conforms with all the requirements of this Chapter.

2. *Preparation.* The final plat shall be prepared by a registered engineer or surveyor. The design of all streets, stormwater retention, sewer and water shall be designed by a registered engineer and plans shall contain a registered engineer's stamp.

3. *Filing.*

a. *Required matter.* After receiving notice of the action of the City Manager or designee and the Planning and Zoning Commission approving the preliminary plat, the subdivider shall proceed to file with the City Council:

(1) Nine (9) copies of the final plat;

(2) A written application for final approval;

(3) A statement by the City certifying that it is in receipt of, and approves of a map showing all streets, stormwater improvements and utilities in exact location and elevation, identifying those portions already installed and those to be installed and that the subdivider has complied with Subsection (B) above.

b. *Time limits.* The final map shall be filed not later than one hundred twenty (120) days after the date of approval of the preliminary plat, otherwise it will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by, the Council. The final plat shall be filed at least five (5) working days prior to the meeting at which it is to be considered. The final plat shall be considered officially filed after it is examined by the Council and is found to be in full compliance with the formal provisions of these regulations accepted by the Council and approval by the Council certified thereon.

c. *Recording.* The subdivider shall record an original and nine (9) copies of the final plat in the office of the County Recorder of Newton County,

Missouri, within thirty (30) days after the date of approval, otherwise the final plat shall be considered void.

C. *Improvements.* Prior to any construction taking place or a building permit being issued for construction within any subdivision in the City of Neosho, Missouri, or prior to a subdivider offering lots for sale to the public for the purpose of building homes or structures thereon, all improvements required by Section 410.090 shall have been constructed servicing the lot or lots to be sold or to be built upon.

**Section 410.080. Subdivision Design Standards.** [CC 1979 App. A §9; Ord. No. 827 §9, 10-17-1972; Ord. No. 97-15 §1, 5-6-1997; Ord. No. 137-2003 §1, 4-1-2003; Ord. No. 301-2007 §1, 8-7-2007]

A. *Conformity With Master Plan And Official Map.* The proposed subdivision shall conform to the Master Plan and Official Map.

B. *Streets.*

1. *Conformity.* The arrangement, character, extent, width, grade and location of all streets shall conform to the Official Map and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Where not shown on the Official Map, the arrangement and other design standards of streets shall conform to the provisions found herein.

2. *Relation to adjoining street system.* The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas.

3. *Projection of streets.* Where adjoining areas are not subdivided, the arrangement of streets in new subdivision shall make provision for the proper projection of streets.

4. *Streets to be carried to property lines.* In such occasions when the developing subdivision adjoins unsubdivided property which may be subsequently divided, all new streets shall either be carried to the exact boundaries or in the alternative road/street easements shall be granted to the City for purposes of future extension of said road to the exact boundary of the adjoining property. It is strictly prohibited to retain a portion of land between the property boundary and the termination of the street which would result in the inability to extend the road/street at a future date.

5. *Street jogs prohibited.* Street jogs with centerline offsets of less than one hundred fifty (150) feet shall be avoided.

6. *Dead-end street or cul-de-sac.* Dead-end streets or culs-de-sac, designed to be so permanently, shall not be longer than seven hundred (700) feet and shall be provided at the closed end with a turnaround having an outside street property line diameter of at least one hundred (100) feet. If a dead-end street is of a

temporary nature, a similar turnaround shall be provided and provision made for future extension of the street into adjoining properties.

7. *Street widths.* Street widths shall not be less than fifty (50) feet. Surfaced portion shall be not less than twenty-six (26) feet in width exclusive of curb and gutter. Streets shall be constructed on a level plane with a standard center crown, unless otherwised approved by the City under special conditions.

8. *Intersections.* The intersection of more than two (2) streets at one (1) point shall be avoided except where it is impracticable to secure a proper street system otherwise. Streets shall intersect one another at an angle as near to a right angle as possible. Street intersections shall be rounded with a radius of twenty (20) feet measured at the back of curbs when the said intersection occurs at right angles. If an intersection occurs at an angle other than a right angle, it shall be rounded with a curve of a radius acceptable to the City Manager or designee and the Planning and Zoning Commission.

9. *Subdivision into tracts larger than ordinary building lots.* Where a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further resubdivision.

10. *Half-streets prohibited.* Half-streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

11. *Street names and numbers.* Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted streets.

12. *Access to streets across ditches.* The subdivider shall provide access to all proposed streets, across all ditches, in a standard method approved by the City.

13. *Vacation of streets.* The Council shall not vacate any street or part of a street dedicated for public use if such vacation interferes with the uniformity of the existing street pattern or any future street plans prepared for the area.

14. *Flood retention basins.* Flood retention basins are required to be constructed to comply with all provisions of the Neosho "Stormwater Runoff Management Regulations", Chapter 430 and Chapter 425, "Flood Damage Prevention". This basin must be designed by a registered, licensed engineer to meet the guidelines of said ordinance.

15. *Private streets.* Private streets shall not be approved nor shall public improvements be approved for any private street.

16. *Hardship to owners of adjoining property avoided.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

C. *Easements.*

1. *Provided for utilities.* Easements with a right-of-way width of ten (10) feet shall be provided along the front of all lot lines and along certain side or rear lot lines where necessary for utilities.

2. *Provided for drainage.* Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.

3. *Flood retention.* A flood retention basin easement must be identified for the required construction of a flood retention basin to comply with all provisions of the Neosho "Stormwater Runoff Management Regulations", Chapter 430 and Chapter 425, "Flood Damage Prevention". Adequate ingress and egress must be included.

D. *Blocks — Factors Governing Dimensions.* Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the Zoning Code and to provide for convenient access, circulation control and safety of street traffic.

E. *Lots.*

1. *Dimensions.* Lot dimensions and area shall not be less than the requirements of the Zoning Code.

2. *Location.* All lots shall abut by their full frontage on a publicly dedicated street or a street that has received the legal status as such.

3. *Lines.* Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

4. *Corner lots.* Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.

5. *Uninhabitable lots.* Lots subject to flooding and lots deemed by the Planning and Zoning Commission to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.

6. *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.

F. *Sidewalks And Walking Trails.*

1. *Thickness.* All sidewalks shall be a minimum of four (4) inches thick. Sidewalks at driveway locations shall be thickened to match the thickness of the driveway pavement.

2. *Width.* Sidewalks shall not be less than four (4) feet in width.

3. *Subgrade.* Sidewalk subgrade material shall be free of debris, organic material, plastic, clays and other material prone to freeze-thaw damage. Subgrade material shall be compacted to MODOT standards to prevent settling under the traffic of building materials delivery vehicles.

4. *Location.* Sidewalks shall be located on one (1) side of all public streets with the exception of collector and arterial streets. There is to be one (1) foot of space between the outside edge of the sidewalk and the right-of-way/property. Sidewalks shall be required on both sides of all collector and arterial streets. A sidewalk is not required on that portion of a public street whose right-of-way directly abuts State highway or right-of-way.

5. *Trails.* In lieu of sidewalks located adjacent to streets, Planning and Zoning Commission may approve sidewalks/trails located in other areas within a proposed subdivision if considered as part of an overall development plan which integrates the internal site circulation with the public circulation system.

6. *ADA.* Sidewalks must conform to all current American with Disabilities Act (ADA) standards.

7. *Maintenance.* The general cleaning/clearing of sidewalks shall be maintained by the property owner if the internal sidewalks are located on a single tract of land or by a duly approved property owners' association if the internal sidewalks are located on two (2) or more tracts of land.

**Section 410.090. Required Improvements.** [CC 1979 App. A §10; Ord. No. 827 §10, 10-17-1972; Ord. No. 1030 §3, 4-17-1979; Ord. No. 1168 §2, 1-18-1983; Ord. No. 1183 §1, 5-3-1983; Ord. No. 1227 §1, 7-3-1984; Ord. No. 95-13 §1, 3-7-1995; Ord. No. 137-2003 §1, 4-1-2003]

A. *Bond Required.* Prior to the granting of final approval, the subdivider shall have installed or shall have furnished adequate bond for the ultimate installation of the following:

A. *Monuments.* Monuments shall be placed at all block corners, angle points, points of curve in streets, and at intermediate points as shall be required by the City Planner/Engineer or City Building Inspector. The monuments shall be of such material, size and length as may be approved by the City Planner/Engineer or City Building Inspector.

B. *Time For Improvements.* Prior to any lots being offered for sale in a subdivision or prior to the construction of any residence or structure in a subdivision, the

subdivider shall have installed the following to and servicing the lot to be built upon or sold:

1. *Streets.*

   a. *Surfacing.* All streets shall be surfaced in accordance with applicable standard specifications of the City. Such construction shall be subject to inspection and approval by the City.

   b. *Curbs, gutters and drainage.* Curbs, gutters, drainage and drainage structures shall be provided in accordance with standard specifications of the City. Such construction shall be subject to the inspection and approval of the City.

   c. *Flood retention.* A flood retention basin must be constructed to comply with all provisions of the Neosho "Stormwater Runoff Management Regulations", Chapter 430 and Chapter 425, "Flood Damage Prevention". Such construction shall be subject to the inspection and approval of the City.

2. *Water supply.*

2. *Accessible public water supply.* Where a public water supply approved by the City is reasonably accessible, each lot within the subdivision area shall be provided with a connection thereto; the subdivider shall furnish and install the water main(s) required for the service and shall pay the entire cost of such connection. The entire cost of such installation and connection is to be paid by the subdivider. The subdivider shall provide the necessary and required fire hydrants and appurtenances. All connections shall be subject to the approval of the City.

3. *Sanitary sewer system.*

3. *Public sanitary sewer system.* All new subdivisions and each lot within the subdivided area shall be provided with a connection to the City sanitary sewer system. All connections shall be subject to the approval of the City.

C. The subdivider is required to comply with all provisions of the Neosho "Stormwater Runoff Management Regulations", Chapter 430 and Chapter 425, "Flood Damage Prevention".

**Section 410.100. Preliminary Plat.** [CC 1979 App. A §11; Ord. No. 827 §11, 10-17-1972; Ord. No. 137-2003 §1, 4-1-2003]

A. *Form.* The preliminary plat shall be clearly and legibly drawn. The size of the map shall not be less than twelve (12) inches by eighteen (18) inches. The map of a subdivision containing five (5) acres or less shall be drawn at a scale of one (1) inch equals fifty (50) feet. All other subdivisions shall be drawn at a scale of one (1) inch equals one hundred (100) feet, unless otherwise required by the Commission.

B. *Map Contents.* The preliminary plat shall contain the following information:

1. *Description.*

    a. *Proposed name of the subdivision.* The name shall not duplicate, be the same in spelling or alike in pronunciation with any other recorded subdivision.

    b. Names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land.

    c. Width of subdivider's property, if any, remaining outside the subdivision perimeter.

    d. Names and addresses of the subdivider, owner and engineer.

    e. Location by section, town, range, township, County, State.

    f. Names of streets within the adjoining plat.

2. *Existing conditions.*

    a. Boundaries of the subdivision indicated by a heavy line and the approximate acreage.

    b. Location, widths and names of existing or platted streets, railroad rights-of-way, easements, parks, permanent buildings, section and corporation lines.

    c. Zoning districts, if any.

    d. Drainage channels, wooded areas, power transmission poles and lines, and any other significant items should be shown.

3. *Drafting of plat.* Date of preparation, scale of map, north point.

4. *Proposals.* Location and principal dimensions for all proposed streets, alleys, easements, lot lines, and areas to be reserved for public use.

C. *Other Information.*

1. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units type of business or industry, so as to reveal the effect of the development on traffic, fire hazards or congestion of population.

2. Proposed covenants and restrictions.

3. Source of water supply.

4. Provisions for sewage disposal, drainage and flood control.

5. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

**Section 410.110. Final Plat.** [CC 1979 App. A §12; Ord. No. 827 §12, 10-17-1972; Ord. No. 137-2003 §1, 4-1-2003]

A. *Form.* The final plat shall be clearly and legibly drawn in India ink on tracing cloth. The size of the map shall not be less than twelve (12) inches by eighteen (18) inches. The map of a subdivision containing five (5) acres or less shall be drawn at a scale of one (1) inch equals fifty (50) feet. All other subdivisions shall be drawn at a scale of one (1) inch equals one hundred (100) feet, unless otherwise required by the Commission.

B. *Map Contents.*

1. *Description.*

a. Name of the subdivision. The name shall not duplicate, be the same in spelling or alike in pronunciation with any other recorded subdivision.

b. Names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land.

c. Width of subdivider's property, if any, remaining outside the subdivision perimeter.

d. Names and addresses of the subdivider, owner and engineer.

e. Location by section, block, range, township, County, State, United States survey or part thereof it purports to represent.

f. Names of streets within the adjoining plat.

2. *Existing conditions.*

a. All plat boundaries.

b. Bearings and distances to the nearest established street lines, section corners or other recognized permanent monuments which shall be accurately described on the plat.

c. Municipal, township, County or section lines accurately tied to the lines of the subdivision by distance and bearings.

d. Accurate location of all monuments.

3. *Survey data.*

a. Length of all arcs, radii, internal angles, points of curvature and tangent bearings.

b. When lots are located on a curve or when side lot lines are at angles other than ninety degrees Fahrenheit (90°F), the width at the building line shall be shown.

c. A digital copy of the plat must be submitted to the City Planner in a *.dwg, *.dxf or *.dgn format.

4. *Drafting of plat.* Date of preparation, scale of map, north points.

5. *Proposals.*

   a. All easements for right-of-way provided for public services or utilities and any limitations of such easements.

   b. All lot numbers and lines, with accurate dimensions in feet and hundredths, and with bearings or angles to street and alley or crosswalk-way lines.

   c. Accurate outlines of any areas to be dedicated or temporarily reserved for public use with the purpose indicated thereon.

   d. Building setback lines with dimensions.

   e. Flood retention plan, including areas of floodway and flood retention basins as designed by engineer.

C. *Other Information.*

1. Protective covenants shall be shown on the plat.

2. City Engineer's certificate as required under Section 410.070(B)(3)(a)(3).

3. Certification shall be furnished from the City Collector that all taxes and assessments have been paid on the land within the proposed subdivision.

4. If a zoning change is involved, certification from the Zoning Commission shall be furnished indicating that the change requested has been approved and is in effect.

5. Certification by a registered civil engineer or surveyor to the effect that the plat represents a survey made by him/her and that all monuments shown thereon actually exist and that their location is correctly shown.

6. An acknowledgment by the owner or owners of his/her or their adoption of the plat and of the dedication of streets and other public areas.

**Section 410.115. Lot Split Procedure.** [Ord. No. 392-2009 §2, 5-5-2009]

A. *Application Procedure.* Request for a minor subdivision approval shall be made by the owner of the land. Seven (7) copies of a scale drawing and legal description of the lots involved; the location of any structure(s) thereon together with their precise nature, location and dimensions; name, signature and seal of registered land surveyor or engineer who prepared the plat; and the appropriate fee shall accompany the application. If deemed necessary by the Administrative Officer, other supplementary information may be requested.

B. *Approval Guidelines.* Approval of the minor subdivision may be given based on all of the following criteria:

1. All easement requirements have been satisfied.

2. Such division will not result in a tract without direct access to a public street.

3. No substandard-sized lot or parcel will be created.

4. The lot has not previously been split in accordance with these regulations.

**Section 410.120. Penalties.** [CC 1979 App. A §12; Ord. No. 827 §13, 10-17-1972; Ord. No. 137-2003 §1, 4-1-2003]

Any person violating the provisions of this Chapter shall be deemed guilty of a misdemeanor and punished by fine of not more than one hundred dollars ($100.00) or confinement in the City Jail for not more than thirty (30) days, or by both such fine and imprisonment.

# Chapter 415

## CLUSTER DEVELOPMENTS AND CONDOMINIUMS

Cross References — Zoning, ch. 405; subdivisions, ch. 410; buildings, Title V.

**Section 415.010. Definitions.** [CC 1979 App. C §1; Ord. No. 85-13, 4-2-1985]

As used in this Chapter the following terms shall have these prescribed meanings:

CLUSTER — A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

CLUSTER HOUSING SUBDIVISION — A form of residential development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under conventional subdivision and the resultant land area is devoted to prescribed common or public uses such as open space or recreation.

CONDOMINIUM — A building, group of buildings or property in which units are owned individually and the common elements are owned by all the owners on a proportional, undivided basis.

COURT — An open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two (2) or more sides by such building or buildings.

COURT, INNER — A court other than an outer court. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

COURT, OUTER — A court the full width of which opens upon a required yard or street or alley. The width of an outer court is the minimum horizontal dimension measured at right angles to its width.

**Section 415.020. Cluster Development Purpose.** [CC 1979 App. C §2; Ord. No. 85-13, 4-2-1985]

A. The purpose of cluster development is to permit a procedure for development which will result in improved living and working environments; which will promote more economic subdivision layout; which will encourage a variety of types of residential dwellings; which will encourage ingenuity and originality in total subdivision and individual site design; and which can preserve open space to serve recreational, scenic, and public service purposes, and other purposes related thereto, within the densities established for the cluster net tract area. To achieve these goals:

1. Variations in lot areas and lot widths are permitted.

2. Flexibility in forms of property ownership is permitted.

3. A greater variety of building types is permitted in residential zones.

4. Procedures are established to assure adequate maintenance and restricted use of open space areas for the benefit of the inhabitants of the subdivisions or for dedication to public use.

5. Procedures are established to assure adequate protection of existing and potential developments adjoining the proposed cluster development.

**Section 415.030. Cluster Housing Development Dwelling Types — Size.** [CC 1979 App. C §3; Ord. No. 85-13, 4-2-1985]

A. Uses specified in the particular Zoning District only are permitted.

B. Cluster developments shall consist of at least five (5) dwelling units except that cluster developments that are found by the Planning and Zoning Commission to be a logical extension of an existing or approved cluster development may contain fewer dwelling units.

**Section 415.040. Cluster Housing Development Standards.** [CC 1979 App. C §4; Ord. No. 85-13, 4-2-1985]

A. *Modification of Yard and Lot Requirements.* Modification of yard and lot requirements including minimum lot widths and maximum lot coverage may be permitted. Such modifications and variations must be shown on the cluster preliminary subdivision plat.

B. *Minimum Lot Size Per Unit.* The minimum size of a lot of record within the development shall be:

1. Three thousand (3,000) square feet in "R-1" districts.

2. Two thousand (2,000) square feet in "R-2" districts.

3. One thousand (1,000) square feet in "R-3" districts and in commercial districts.

C. *Minimum dwelling size.* Same as District "R-2".

D. *Public sewer and water required.* All dwellings and other buildings shall be served with public sewer and water facilities.

**Section 415.050. Cluster Commercial and Industrial Development Standards.** [CC 1979 App. C §5; Ord. No. 85-13, 4-2-1985]

A. Cluster commercial and industrial subdivisions may be approved provided:

1. No deviation from the uses specified in the particular Zoning District is permitted.

2. The proposed subdivision complies with the common open space and common improvements of this Chapter.

3. There shall be no prescribed minimum lot area for cluster commercial and industrial subdivisions.

**Section 415.060. Common Open Space Requirements — Ownership.** [CC 1979 App. C §6; Ord. No. 85-13, 4-2-1985]

A. In each zone allowing cluster housing development, the lot size may be reduced from the minimum lot area prescribed for that zone to the minimum lot size for cluster development. All such lot reductions shall be compensated for by an equivalent amount of land in open space or common area to be preserved and maintained for its scenic or historic value, for recreation or conservation purposes, or for schools, community buildings, historic buildings or sites, or related uses. Common open space or common area shall not include areas devoted to public or private vehicular streets or any land which has been, or is to be, conveyed to a public agency via a purchase agreement.

B. *Public Ownership.* Open space or common area within cluster housing developments may be offered for dedication to the public at the time of application. The Planning and Zoning Commission and City Council or other appropriate public body may accept such dedication upon a finding that the size, location, type of development or cost of development or maintenance of such open space or common area or the availability of public open space would make public use desirable or necessary.

B. It is, further, the intent of this division to encourage the provision of lands for public recreational and educational purposes. To this end, if land area(s) within a cluster housing development are accepted for public park or public school use, the lot sizes within the development may be reduced by an amount equal to two (2) times the land area dedicated for public park or public school purposes. In no case, however, shall the minimum lot sizes prescribed in the previous Section be reduced.

C. *Private Ownership.* Common open space and common improvement not dedicated to public use shall be protected by legal arrangements, satisfactory to the Planning and Zoning Commission and City Council, sufficient to assure its maintenance and preservation for whatever purpose it is intended and in accordance with this Chapter. Covenants or other legal arrangements shall specify ownership of the common open space; method of maintenance, responsibility for maintenance, maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain common open space will not be dissolved without the consent of the Planning and Zoning Commission and City Council and any other specifications deemed necessary by the Planning and Zoning Commission and City Council.

D. *Height and Area Regulations.* The height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows: (for exceptions see Section 405.210, "Height and area regulations".

1. *Height.* Buildings or structures shall not exceed forty-five (45) feet or three (3) stories in height.

2. *Front yards.* Same as District "R-1".

3. *Side yards.* Same as District "R-1", including regulations for corner lots.

4. *Rear yards.* Same as District "R-1".

5. *Lot width.* Same as District "R-1".

6. *Minimum dwelling size.* Same as District "R-2".

7. *Parking regulations.* See Section 405.230, "Off-Street Parking and Loading".

**Section 415.070. Cluster Developments Approval — Appeal.** [CC 1979 App. C §7; Ord. No. 85-13, 4-2-1985]

A. No cluster development may be constructed except in accordance with a preliminary subdivision plat approved by the Planning and Zoning Commission.

B. An approved preliminary subdivision plat for a cluster development shall provide for a total environment better than that which could be achieved under standard regulations. If, in the opinion of the Planning and Zoning Commission, the proposed plan could be improved in respect to the criteria listed below by the reasonable modification of the location of common open space or buildings or configurations of lots, streets, and parking areas, the proposed plan shall be so modified or denied.

C. A permit for a cluster development shall be granted only if evidence is presented which establishes:

1. That the proposed development will be in harmony with the general purposes, goals, objectives, and standards of the master plan, this Chapter and the subdivision regulations.

2. That the proposed building or use complies with all applicable regulations of this Chapter except as modified pursuant to the authority of this Section.

3. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking utility facilities, and other matters affecting the public health, safety, and general welfare.

4. That the proposed cluster development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property, in accordance with the applicable district regulations.

5. That the proposed cluster development will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and

schools; or the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

6. That the proposed cluster development will not result in the destruction, loss or damage of any natural, scenic, or historic feature of significant importance.

7. That individual lots, buildings, streets, and parking areas are designed and situated to minimize alteration of the natural site features to be preserved.

8. That the usability of common open space intended for recreation or public use is determined by the size, shape, topographic, and location requirements of the particular purpose proposed for the site.

9. That common open space shall include irreplaceable natural features located in the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of a significant size, and rock outcroppings).

10. That common open space intended for a recreation or public use is easily accessible to pedestrians, which accessibility shall meet the needs of the handicapped and elderly.

11. That diversity and originality in lot layout and individual building design is encouraged to achieve the best possible relationship between development and the land.

12. That individual lots, buildings, and units are arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings, and to lessen the land area devoted to motor vehicle access.

**Section 415.080. Common Open Space and Common Improvement Regulations, General Provisions.** [CC 1979 App. C §8; Ord. No. 85-13, 4-2-1985]

A. The regulations set forth in this Section shall apply in all developments where the following features are held in common ownership by persons owning property within a development.

1. All lands in common open space, not a part of individual lots, designed for the mutual benefit of a group of persons owning property with a development, where such lands are not dedicated to or conveyed for public use whether or not such lands are required by the provisions of this Chapter, and

2. All private streets, driveways, parking facilities, and buildings or portions thereof, as may be provided for the common use, benefit and/or enjoyment of the occupants of the development; whether or not such improvements are required by the provisions of this Chapter.

**Section 415.090. Condominium Property Act.** [CC 1979 App. C §9; Ord. No. 85-13, 4-2-1985]

All lands and improvements as set forth in the Section above shall be established and maintained in accordance with the "Condominium Property Act," Chapter 448, Missouri

Statutes or subsequent amendments, except where it can be demonstrated that the provisions of this Chapter can otherwise be satisfied.

**Section 415.100. Subdivision Approval Required.** [CC 1979 App. C §10; Ord. No. 85-13, 4-2-1985]

All subdivision of property containing common open space and common improvements shall originally be classified as a major subdivision and subject to review in accordance with the provisions of Chapter 410, Subdivision Regulations. Amendments or revisions to an approved subdivision plat containing common open space and common improvements may be classified as a minor subdivision in accordance with the City's subdivision regulations.

**Section 415.110. Covenants, Rules and By-Laws.** [CC 1979 App. C §12; Ord. No. 85-13, 4-2-1985]

The Chairman of the Planning and Zoning Commission and the City Attorney shall review and approve the restrictive covenants, rules and by-laws of the unit ownership, as prepared in accordance with this Section and Chapter 448 of the State Statutes. This approval shall be obtained before any final plat is recorded or final site plan approved. Such documents, once approved, shall become part of the recorded subdivision plat or approved site plan.

**Section 415.120. Maintenance of Common Open Space and Common Improvements.** [CC 1979 App. C §13; Ord. No. 85-13, 4-2-1985]

A. If the Planning and Zoning Commission and City Council determines that the public interest requires assurance concerning adequate maintenance of common open space areas and improvements, the Planning and Zoning Commission and City Council may require that the restrictive covenants, rules and by-laws creating the unit ownership shall provide that if the unit owners establish and maintain such common open space/improvements, or any successor unit owners, shall at any time after establishment of the development fail to maintain the common open space/improvements in reasonable order and condition in accordance with the approved plans, the City may serve notice in writing upon such unit owners. Said notice shall describe how the unit ownership has failed to maintain the common open space/improvements in reasonable condition, shall require that such deficiencies of maintenance be remedied within thirty (30) days thereof, and shall state the date and place of a public hearing. Said hearing shall be held within twenty (20) days of notice.

B. At such hearing the City Council may modify the terms of the original notice concerning the deficiencies and may grant an extension of time to remedy these deficiencies.

C. If said deficiencies are not corrected, the City may enter upon said common open space and maintain the same for one (1) year in order to preserve the taxable values of the properties within the development and to prevent the common open space/improvement from becoming a public nuisance.

D. Said entry and maintenance shall not grant the public any rights to use the common open space/improvements unless the owners voluntarily dedicate the same to the public and such dedication is accepted by the City.

E. Before the expiration of said one (1) year period and upon its initiative or upon the request of the unit owners theretofore responsible for the maintenance of the common open space/improvements, the City Council shall call a public hearing upon notice in writing to such organization or to owners of the unit ownership. At said hearing, the unit owners shall show cause why such maintenance by the City shall not, at the election of the City Council, continue for a succeeding one (1) year period.

F. If the City Council determines that said unit ownership is ready and able to maintain the common open space/improvements in reasonable condition, the City shall cease to maintain the common open space/improvements at the end of said one (1) year period or at an earlier date prescribed by the City Council.

G. If the City Council determines that such organization is not ready and able to maintain the common open space/improvements in a reasonable condition, the City Council may, at its discretion, continue to maintain the common open space/improvements during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

H. The rules and by-laws creating the unit ownership shall further provide that the cost of such maintenance by the City shall be assessed ratably against the individual properties within the development that have a right of enjoyment of the common open space/improvements. This assessment shall become a charge on said properties, and such charge shall be paid by the owners of said properties within thirty (30) days after receipt of same. Such assessments shall constitute a lien against all properties within the unit ownership.

**Section 415.130. Maintenance Responsibility.** [CC 1979 App. C §14; Ord. No. 85-13, 4-2-1985]

A. Except as provided, the City shall not be responsible for the maintenance of any common open space/improvements required by this Chapter.

B. Initial maintenance of the common open space/improvements within a development shall be the responsibility of the developer. The restrictive covenants, rules and by-laws of the unit ownership may prescribe a method for transfer of maintenance responsibility to a duly constituted property owners' association. In the event no method for transfer or maintenance responsibility is prescribed, the developer shall retain this responsibility until fifty percent (50%) of the development has been sold to the unit owners or other clients. When at least fifty percent (50%) of the development has been sold, the established unit ownership, comprised of the development's unit owners shall be deeded the common open space/improvements and such owners shall become fully responsible for its maintenance and upkeep.

C. The maintenance responsibilities of the developer listed shall be specifically indicated in a letter of agreement between the developer and the City. The developer shall submit said letter to the Planning and Zoning Commission at the time of final plat review.

## Chapter 420

## (RESERVED)

Editor's Note — Ord. no. 99-52 §1, enacted January 4, 2000, repealed chapter 420: Travel Trailer and Mobile Home Parks, in its entirety. Former said chapter derived from CC 1979 §§27-1 — 27-14, 27-21 — 27-39 and ord. no. 85-16, 6-18-1985. Mobile Home Park District "MH" is now set out at 405.175 and this chapter has been left reserved for the city's future use.

# Chapter 425

# FLOOD DAMAGE PREVENTION

Cross References — Planning and zoning commission, ch. 400; zoning, ch. 405; subdivision regulations, ch. 410; buildings and building regulations, Title V.

## ARTICLE I
## Statutory Authorization, Findings of Fact, Purpose and Objectives

**Section 425.010. Statutory Authorization.** [CC 1979 App. D §A; Ord. No. 87-21 Art. I §A, 9-1-1987]

The legislature of the State of Missouri has in Chapter 89 of the Revised Statutes of the State of Missouri delegated the responsibility to local Governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Neosho, Missouri, does ordain as follows.

**Section 425.020. Findings of Fact.** [CC 1979 App. D §B; Ord. No. 87-21 Art. I §B, 9-1-1987]

A. The flood hazard areas of Neosho are subject to periodic inundation which, results in loss of life, property, health and safety hazards, disruption of commerce and Governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

**Section 425.030. Statement of Purpose.** [CC 1979 App. D §C; Ord. No. 87-21 Art. I §C, 9-1-1987]

A. It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;

2. To minimize expenditure of public money for costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

6. To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;

7. To insure that potential home buyers are notified that property is in a flood area; and

8. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**Section 425.040. Methods of Reducing Flood Losses.** [CC 1979 App. D §D; Ord. No. 87-21 Art. I §D, 9-1-1987]

A. In order to accomplish its purposes, this Chapter includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion or to flood heights or velocities.

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

3. Controlling and alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.

4. Controlling filling, grading, dredging, and other development which may increase erosion or flood damage.

5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodway waters or which may increase flood hazards in other areas.

## ARTICLE II
## **Definitions**

**Section 425.050. Definitions and Interpretations.** [CC 1979 App. D Art. 2; Ord. No. 87-21 Art. II, 9-1-1987; Ord. No. 93-34 §2, 9-7-1993; Ord. No. 96-48 §1, 10-15-1996]

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

ACTUARIAL OR RISK PREMIUM RATES — Those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the

accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

ADMINISTRATOR — The director of the Federal Insurance Administration, F.E.M.A.

APPEAL — A request for a review of the Building Inspector's interpretation of any provision of this Chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or AH Zone on a community's flood insurance rate map (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.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to one percent (1%) or greater chance of flooding in any given year.

BASE FLOOD — The flood having one percent (1%) chance of being equalled or exceeded in any given year.

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.

EXISTING CONSTRUCTION — (For the purposes of determining rates) structures for which the *"start of construction"* commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. *"Existing construction"* may also be referred to as *"existing structures."*

FLOOD OR FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community, on which the Flood Insurance Study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary/floodway map and the water surface elevation of the base flood.

FLOODWAY OR REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FLOODWAY FRINGE — That area of the floodplain, outside of 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).

FREEBOARD — A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. 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;

3. Individually listed on a State Inventory of Historic Places in States with Historic Preservation Programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a Local Inventory of Historic Places in communities with Historic Preservation Programs that have been certified either:

    a. By an approved State program as determined by the Secretary of the Interior; or

    b. Directly by the Secretary of the Interior in States without approved programs.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Chapter.

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term ,"*manufactured home"* also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION — A structure for which the "start of construction" or substantial improvement is commenced on or after the effective date of the FIRM.

RECREATIONAL VEHICLE — A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION — (For other than new construction or substantial improvements 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, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first 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 filling; 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.

STRUCTURE — A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

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 damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before 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

1. 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 officer and which are the minimum necessary to assure safe living conditions or
2. Any alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE — A grant of relief to a person from the requirements of this Chapter which permits construction in a manner otherwise prohibited by this Chapter where specific enforcement would result in unnecessary hardship.

VIOLATION — The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Chapter is presumed to be in violation until such time as that documentation is provided.

## ARTICLE III
## General Provisions

**Section 425.060. Lands to Which This Chapter Applies.** [CC 1979 App. D Art. 3 §A; Ord. No. 87-21 Art. III §A, 9-1-1987; Ord. No. 450-2010 §1, 11-16-2010]

This Chapter shall apply to all lands within the jurisdiction of the City of Neosho, Missouri identified as numbered and unnumbered A Zones and AE Zones on the Flood Insurance Rate Map (FIRM) for Newton County, Missouri on map panels 29145C0167E, 29145C0169E, 29145C0175E, 29145C0188E, 29145C0190E, 29145C0281E, 29145C0282E, 29145C0283E, 29145C0284E, 29145C0292E, 29145C0301E, and 29145C0325E, dated November 26, 2010, as amended, and any future revisions thereto. In all areas covered by this Chapter, no development shall be permitted except through the issuance of a floodplain development permit granted by the 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, health of the inhabitants of the community, and as specifically noted in Article V.

**Section 425.070. Basis for Establishing the Areas of Special Flood Hazard.** [CC 1979 App. D Art. 3 §B; Ord. No. 87-21 Art. III §B, 9-1-1987; Ord. No. 95-11 §1, 3-7-1995; Ord. No. 450-2010 §1, 11-16-2010]

A. *Methods Used To Analyze Flood Hazards.* The Flood Insurance Study (FIS) that is the basis of this Chapter uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.

1. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Chapter is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this Chapter. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one (1) year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials for Newton County, Missouri, dated November 26, 2010, as amended, and any future revisions thereto.

2. Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

3. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

5. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

**Section 425.080. Penalties for Non-Compliance.** [CC 1979 App. D Art. 3 §C; Ord. No. 87-21 Art. III §C, 9-1-1987]

A. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations.

B. Violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars ($500.00) or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

C. Nothing herein contained shall prevent the City of Neosho or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

**Section 425.090. Abrogation and Greater Restrictions.** [CC 1979 App. D Art. 3 §D; Ord. No. 87-21 Art. III §D, 9-1-1987]

This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Section 425.100. Interpretation.** [CC 1979 App. D Art. 3 §E; Ord. No. 87-21 Art. III §E, 9-1-1987]

A. In the interpretation and application of this Chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the Governing Body; and

3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

**Section 425.110. Warning and Disclaimer of Liability.** [CC 1979 App. D Art. 3 §F; Ord. No. 87-21 Art. III §F, 9-1-1987]

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Neosho or by any officer or employee thereof for any flood damages that results from reliance on this Chapter or any administrative decision lawfully made thereunder.

## ARTICLE IV
## **Administration**

**Section 425.120. Establishment of a Development Permit.** [CC 1979 App. D, Art. 4 §A; Ord. No. 87-21 Art. IV §A, 9-1-1987]

A. A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Article III, Section 425.060. No person, firm, or corporation or unit of Government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each development as defined in Article II. Application for a Development Permit shall be made on forms furnished by the Building Inspector and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

2. Elevation in relation to mean sea level to which any non-residential structure is to be floodproofed.

3. Certification from a registered professional Engineer or architect that the non-residential floodproofed structure will meet the floodproofing criteria in Article V, Section 425.180(2).

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**Section 425.130. Designation of the Local Administrator.** [CC 1979 App. D, Art. 4 §B; Ord. No. 87-21 Art. IV §B, 9-1-1987]

The Building Inspector is hereby appointed to administer and implement the provisions of this Chapter, by granting or denying Development Permit applications in accordance with its provisions.

**Section 425.140. Duties and Responsibilities of Building Inspector.** [CC 1979 App. D, Art. 4 §C; Ord. No. 87-21 Art. IV §C, 9-1-1987; Ord. No. 96-49 §1, 10-15-1996]

A. 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 Chapter 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. When base flood elevation data has not been provided in accordance with Article III, Section 425.070, then the Building Inspector shall obtain, review and reasonably utilize any base flood elevation or floodway data available from a Federal, State or other source, in order to administer the provisions of Article V.

4. 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.

5. 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.

6. When floodproofing is utilized for a particular structure the Building Inspector shall obtain certification from a registered professional engineer or architect.

7. Notify adjacent communities and the Missouri Department of Natural Resources prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the State Emergency Management Agency.

8. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

9. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Inspector shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Chapter.

**Section 425.150. Variance Procedures.** [CC 1979 App. D, Art. 4 §D; Ord. No. 87-21 Art. IV §D, 9-1-1987]

A. The floodplain appeal Board as established by Neosho City Council shall hear and decide appeals and requests for variances from the requirements of this Chapter.

B. The floodplain appeal Board 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 Chapter.

C. Any person aggrieved by the decision of the floodplain appeal Board or any taxpayer may appeal such decision to the Newton County Circuit Court as provided in the Statutes of the State of Missouri.

D. In passing upon such application, the floodplain appeal Board shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this Chapter, and:

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 to 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 to the proposed use of the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of and the flood waters and the effects of wave action, if applicable, expected at the site;

11. The costs of providing governmental services during and after flood condition gas, electrical, and water systems, and streets and bridges.

E. Conditions for variances:

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 (2) through (6) below, have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

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.

## ARTICLE V
## Provisions for Flood Hazard Reduction

**Section 425.160. General Standards.** [CC 1979 App. D, Art. 5 §A; Ord. No. 87-21 Art. V §A, 9-1-1987]

A. In all areas of special flood hazards (Zones A, AE, A1-30, AO, AH) the following provisions are required:

   1. All new construction including manufactured homes and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

   2. All new construction and substantial improvements shall be constructed with materials resistant to flood damage.

   3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

   4. All new construction and substantial improvements shall be constructed 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.

   5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

9. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

10. That until a floodway has been designated, no development, including landfill, may be permitted within Zones Al-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 one hundred (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; Article III, Section 425.070 of this Chapter.

**Section 425.170. Standards for Subdivision Proposals.** [CC 1979 App. D, Art. 5 §B; Ord. No. 87-21 Art. V §B, 9-1-1987]

A. All subdivision proposals and other proposed new developments, including manufactured home parks or subdivisions, shall be consistent with the need to minimize flood damage.

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

D. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions), which is greater than either fifty (50) lots or five (5) acres.

**Section 425.180. Specific Standards.** [CC 1979 App. D, Art. 5 §C; Ord. No. 87-21 Art. V §C, 9-1-1987; Ord. No. 96-47 §1, 10-15-1996]

A. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Article III, Section 425.070 or Article IV, Section 425.140(3), (Zones A1-30, AE and AH) the following provisions are required:

1. *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above sixteen (16) inches above the base flood elevation.

2. *Non-residential construction.* New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to sixteen (16) inches above the level of the base flood elevation or, together with attendant utility and sanitary facilities, 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 official as set forth in Article IV, Section 425.140 (6).

3. *Require for all new construction and substantial improvements.* That fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional Engineer or architect or meet or exceed the following minimum criteria: A 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.

4. *Manufactured homes.*

   a. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State and local building Codes and 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 only 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 only 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 homes be similarly anchored.

   b. 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 sixteen (16) inches above the base flood elevations; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.

5. *Recreational vehicles.* It is required that recreational vehicles placed on sites within special flood hazard areas on the community's FIRM either:

   a. Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use*; or

   b. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this Chapter.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

**Section 425.190. Floodways.** [CC 1979 App. D, Art. 5 §D; Ord. No. 87-21 Art. V §D, 9-1-1987]

A. Located within areas of special flood hazard established in Article III, Section 425.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

   1. Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.

   2. If this Section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.

   3. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Article V, Section 425.170 of this Chapter in meeting the standards of this Section.

**Section 425.200. Areas of Shallow Flooding (AO and AH Zones).** [CC 1979 App. D, Art. 5 §E; Ord. No. 87-21 Art. V §E, 9-1-1987]

A. Located within the areas of special flood hazard established in Article III, Section 425.070 are areas designated as shallow flooding. 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:

   1. *Within AO Zones.*

      a. 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 sixteen (16) inches above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).

b. All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as sixteen (16) inches above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified); or

(2) 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.

c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

d. The anchoring requirements for manufactured homes as established in Article V, Section 425.180(3)(a) shall be required.

2. *Within AH Zones.*

a. The specific standards for all areas of special flood hazard where base flood elevation data has been provided shall be required as set forth in Article V, Section 425.180.

b. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

## ARTICLE VI
## **Non-Conforming Use**

**Section 425.210. Generally.** [CC 1979 App. D, Art. 6; Ord. No. 87-21 Art. VI, 9-1-1987]

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Chapter, but which is not in conformity with the provisions of this Chapter 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 Chapter. The Utility Department shall notify the Building Inspector in writing of instances of non-conforming uses where utility 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 non-conforming 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 Chapter. 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.

## ARTICLE VII
## **Amendments**

**Section 425.220. Public Hearing and Publication of Amendments.** [CC 1979 App. D, Art. 7; Ord. No. 87-21 Art. VII, 9-1-1987]

A. The regulations, restrictions, boundaries set forth in this Chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided however, that no such action may be taken until after a public hearing in relation thereto, at which parties 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 Neosho.

B. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided in the Federal Emergency Management Agency. The regulations of this Chapter are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.

# Chapter 430

# STORMWATER RUNOFF MANAGEMENT

## ARTICLE I
## Introductory Provisions

**Section 430.010. Title.** [Ord. No. 95-12 §1.1, 3-7-1995]

These regulations shall hereafter be known, cited and referred to as the "Stormwater Management Regulations" of the City of Neosho.

**Section 430.020. Authority.** [Ord. No. 95-12 §1.2, 3-7-1995]

These regulations are adopted pursuant to the power and authority vested in the Neosho City Council by Chapter 89, RSMo., and other applicable laws and Statutes of the State of Missouri.

**Section 430.030. Applicability.** [Ord. No. 95-12 §1.3, 3-7-1995]

A. Any person, firm, corporation or business proposing to construct buildings or develop land equal to/or greater than ten thousand (10,000) square feet in the City of Neosho shall apply to the City Building Inspector for approval of a Stormwater Management Plan and issuance of a drainage permit as specified in these regulations. Section 430.170(A) shall apply to all developments and a drainage permit must be obtained or exemption given by City Building Inspector before getting a building permit. This Chapter does not replace any other City and subdivision ordinances. No land shall be developed except upon issuance of such permit or exception granted.

B. *Purpose.* In order to promote the public health, safety, and general welfare of the citizens of Neosho, these Stormwater Management Regulations are hereby enacted for the general purpose of assuring the proper balance between man's use of land and the preservation of a safe and beneficial environment. More specifically, the provisions of these regulations, as amended from time to time, are intended to:

1. Reduce property damage and human suffering, and

2. Minimize the hazards of personal injury and loss of life due to flooding, to be accomplished through the approval of Stormwater Management Plans pursuant to the provisions of these regulations, which:

   a. Establish the primary and secondary stormwater management systems,

b. Define and establish stormwater management practices and use restrictions,

c. Establish guidelines for handling increases in volume and peak discharges of runoff, and

d. Establish a technical review committee to review decisions of the City Building Inspector.

**Section 430.040. Definitions.** [Ord. No. 95-12 §1.5, 3-7-1995]

For the purpose of this Chapter certain terms and words shall be used, interpreted and defined as set forth in this Section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular shall include the plural, and vice-versa; the words, *"these regulations,"* mean *"this Chapter;"* the word, *"person,"* includes corporation, partnership, and unincorporated association of persons; and the word, *"shall,"* is always mandatory.

BASE FLOOD — The flood having a one percent (1%) chance of being equalled or exceeded in any given year, i.e., the one hundred (100) year flood.

BOND — Any form of security for the completion or performance of a Stormwater Management Plan or the maintenance of drainage improvements, including surety bond, collateral, property or instrument of credit, or escrow deposit in an amount and form satisfactory to the Governing Body.

BUILDING — Any structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind.

CHANNEL — A watercourse of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two (2) bodies of water.

DETENTION BASINS — Any man-made area which serves as a means of controlling and temporarily storing stormwater runoff.

DETENTION STORAGE — The temporary detaining or storage of stormwater in reservoirs, on rooftops, on parking lots and other areas under pre-determined and controlled conditions.

DEVELOPMENT — Any change of land use or improvement on any parcel of land.

DIFFERENTIAL RUNOFF — The volume and rate of flow of stormwater runoff discharged from a parcel of land or drainage area which is or will be greater than that volume and rate which pertained prior to proposed development or redevelopment.

DRAINAGE PERMIT — A permit issued by the City Building Inspector upon approval of a Final Stormwater Management Plan.

DRY BOTTOM BASIN — A facility designed for the temporary storage of stormwater runoff.

EASEMENT — Authorization by a property owner for use by another party or parties of all or any portion of his/her land for a specified purpose.

FIFTY YEAR FLOOD — A flood having a two percent (2%) chance of occurrence in a given year.

FIFTY YEAR PEAK FLOW — The peak rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the fifty (50) year flood.

FIFTY YEAR STORM — Rainstorms of a specific duration having a two percent (2%) chance of occurrence in any given year.

FLOODPLAIN — A land area adjoining a river, stream, watercourse, or lake which is likely to be flooded.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FREEBOARD — A factor of safety expressed as the difference in elevation between the top of the detention basin dam and the design surface water flow elevation.

HABITABLE DWELLING UNIT — A dwelling unit intended for and suitable for human habitation.

ONE HUNDRED YEAR PEAK FLOW — The peak rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the base flood.

ONE HUNDRED YEAR STORM — Rainstorms of a specific duration having a one percent (1%) chance of occurrence in any given year.

PERMITTEE — A person, partnership or corporation to whom a permit is granted.

PLAT — A legally recorded plan of a parcel of land subdivided into lots with streets, alleys and other land lines drawn to scale.

PROJECT — Any development involving the construction, reconstruction, or improvement of structures and/or grounds.

RATIONAL METHOD — An empirical formula for calculating peak rates of runoff resulting from rainfall.

STORMWATER RUNOFF — Water that results from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

STRUCTURE — Any object constructed above or below ground.

TWENTY-FIVE YEAR STORM — Rainstorms of a specific duration having a four percent (4%) chance of occurrence in any given year.

TRIBUTARY AREA — All of the area that contributes stormwater runoff to a given point.

WET BOTTOM BASIN — A detention basin intended to have a permanent pool.

WATERCOURSE — Any surface stream, creek, brook, branch, depression, reservoir, lake, pond, or drainageway in or into which stormwater runoff flows.

## ARTICLE II
## Stormwater Runoff Management System

**Section 430.050. General.** [Ord. No. 95-12 §2.1, 3-7-1995]

This Article establishes the Stormwater Runoff Management System of the City of Neosho which shall be composed of a primary system, a secondary system, management controls, and management practices.

**Section 430.060. Primary System.** [Ord. No. 95-12 §2.2, 3-7-1995]

The *"primary system"* shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program Maps and additional areas outline on the NFIM maps that has been determined to be hazardous through experience and flood plain management studies. Primary system will fall under rules and regulation of Chapter 425 including all revisions.

**Section 430.070. Secondary System.** [Ord. No. 95-12 §2.3, 3-7-1995]

The *"secondary system"* shall be composed of all watercourses and drainage structure, both public and private, that are not mapped as a part of the primary system.

**Section 430.080. Management Control.** [Ord. No. 95-12 §2.4, 3-7-1995]

Management controls are regulations applicable to the secondary system under the provisions of this Chapter. Such controls shall limit any activity which will adversely affect hydraulic function of detention facilities, open channels, drainage swales, or enclosed stormwater conveyance systems.

**Section 430.090. Management Practices.** [Ord. No. 95-12 §2.5, 3-7-1995]

A. The following practices may be utilized upon approval of the City Building Inspector:

   1. *Storage.* Runoff may be stored in temporary or permanent detention basins, or through rooftop or parking lot ponding, or percolation storage, or by other means in accordance with the design criteria and performance standards set forth in these regulations.

   2. *Open channels.* Maximum feasible use shall be made of existing drainageways, open channels and drainage swales that are designed and coordinated with the design of building lots and streets in accordance with the design criteria and performance standards set forth in these regulations.

3. *Streets and curbs.* Streets, curbs, and gutters shall be an integral part of the stormwater runoff management system. To the maximum extent possible, drainage systems, street layout and grades, lotting patterns and the location of curbs, inlets and site drainage and overflow swales shall be concurrently designed in accordance with the design criteria and performance standards set forth in these regulations.

4. *Enclosed conveyance systems.* Enclosed conveyance systems consisting of inlets, conduits, and manholes may be used to convey stormwater runoff. Where used, such systems must be designed in accordance with design criteria and performance standards set forth in these regulations.

5. *Other.* The stormwater runoff management practices enumerated herein shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized if the purposes, design criteria and minimum performance standards of these regulations are complied with.

**Section 430.100. Public and Private Responsibilities Under the Stormwater Management System.** [Ord. No. 95-12 §2.6, 3-7-1995]

A. *Public Responsibilities.*

1. *Administration.* The administration of these regulations shall be the responsibility of the City Building Inspector, who shall review and approve Stormwater Management Plans as provided herein.

2. *Operation and maintenance of publicly owned facilities.* The City Public Works Department shall be responsible, during and after construction, for the operation and maintenance of all drainage structures and improved courses which are part of the stormwater runoff management system under public ownership and which are not constructed and maintained by or under the jurisdiction of any State or Federal agency.

B. *Private Responsibilities.*

1. Each developer of land within the City of Neosho has the responsibility to provide on the developer's property all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's property both during and after construction of such facilities.

2. Each developer or owner has the responsibility and duty before and after construction to properly operate and maintain any on-site stormwater runoff control facility which has not been accepted for maintenance by the public. Such responsibility is to be transmitted to subsequent owners through appropriate covenants.

ARTICLE III

**Procedure for the Submission, Review and Approval of Stormwater Runoff Management Plans**

**Section 430.110. General.** [Ord. No. 95-12 §3.1, 3-7-1995]

No development equal to or greater than ten thousand (10,000) square feet shall increase the quantity and rate of stormwater emanating from said land areas except in accordance with an approved Stormwater Management Plan as provided in these regulations. The Stormwater Management Plan shall be prepared by a licensed professional engineer in the State where the development occurs. No building permits shall be issued until and unless the Stormwater Management Plan has been approved by the City Building Inspector.

**Section 430.120. Submission of Preliminary Stormwater Management Plan.** [1] [Ord. No. 95-12 §3.2, 3-7-1995]

A. The Preliminary Stormwater Management Plan for any proposed development shall contain, but not be limited to, the following information and date:

1. Topographic map outlining the limits of the contributing area. Topographic maps should be the best available U.S.G.S. 7.5 minute quandrange topographic maps with a ten (10) foot contour interval will be accepted as a minimal requirement;

2. Site plan suitable scale and contour interval, showing the land to be developed and such adjoining land whose topography may affect the layout or drainage patterns for the development;

3. The location of streams and other flood water runoff channels, the extent of flood plains at the established high water elevations, the limits of the floodway, if pertinent, and any additional information, all of which shall be properly identified;

4. The normal shoreline of lakes, ponds, swamps, and detention basins including their flood plains and inflow and outflow structures if such structures exist;

5. The location and calculated flow rates of other existing storm drains, inlets and outfalls;

6. The location and calculated flow rates of any existing storm, sanitary and combined sewers which occur within the proposed project site or adjacent thereto within a distance of approximately five hundred (500) feet from the perimeter of said site;

7. The location and observed flow rates of any flowing springs, existing wells or any existing seepage areas as determined by means of a field inspection of the property;

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[1]. **Note — The information required in Section 430.120 shall be submitted in accordance with existing subdivision plat approval procedures.**

8. General information regarding the type and characteristics of soils which will be encountered within the project;

9. Concepts which will be considered within the development to handle safely all stormwater runoff, including the methods for detention or control of increased stormwater runoff generated by the project development;

10. A general plan showing the extent and nature of the storm drainage facilities which will be planned to serve the proposed project including preliminary calculations indicating the runoff which must be handled by such facilities, the methods and criteria which have been utilized in calculating such runoff, and basic information regarding the receiving stream channel into which such drainage facilities will discharge;

11. Calculations supporting the method and capacity needed for safe and temporary storage of increased runoff resulting from the proposed development, if temporary storage is needed;

12. Basic information regarding the receiving stream or channel into which proposed storm drainage facilities will discharge including the channel location, general cross-section, existing downstream culverts and bridges and other waterway openings, any existing detention basins or lakes and other information required to determine, in preliminary form, the effect which the proposed development will have on downstream drainage conditions;

13. A general plan indicating the exterior perimeter of the site, the general development proposed for the project, and an indication by means of rough contours showing the terrain after grading the site.

**Section 430.130. Review of Preliminary Stormwater Management Plan.** [Ord. No. 95-12 §3.3, 3-7-1995]

Following receipt of the Preliminary Stormwater Management Plan, and information to be included with such plan, the general drainage concepts and planning proposals will be reviewed by the City Building Inspector. A review meeting then will be scheduled by the City Building Inspector with representatives of the developer, including the developer's engineer, to review the overall concepts included in the Preliminary Stormwater Management Plan. The purpose of this review shall be to jointly agree upon an overall Stormwater Management Concept for the proposed development and to review criteria and design parameter which shall apply to final design of the project.

**Section 430.140. Final Stormwater Runoff Management Plan.** [Ord. No. 95-12 §3.4, 3-7-1995]

A. Following review of the Preliminary Stormwater Management Plan and after the concept review meeting and general approval of the preliminary plan by the City Building Inspector, a Final Stormwater Management Plan shall be prepared for each phase of the proposed project as each phase is developed. The final plan shall constitute a refinement of the concepts approved in the Preliminary Stormwater

Management Plan with preparation and submittal of the following additional detailed information unless specifically excluded during the preliminary concept review meeting:

1. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location streams, the extent of flood plans and calculated high water elevations, the shoreline of lakes, ponds, swamps and detention basins including their inflow and outflow structures, if any;

2. The location and flowline elevation of all existing sanitary, storm or combined sewers, and the location of any existing sewage treatment facilities, which fall within the project limits and within a distance of two hundred fifty (250) feet beyond the exterior boundaries of said project;

3. Detailed determination of runoff anticipated for the entire project site following development indicating design volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine said runoff volumes and rates and restatement of the criteria which have been used by the project engineer throughout his/her calculations;

4. A refined layout of the proposed stormwater management system including the location and size of all drainage structures, storm sewers, channels and channel sections, detention basins, and analyses regarding the effect said improvements will have upon the receiving channel and its high water elevation;

5. The slope, type, size and flow calculations for all existing and proposed storm sewers and other waterway;

6. For all detention basins, if any, a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;

7. For all detention basins, if any, design hydrographs of inflow and outflow for the fifty (50) year differential runoff from the site under proposed development conditions;

8. A refined grading plan for the entire project site drawn at a suitable scale and contour interval, or the terrain within the proposed project site including contours of the existing terrain along with contours indicating final grades which will be established during completion of the project. The grading plan shall also include a plotting of the line defining the high water elevation to be expected under one hundred (100) year peak flow conditions produced by the projected development of the contributing watershed based on the best available land use information;

9. A profile and one (1) or more cross-sections of all existing and proposed channels or other open drainage facilities, showing existing conditions and the

proposed changes thereto, together with the high water elevations expected from stormwater runoff under the controlled conditions called for by these regulations and the relationship of structures, streets, and other utilities to such channels.

**Section 430.150. Review and Approval of Final Stormwater Management Plans.** [2] [Ord. No. 95-12 §3.5, 3-7-1995]

A. Final Stormwater Management Plans shall be reviewed by the City Building Inspector. If it is determined according to present engineering practice that the proposed development will provide control of stormwater runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to the public health, safety and general welfare, the City Building Inspector shall approve the plan or conditionally approve the plan, setting forth the conditions thereof. If approved, a drainage permit for the development shall be granted.

B. If it is determined that the proposed development will not control stormwater runoff in accordance with these regulations, the City Building Inspector shall disapprove the Final Stormwater Management Plan.

C. If disapproved, the application and data shall be returned to the applicant for resubmittal.

## ARTICLE IV
## Design Criteria and Performance Standards

**Section 430.160. Design Criteria.** [Ord. No. 95-12 §4.1, 3-7-1995; Ord. No. 484-2011 §1, 7-5-2011]

A. The following rules shall govern the design of improvements with respect to managing stormwater runoff:

1. *Methods of determining stormwater runoff.* Developments where the area contributing runoff is twenty-five (25) acres or less shall be designed using the Rational Method of calculating runoff. Developments where the area contributing runoff is four hundred (400) acres or less shall be designed using either the Rational Method of calculating runoff or other methods as approved by the City Building Inspector. For developments where the area contributing runoff is four hundred (400) acres or more, the applicant shall submit a proposed method of evaluation for the calculation of runoff to the City Building Inspector for review and approval. All such development proposals shall be prepared by a licensed professional engineer.

2. *Development design.* Streets, blocks, depth of lots, parks, and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of

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[2]. **Note — Time frames for filing, review and approval of Stormwater Management Plans should coincide with time periods applicable in existing subdivision regulations.**

stormwater into the ground, and to preserve and utilize existing and planned streams, channels, and detention basins, and include, whenever possible, streams and floodplains within parks and other public grounds.

3. *Enclosed systems and open channels.* Unless otherwise provided by the City Building Inspector the most recent Design Criteria for Storm Sewers and Appurtenances, Revised, 1973 prepared by the Kansas City Metropolitan Chapter of the American Public Works Association, Sections 5100 to 5112, inclusive, as or amended, which is by reference made a part hereof as though expressly rewritten and incorporated in the ordinance, shall govern the design of enclosed systems and open channels within the City of Neosho.

4. *Methods of controlling downstream flooding.* The City Building Inspector shall determine whether the proposed plan will cause or increase downstream flooding conditions. This determination shall be made on the basis of existing downstream development and an analysis of stormwater runoff with and without the proposed development as set forth in this Article. When the City Building Inspector determines that the proposed development will cause or increase downstream flooding conditions during the one hundred (100) year storm, provisions to minimize such flooding conditions shall be included in the design of storm drainage improvements. Such provisions may include downstream improvements and/or the temporary controlled detention of stormwater runoff and its regulated discharge to the downstream storm drainage system.

5. *Downstream improvements.* Improvements to minimize downstream flooding conditions may include, but not be limited to, the construction of dams, dikes, levees and floodwalls; culvert enlargements; and channel clearance and modification projects. Such downstream improvements should be discussed between the City Building Inspector and developer's engineer so that appropriate provisions with respect to planning and implementing said improvements can be made at the earliest possible date.

6. *Detention.* Development also may include temporary detention of stormwater runoff in order to minimize downstream flooding conditions. The following design criteria shall govern the design of temporary detention facilities;

    a. *Storage volume.* The volume of storage provided in detention basins shall be sufficient to control the differential runoff from the fifty (50) year storm frequency of twenty-four (24) hour duration. The differential runoff is that volume and rate of flow of stormwater runoff discharged from a parcel of land or drainage area which is or will be greater than that volume and rate which pertained prior to proposed development or redevelopment.

    b. *Freeboard.* Detention storage areas shall have adequate capacity to contain the storage volume of tributary stormwater runoff with at least two (2) feet of freeboard above the water surface of flow in the

emergency spillway in a fifty (50) year storm or as required by State law.

c. *Outlet control works.*

(1) Outlet works shall be designed to limit peak outflow rates from detention storage areas to or below peak flow rates that would have occurred prior to the proposed development.

(2) Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation.

(3) Size and hydraulic characteristics shall be such that all water in detention storage is released to the downstream storm sewer systems within twenty-four (24) hours after the end of the design rainfall.

d. *Spillway.* Emergency spillways shall be provided to permit the safe passage of runoff generated from a fifty (50) year storm, or greater, if required by law, or if appropriate because of downstream high hazard, such as loss of life or damage to high value property.

e. *Design data submittal.* In addition to complete plans, the following design data shall be submitted to the City Building Inspector for all projects including temporary detention facilities:

(1) Rainfall hyetograph plotted in units of inches per hour as ordinates, and time from beginning of the storm as abscissas.

(2) Runoff hydrograph plotted in units of cubic feet per second runoff rate of the tributary area as ordinates, and time from the start of runoff as abscissas.

(3) *Area.* Capacity curve for proposed detention facility plotted in units of datum elevation as ordinates, and cumulative volume of storage as abscissas.

(4) Discharge characteristics curve or outlet works plotted in units of detention facility water surface elevation as ordinates, and discharge rate for cubic feet per second (CFS) as abscissas.

(5) *Storage capacity.* Inflow and outflow curves in units of accumulated volume as ordinates, and time from the start of runoff as abscissas. Curves shall be so arranged that the vertical distance between the accumulated storage and accumulated discharge will indicate the net volume in storage at any point in time. Curves shall be extended to the time required for complete discharge of all runoff stored in the detention facility.

f. *Detention methods.* In addition to the above criteria, the following shall be applicable, depending on the detention alternative(s) selected by the City Building Inspector and the developers' engineer.

(1) *Wet bottom basins.* For basins designed with permanent pools:

(a) *Minimum depths.* The minimum normal depth of water before the introduction of excess stormwater shall be four (4) feet.

(b) *Depth for fish.* If fish are to be used to keep the basin clean, at least one-quarter (¼) of the area of the permanent pool must have a minimum depth of eight (8) feet.

(c) *Facilities for emptying.* For emptying purposes, cleaning or shoreline maintenance, facilities shall be provided or plans prepared for the use of auxiliary equipment to permit emptying and drainage.

(2) *Dry bottom basins.* For basins designed to be normally dry:

(a) *Interior drainage.* Provisions must be incorporated to facilitate interior drainage to outlet structures.

(b) *Multipurpose features.* These shall be designed to serve secondary purposes for recreation, open space or other types of use which will not be adversely affected by occasional or intermittent flooding.

(3) *Rooftop storage.* Detention storage may be met in total or in part by detention on roofs. Details of such designs, which shall be included in the drainage permit applications, shall include the depth and volume of storage, details of outlet devices and downdrains, elevations of overflow scuppers, design loadings for the roof structure and emergency overflow provisions. Direct connection of roof drains to sanitary sewers is prohibited.

(4) *Parking lot storage.* Paved parking lots may be designed to provide temporary detention storage of stormwater on all or a portion of their surfaces. Outlets will be designed so as to slowly empty the stored waters and depths of storage must be limited so as to prevent damage to parked vehicles.

(5) *Other storage.* All or a portion of the detention storage may also be provided in underground of surface detention facilities, to include basins, tanks, or swales, etc.

**Section 430.170. Performance Standards.** [Ord. No. 95-12 §4.2, 3-7-1995]

A. *Stormwater Channel Location.* Generally acceptable locations of stormwater runoff channels in the design or any development including subdivision, may include, but not be limited to, the following:

1. In a depressed median of a double roadway, street or parkway provided the median is wide enough to permit maximum three (3) to one (1) side slopes.

2. Centered on lot lines or entirely within the rear yards of a single row of lots or parcels.

3. In each of the foregoing cases, a drainage easement to facilitate maintenance and design flow shall be provided and shown on the plat. No structures shall be construed within or across stormwater channels.

4. The minimum channel shall be designed to handle a twenty-five (25) year, twenty-four (24) year storm with a maximum velocity of five (5) feet/second.

B. *Storm Sewer Outfall.* The storm sewer outfall shall be designed so as to provide adequate protection against downstream erosion and scouring.

C. *Lot Lines.* Whenever the plans call for the passage and/or storage of floodwater, surface runoff or stormwater along lot lines, the grading of all such lots shall be prescribed and established for the passage and/or storage of waters, and no structure may be erected which will obstruct the flow of stormwater, no fences, shrubbery, or trees planted, or changes made to the prescribed grades and contours of the specified floodwater or stormwater runoff channels.

D. *Manholes.* All sanitary sewers manholes constructed in a floodplain or in an area designed for the storage or passage of flood or stormwater, shall be provided with either a water-tight manhole cover or be constructed with a rim elevation of a minimum of one (1) foot above the high water elevation of the base flood or the high water elevation of the design storm, whichever is applicable to the specific area.

E. *Easements.* Permanent easements for the detention and conveyance of stormwater, including easements of access to structures and facilities, shall be dedicated to the City of Neosho.

F. *Maintenance.* Provisions acceptable to the City of Neosho for perpetual maintenance of detention facilities, outlet works, and appurtenances shall be made, as provided, in Section 430.180(B) of these regulations.

G. *Drainage Permits.* A drainage permit for projects including detention facilities may be granted by the City Building Inspector only after the Stormwater Management Plan has been approved and all easements have been dedicated, accepted, and recorded, and all required maintenance assurances and required bonds have been executed, as required in Section 430.180(D) of these regulations.

## ARTICLE V
## **Bonds, Maintenance Assurances, and Drainage Permits**

**Section 430.180. Bonds, Maintenance Assurances, and Drainage Permits.** [Ord. No. 95-12 Art. V, 3-7-1995]

A. *Performance Bonds and Other Assurances for Completion of Stormwater Management Improvements.* Upon approval of the Final Stormwater Management Plan, but before the issuance of drainage permit, the City Building Inspector shall require the applicant to post a performance bond, cash escrow, certified check, or other acceptable form of performance security for the amount of the work to be done pursuant to the approved Stormwater Management Plan.

B. *Maintenance Agreement.* A maintenance agreement, approved by the Governing Body of the City of Neosho, assuring perpetual maintenance of stormwater management improvements shall be agreed upon by the City and the applicant, if the facilities are to be maintained by the developer.

C. *Maintenance Bond.* A two (2) year maintenance bond against defects in workmanship may be required by the City for any portion of the stormwater management improvements dedicated to the public.

D. *Drainage Permits.* Upon approval of the Final Stormwater Management Plan and acceptance of the applicant's assurances of performance and maintenance as provided in these regulations, the City Building Inspector shall issue a drainage permit. The drainage permit shall be issued to the applicant who shall then be known and thereafter be referred to as the permittee. The permit shall set forth the terms and conditions of the approved Stormwater Management Plan.

E. *Review of Permit Application.* The Building Inspector may request an engineering review of any permit application on behalf of the City.

F. *Fees.* A fee of actual cost of plan review shall be paid to the City for each drainage permit.

## ARTICLE VI
## Enforcement

**Section 430.190. Duty of Building Inspector.** [Ord. No. 95-12 §6.1, 3-7-1995]

It shall be the duty of the City Building Inspector to bring to the attention of the City Attorney any violation or lack of compliance herewith.

**Section 430.200. Violations and Penalties.** [Ord. No. 95-12 §6.2, 3-7-1995]

Violations of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars ($500.00) or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

**Section 430.210. Inspection.** [Ord. No. 95-12 Art. VI, 3-7-1995]

A. The City Building Inspector shall be responsible for determining whether the Stormwater Management Plan is in conformance with requirements specified in Article IV of this Chapter, and whether development is proceeding in accordance with the approved drainage permit. Periodic inspection of the development site shall be made by the City Building Inspector. Through such periodic inspections the City Building Inspector shall ensure that the Stormwater Management Plan is properly implemented and that the improvements are maintained.

B. *Remedial Work.* If it is determined through inspection that development is not proceeding in accordance with the approved Stormwater Management Plan and drainage permit, the City Building Inspector shall immediately issue written notice to the permittee and the surety of the nature and location of the alleged non-compliance, accompanied by documentary evidence demonstrating non-compliance and specifying what remedial work is necessary to bring the project into compliance. The permittee so notified shall immediately, unless weather conditions or other factors beyond the control of the permittee prevent immediate remedial action and shall complete the remedial work within seventy-two (72) hours or within a reasonable time after receipt of said notice. Upon satisfactory completion of the remedial work the City Building Inspector shall issue a notice of compliance and the development may proceed.

C. *Revocation of Permits — Stop Work Orders.* The City Building Inspector, after giving three (3) days written notice, may revoke a permit issued pursuant to these regulations for any project which is found upon inspection to be in violation of the provisions of these regulations, and for which the permittee has not agreed to undertake remedial work as provided in Subsection (B) hereof. Drainage permits may also be revoked if remedial work is not completed within the time allowed. Upon revocation of a drainage permit the City Building Inspector shall issue a stop work order. Such stop work order shall be directed to the permittee and he/she shall immediately notify persons owning the land, the developer, and those persons or firms actually performing the physical work of clearing, grading and developing the land. The stop work order shall direct the parties involved to cease and desist all or any portion of the work on the development or a portion thereof which is not in compliance, except such remedial work necessary to bring the project into compliance.

## ARTICLE VII
## General Provisions

**Section 430.220. Interpretation, Conflict and Separability Interpretations.** [Ord. No. 95-12 §7.1, 3-7-1995]

A. *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

B. *Conflict with Public and Private Provisions.*

1. *Public provisions.* These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards, shall control.

2. *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations that such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, and such private provisions are inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made hereunder.

C. *Separability.* If any part or provisions of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgement shall be confined in its operation to that part, provision, or application directly involved in the controversy in which such judgement shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the validity of the remainder of these regulations or the application hereof to other person or circumstances. The Governing Body hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application found to be unlawful or invalid.

**Section 430.230. Saving Provision.** [Ord. No. 95-12 §7.2, 3-7-1995]

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any Section or provision existing at the time of adoption of these regulations or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City, except as shall be expressly provided for in these regulations.

**Section 430.240. Amendments.** [Ord. No. 95-12 §7.3, 3-7-1995]

For the purpose of providing for the public health, safety and general welfare, the Governing Body may, from time to time, amend the provisions of these regulations.

**Section 430.250. Appeals.** [Ord. No. 95-12 §7.4, 3-7-1995]

A. Any person aggrieved by a decision of the City Building Inspector may appeal any order, requirement, decision or determination first to the Technical Review Committee and then to a court of competent jurisdiction in accordance with the procedures set forth below:

1. A hearing before the Technical Review Committee may be required within ten (10) days of a final order, requirement, decision or determination of the City Building Inspector. The Technical Review Committee shall consider any information offered by the aggrieved person bearing on the dispute and may recommend to the City Building Inspector an appropriate course of action: Either reversal, modification, or confirmation. The City Building Inspector, who shall be present at the hearing, shall act on the recommendation in a manner consistent with his/her responsibilities under these regulations.

2. Any person aggrieved by any final decision of the City Building Inspector following review by the Technical Review Committee may seek review by a court of competent jurisdiction in the manner provided by the laws of the State of Missouri.

**Section 430.260. Technical Review Committee.** [Ord. No. 95-12 §7.5, 3-7-1995]

A. The Technical Review Committee on Stormwater Management, which shall be appointed by the Governing Body, shall consist of three (3) members from the fields of hydrology, geology, environmental science, civil engineering or physical planning. The Chairman shall be elected by the members of the Committee. The Committee shall have the following responsibilities:

1. Participate in the review of appeals as provided in Section 430.250(1), above;

2. Mediate disputes regarding the interpretation and applicability of the technical provisions of the ordinance, particularly with respect to design criteria and performance standards set forth in Article IV; and

3. Submit recommendations and findings pertinent to any dispute to the City Building Inspector.

## ARTICLE VIII
## **Liability**

**Section 430.270. Disclaimer of Liability.** [Ord. No. 95-12 §8.1, 3-7-1995]

The performance standards and design criteria set forth herein establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee, or warranty of any kind by the City or its officers and employees, of the adequacy or safety of any stormwater management structure or use of land. Nor shall the approval of a Stormwater Management Plan and the issuance of a drainage permit imply that land uses permitted will be free from damages caused by stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and

scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any Officer with respect to any legislative or administrative decision lawfully made hereunder.

## Chapter 435

## DEANNEXATION/DETACHMENT OF TERRITORY FROM CORPOREAL BOUNDARIES

**Section 435.010. Purpose.** [Ord. No. 37-2013 §1, 6-12-2013]

This Chapter sets out the required review and approval procedures for the detachment of territory (deannexation) of any portion of land within the corporate limits of the City of Neosho.

**Section 435.020. Application Submittal.** [Ord. No. 37-2013 §1, 6-12-2013]

A. A complete application for the detachment of territory (deannexation) shall be submitted to the Neosho Development Services Director in a form established by the City (detachment (deannexation) application), along with a non-refundable fee that has been established by the City to defray the cost of processing the application. No application shall be processed until the application is complete and the required fee has been paid. The application shall be made and shall be signed by all owners of lands that the owners seek to have detached (deannexed). If the application is not submitted by all such owners, that fact shall be noted on the application along with the names and addresses of all owners who are not a party to the application. The following shall be submitted in support of a detachment (deannexation) application:

1. A written explanation of why the detachment of territory (deannexation) is being requested.

2. Names and addresses of all owners of property abutting the proposed territory to be detached (deannexed).

3. Notarized affidavit(s) from each owner(s) of land that is proposed to be detached (deannexed), who is not listed as an applicant, indicating his or her consent to the detachment of territory (deannexation).

4. A survey or such other drawing acceptable to the Neosho Development Services Director depicting the proposed territory to be detached (deannexed), any utilities contained therein and the properties and each property's ownership surrounding the proposed territory to be detached (deannexed).

5. A legal description of the property to be detached (deannexed).

6. A non-refundable fee in the amount of four hundred fifty dollars ($450.00).

**Section 435.030. Review and Report — Neosho Development Services Director.** [Ord. No. 37-2013 §1, 6-12-2013]

The Neosho Development Services Director shall prepare a staff report that reviews the proposed detachment (deannexation) request in light of the Comprehensive Plan and the general needs of the City to include the proposed detachment's effect on surrounding land within the City. The Neosho Development Services Director shall provide a copy of the report to the Planning and Zoning Commission and the applicant at least five (5) days before the scheduled Planning and Zoning Commission public hearing which shall take the matter up for consideration.

**Section 435.040. Notice of Public Hearing.** [Ord. No. 37-2013 §1, 6-12-2013]

A. *Newspaper Notice.* Notice of the time and place of the scheduled public hearing before the Planning and Zoning Commission shall be published in a newspaper of general circulation at least two (2) weeks prior to the public hearing, said notice to include the legal description of the property to be detached (deannexed).

B. *Written Notice.* The City will attempt to notify, by mail, all owners of property abutting the proposed territory to be detached (deannexed).

**Section 435.050. Review and Recommendation — Planning and Zoning Commission.** [Ord. No. 37-2013 §1, 6-12-2013]

The Planning and Zoning Commission shall consider the detachment (deannexation) request in light of the Comprehensive Plan, the public hearing and general needs of the City to include the proposed detachment's effect on surrounding land within the City. After such consideration, the Planning and Zoning Commission shall make a recommendation to approve or disapprove the detachment (deannexation). The Planning and Zoning Commission recommendation shall be provided to the City Council and the applicant at least five (5) days before the meeting at which the City Council considers the detachment (deannexation).

**Section 435.060. Review and Action - City Council.** [Ord. No. 37-2013 §1, 6-12-2013]

A. The City Council shall consider the detachment (deannexation) request at a regular meeting. The City Council may approve (said approval to be by ordinance) the application if it determines from the submitted evidence and testimony that:

    1. Due and legal notice has been given by publication as required herein;

    2. No private rights will be injured or endangered by the detachment (deannexation);

    3. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted; and

    4. That the detachment (deannexation) is in the City's best interests. The City may retain easements in the detached (deannexed) property if deemed necessary for the public good or welfare.

**Section 435.070. Filing of Ordinance.** [Ord. No. 37-2013 §1, 6-12-2013]

Any ordinance passed detaching (deannexing) territory shall contain the legal description of the land detached (deannexed) and shall instruct the City Clerk to cause three (3) certified copies of the ordinance to be filed with the County Clerk of Newton County, Missouri, and to cause a certified copy of the ordinance to be recorded in the office of the Newton County Recorder.

# Chapter 500

# BUILDINGS AND BUILDING REGULATIONS

Cross References — Nuisances, ch. 220; planning and zoning commission, ch. 400; zoning regulations, ch. 405; subdivision regulations, ch. 410; fire prevention code adoption, §500.070 et. seq.; electricity, ch. 505; plumbing, ch. 510; mechanical code, ch. 515; property maintenance code, ch. 520; dangerous buildings, ch. 525; moving of buildings, ch. 530.

## ARTICLE I
## In General

**Section 500.010. Building Inspector to Enforce Technical Codes.** [CC 1979 §7-1; Ord. No. 697 §1, 11-20-1968; Ord. No. 193-2005 §1, 1-18-2005; Ord. No. 01-2013 §1, 1-22-2013]

A. The Building Inspector of the City shall enforce obedience to the ordinances, rules and regulations of the City relating to the Building Code, Mechanical Code, Plumbing Code and Electrical Code.

B. The Building Inspector shall have authority to stop work in progress or to order corrections made in work when he/she determines that the work is not in compliance with the applicable ordinances, rules or regulations of the City.

C. Any person refusing to obey the orders of the Building Inspector shall be given a summons for appearance before the Municipal Court of the City to answer charges for violation of the provisions of the applicable Building Code, Mechanical Code, Plumbing Code or Electrical Code. The Building Inspector shall have authority to issue such summons without the necessity of first filing a complaint with the Police Judge.

**Section 500.015. Fees for Governmental Agencies That Request Inspection Services.** [Ord. No. 305-2007 §§1 — 2, 8-21-2007]

A. Fees for statutory governmental agencies that request inspection services for buildings that require an architectural or engineering seal as per the requirements of the Statutes of the State of Missouri shall be charged at a rate of one and one-half (1½) times the rate for residential structures.

B. The provisions of this Section shall be included and incorporated in the Code of Ordinances of the City of Neosho, Missouri, as an addition or amendment thereto and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

## ARTICLE II

## Building Code [1]

**Section 500.020. Building Code — Adoption.** [Code 1962 §7-1; CC 1979 §7-16; Ord. No. 921 §2(a), 5-18-1976; Ord. No. 87-14 §7-16, 8-18-1987; Ord. No. 93-17 §§1, 2, 6-1-1993; Ord. No. 13-2000 §1, 4-18-2000; Ord. No. 193-2005 §2, 1-18-2005; Ord. No. 325-2008 §2, 3-18-2008; Ord. No. 01-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, being marked and designated as the "International Building Code, 2009 Edition", including Appendix Chapters A through K, as published by the International Code Council be and is hereby adopted as the Building Code of the City of Neosho in the State of Missouri for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, penalties, conditions and terms of said Building Code on file in the office of the Building Inspector are hereby referred to, adopted and made a part hereof, as if fully set out in this Section, with the additions, insertions, deletions and changes, if any, prescribed in Section 500.050 of this Article, except as otherwise provided by this Chapter.

**Section 500.030. Definitions.** [2] [Code 1062 §7-2; CC 1979 §7-17; Ord. No. 01-2013 §1, 1-22-2013]

Whenever the following words and phrases are used in the Building Code adopted by Section 500.020 of this Code of Ordinances, they shall have the meanings herein ascribed to them:

BOARD OF APPEALS — The Board provided for under Section 113 shall be known as the Board of Adjustment as described in Section 405.270.

CORPORATION COUNSEL — The City Attorney.

MUNICIPALITY — The City of Neosho, Missouri.

**Section 500.040. Where Copies Obtainable.** [Code 1962 §7-3; CC 1979 §7-18; Ord. No. 01-2013 §1, 1-22-2013]

Copies of the Building Code adopted by this Article are obtainable during regular business hours at the office of the Building Inspector.

**Section 500.050. Amendments.** [CC 1979 §7-19; Ord. No. 931 §§2, 3, 6-18-1976; Ord. No. 87-22 §7-19, 9-1-1987; Ord. No. 88-44 §1, 9-27-1988; Ord. No. 88-46 §1, 11-15-1988; Ord. No. 88-47 §1, 12-6-1988; Ord. No. 89-22 §7-19, 9-5-1989; Ord. No. 93-25 §1, 8-10-1993; Ord. No. 13-

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1. **Charter Reference — Authority to adopt technical codes by reference, §2.17.**

2. **Cross Reference — Rules of construction and definitions generally, §100.020.**

2000 §2, 4-18-2000; Ord. No. 193-2005 §3, 1-18-2005; Ord. No. 259-2006 §1, 9-5-2006; Ord. No. 325-2008 §2, 3-18-2008; Ord. No. 01-2013 §1, 1-22-2013]

A. The following Sections are hereby revised as follows:

| | |
|---|---|
| *Section 101.1:* | Insert: City of Neosho |
| *Section 1612.3:* | Insert: City of Neosho |
| *Section 1612.3:* | Insert: November 26, 2010 |

B. The Building Code adopted by this Article is hereby amended as set out in this Section.

1. *Ordinary repairs.*

   a. *General.* Ordinary repairs to structures may be made without application or notice to the Building Official; but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit-way requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety. Ordinary repairs to building where the cost of said repairs, including labor and materials, is less than five hundred dollars ($500.00) may be made without application or notice to the Building Official. All other repairs, other than interior decorating involving no structural change, may only be made by compliance with this Code.

2. *Rules and regulations.*

   a. *Promulgation of rules.* No rule or regulation shall become effective until thirty (30) days after the Building Official shall have filed a copy of said rule or regulation in the office of the City Clerk for the City of Neosho, Missouri.

3. *Application for permit.*

   a. *When permit is required.* It shall be unlawful to construct, enlarge, alter, remove, demolish, or excavate for any building or change the occupancy of a building from one use group to another, requiring greater strength, exit or sanitary provisions, or to change a building to a prohibitive use, or to construct a parking lot, or construct a retaining wall, or to occupy, use or permit the occupancy or use of a travel trailer or mobile home, or to install or alter any equipment for which provision is made or the installation of which is regulated by the Basic Code without first filing an application with the Building Official in writing and obtaining a building permit therefor; except that ordinary repairs as previously defined, which do not involve any violation of the Basis Code, shall be

exempt from this provision. This permit is for six (6) months and can be renewed at the option of the City. No permit will be required for any facility used as a temporary construction facility for the duration of construction or development period only. Said temporary construction facility must be on wheels or skids and its dimensions shall not exceed nine (9) feet by fifty (50) feet.

b. *Plans and specifications.* The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn to scale with sufficient clarity and detail dimensions to show the nature and character of the work to be performed, provided however, no plans or specifications shall be required for single-family dwelling houses and accessory buildings thereto nor for minor additions or extensions or accessory buildings, not intended for human occupancy such as storage sheds, not exceeding one (1) story in height to existing buildings not involving new or unique construction practices or principles, but in such cases there shall be filed a plot plan showing the location of the structure, addition, or extension proposed on the lot, showing the height of the proposed construction and the basic type of construction proposed. When quality or type of material to be used is essential to conform to the Basic Code, specific information shall be given to establish such quality or character and in no case shall the code be cited or the term "legal" or its equivalent be used as a substitute for the specific information. Whenever plans and specifications are required, they shall bear the signature or seal of an architect or engineer duly licensed by the State of Missouri. Plans and specifications are required for all commercial buildings and any existing building where the improvements exceed fifty percent (50%) of the cost of the building. Plans and specifications shall bear the signature or seal of an architect or engineer duly licensed by the State of Missouri.

4. *Removal of structures.*

a. *Lot regulations.* Whenever a building is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions during the time of such demolition by the erection of necessary retaining walls and fences in accordance with the provisions of Article 13. In addition, immediately following completion of the demolition, all debris shall be removed from the premises. In the event upon completion of demolition the lot has not been graded and filled to the grade of the abutting street or to the grade of surrounding properties and there shall be left upon the lot open foundations, open basement areas, or other similar holes or depressions and if construction operations have not been actually undertaken upon the lot, then a substantial solid fence at least six (6) feet in height shall be erected and maintained about the lot until such grading and filling shall have been done or until construction operations shall be undertaken. On lots zoned for residential purposes upon which no construction has been undertaken

within a period of six (6) months from the date of the completion of the demolition operations, it shall be the duty of the owner of the lot to fill the same to the street grade or to the grade of the surrounding lots, filling all excavations and holes and foundations and removing all foundation structure to ground level. It shall be the duty of persons engaged in demolition operations, after the work shall have actually begun, to proceed on such work continuously and without unnecessary delay and if no substantial work shall be performed upon any such demolition project, after the work shall have initially begun, for a period of fourteen (14) consecutive days, it shall be prima facie proof of violation of the duty to proceed continuously and without unnecessary delay.

5. *Fees.*

a. *Fees for construction and alterations.* For each permit issued there shall be charged and collected from the applicant a fee in accordance with the following schedule:

(1) All new construction and alterations on single-family residential buildings and duplexes permits shall be based upon total square foot area to be constructed, erected or altered at a cost of twenty cents ($0.20) per square foot.

(2) All new construction on garages and detached buildings permits shall be based upon total square foot area to be constructed, erected or altered at a cost of twenty cents ($0.20) per square foot.

(3) All commercial buildings or structures shall be computed on total construction costs according to the following schedule: building code enforcement a total of four dollars fifty cents ($4.50) per one thousand dollars ($1,000.00) of construction cost.

(4) The minimum fee shall be twenty dollars ($20.00) regardless of the size or cost of the construction.

b. *Fees for removal.* The fee for a building permit for removal of a building or structure from one lot to another or to a new location on the same lot shall be at the rate of one dollar ($1.00) per one hundred dollars ($100.00) of the estimated cost of moving, plus the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location.

c. *Fees for demolition.* The fee for permit for demolition of a building or structure shall be at the rate of two dollars ($2.00) for every five hundred (500) square feet of floor space or part thereof.

d. *Refunds.* In the case of revocation of a permit or abandonment or discontinuance of a building project, fees collected under the above Sections shall be refunded where such work has not been commenced

prior to the abandonment thereof; however, if any such work has been commenced, no refund of any building fee shall be made.

6. *Permissible street projections.*

   a. *Conflicting ordinances.* In the event that any other ordinance of the City of Neosho, now or hereafter in existence, shall provide for more restrictive limitations upon permissible street projections than provided for in any of the amendments, then in that event the more restrictive provisions of such other ordinance shall prevail.

7. *Permissible yard and court encroachments.*

   a. *General.* No part of any building or structure shall extend into side courts, inner courts, or yards required for light and ventilation of habitable and occupiable rooms by the provisions of Article 5, except as hereafter provided; but in no case shall the encroachment exceed twenty percent (20%) of the legal area of the yard or court required for light and ventilation purposes; and in the event any other ordinance, now or hereafter in existence, of this City shall make more restrictive requirements than amendments, then the more restrictive provisions of such other ordinance shall prevail.

8. *Special and temporary projections.* Deleted.

9. *Parking lots.*

   a. *Surface and drainage.* Parking lots shall be graded to prevent the unnecessary accumulation and discharge of surface water drainage upon adjoining property or upon the public sidewalks or parkways. All parking lots and drives providing access thereto shall be surfaced with an approved non-absorbent, dust-free material.

10. *Tents and temporary structures.* Deleted.

11. *Conduction of permit.*

    a. *Percolation tests required — when.* No permit shall be issued for any structure requiring or designed for connection with private sewage disposal facilities unless the facilities to be used will comply with the ordinances of the City and the law of Missouri, and, if septic tank facilities are to be used, then no permit shall be issued until the lot has been tested for and has been found to have adequate percolation qualities under the Plumbing Code of the City.

**Section 500.060. Penalty.** [Ord. No. 193-2005 §4, 1-18-2005; Ord. No. 01-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the International Building Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County

Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## ARTICLE III
## Fire Prevention

**Section 500.070. International Fire Code — Adoption.** [3] [Code 1962 §11-1; CC 1979 §10-1; Ord. No. 930 §2, 6-18-1976; Ord. No. 87-18 §10-1, 8-18-1987; Ord. No. 93-21 §§1, 2, 6-1-1993; Ord. No. 4-2000 §1, 3-7-2000; Ord. No. 194-2005 §1, 1-18-2005; Ord. No. 01-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector and Fire Chief of the City of Neosho, being marked and designated as the "International Fire Code, 2009 Edition" as published by the International Code Council, Inc. be and is hereby adopted as the Fire Code of the City of Neosho in the State of Missouri regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to the life and property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the Building Inspector and Fire Chief of the City of Neosho, Missouri, are hereby referred to, adopted and made a part hereof, as if fully set out in this Section, with the additions, insertions, deletions and changes, if any, prescribed in Section 500.080 and Section 500.085 of this Article.

**Section 500.080. Additions, Insertions and Changes.** [CC 1979 §10-10.2; Ord. No. 947 §2, 2-1-1977; Ord. No. 89-20 §10-2, 8-1-1989; Ord. No. 4-2000 §3, 3-7-2000; Ord. No. 194-2005 §2, 1-18-2005; Ord. No. 01-2013 §1, 1-22-2013]

A. The following Sections are hereby revised as follows:

1. *Section 101.1. Insert:* City of Neosho.

2. *Section 109.3. Insert:* Misdemeanor and five hundred dollars and ninety days.

3. *Section 111.4. Insert:* $0 and five hundred dollars ($500.00).

4. The Board of Appeals as referred to in Section 108 shall be the Board of Adjustment as created by Section 405.270 of the Municipal Code of Ordinances and Sections 108.1 through 108.3 are deleted.

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[3]. **Charter Reference — Authority to adopt technical codes by reference, §2.17. Cross References — Building code, ch. 500, art. II; electrical code, §505.010; plumbing code, ch. 510; mechanical code, ch. 515.**

5. Section 307, Open Burning and Recreational Fires, is amended to add the following paragraphs:

5. Location restricted: A person shall not kindle or maintain any open burning or authorize any such open burning to be kindled or maintained unless:

5. The location is approved by the Fire Chief or his designee and is not less than twenty-five (25) feet from any structure and adequate provision is made to prevent fire from spreading to within twenty-five (25) feet of any structure.

5. Material burned is restricted to "yard waste" as defined in Section 230.010 of the Municipal Code of the City of Neosho.

5. Prohibited open burning: The City Manager or the Fire Chief may prohibit any or all open burning when atmospheric conditions or local circumstances make such burning hazardous or which are or could be offensive or objectionable due to smoke or odor emissions. The City Manager or Fire Chief shall order the extinguishment, by the permit holder or the Fire Department, of any burning which creates or adds to a hazardous or objectionable situation.

6. Section 3301.1.3, Fireworks, is deleted.

7. Sprinkler systems shall not be required in Group R-3 as defined by the 2009 International Fire Code.

**Section 500.085. Establishment of Limits.** [Ord. No. 4-2000 §4, 3-7-2000; Ord. No. 194-2005 §3, 1-18-2005; Ord. No. 01-2013 §1, 1-22-2013]

A. That the limits referred to in the International Fire Code, 2009 Edition, in which the storage of explosive materials is prohibited are hereby established as follows:

A. Approval shall be required for the following conditions or operations:

1. The manufacture, possession, storage, sale or disposition of explosive materials.

2. The transportation of explosive materials.

3. The use of explosive materials.

4. The operation of a terminal for handling explosive materials.

5. The delivery to or receipt of explosive materials from a carrier at a terminal between the hours of sunset and sunrise.

B. The geographic limits referred to in certain Sections of the International Fire Code, 2009 Edition, are hereby established as follows:

B. Section 3204.3.1.1.3 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited);

B. Section 3404.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in aboveground tanks outside of buildings is prohibited);

B. Section 3406.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in aboveground tanks is prohibited);

B. Section 3804.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas).

**Section 500.090. Penalty.** [Ord. No. 194-2005 §4, 1-18-2005; Ord. No. 01-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the International Fire Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## ARTICLE IV
## Numbering Buildings

**Section 500.100. System — Generally.** [Code 1962 §7-10; CC 1979 §26-76; Ord. No. 01-2013 §1, 1-22-2013]

Odd numbers shall apply to, and be placed and maintained upon all buildings located and fronting on the north and west sides of the public streets and even numbers to all buildings located and fronting on the south and east sides of the streets.

**Section 500.110. System — Streets Running North and South Generally.** [Code 1962 §7-11; CC 1979 §26-77; Ord. No. 01-2013 §1, 1-22-2013]

On streets running in a north and south direction, the numbers shall commence at Spring Street with the number 100 on the east side, and the number 101 on the west side of each street, such numbers to appear on each street and both to the north and south of Spring Street, and continue for one (1) block in such order. In the second (2nd) block the numbers shall begin with 200 and 201, respectively, and for each block thereafter the original number shall be increased by 100. The numbering in this manner shall continue to the City limits in each direction.

**Section 500.120. System — Streets Running East and West Generally.** [Code 1962 §7-12; CC 1979 §26-78; Ord. No. 01-2013 §1, 1-22-2013]

On streets running east and west in the City, the numbering shall commence at Wood Street with the number 100 on the south side, and the number 101 on the north side of each street, and shall continue to be numbered in the same manner as provided for by Section 500.100 for north and south streets.

**Section 500.130. System — Streets Which Do Not Cross Spring Street and Wood Street.** [Code 1962 §7-13; CC 1979 §26-79; Ord. No. 01-2013 §1, 1-22-2013]

In all cases where streets do not cross Spring Street and Wood Street, the numbering of each building fronting on such streets shall be the same as it would be in that location if the street were continuous across the City.

**Section 500.140. System — Method for Distinguishing Similar Numbers on Opposite Sides of the City.** [Code 1962 §7-14; CC 1979 §26-80; Ord. No. 01-2013 §1, 1-22-2013]

For the purpose of distinguishing building 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 Spring Street, shall have the prefix "north" for such portions of the street as may lie north of Spring Street, and such portions of the street as may lie south of Spring Street shall have the prefix "south"; and for streets running east and west and extending across the City, or being represented on both sides of Wood Street, the portions lying east of Wood Street shall have the prefix "east," and those lying west of Spring Street shall have the prefix "west".

**Section 500.150. Owner or Occupant to Provide and Maintain Numbers — Generally — Specifications of Numbers.** [Code 1962 §7-15; CC 1979 §26-81; Ord. No. 01-2013 §1, 1-22-2013]

It is hereby made the duty of the owner or occupant of each dwelling or business house 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 be so placed and maintained as to easily be discernible from the street on which such building fronts.

**Section 500.160. Owner or Occupant to Provide and Maintain Numbers — New Buildings.** [Code 1962 §7-16; CC 1979 §26-82; Ord. No. 01-2013 §1, 1-22-2013]

It shall be the duty of any person erecting or constructing any building within the City to procure from the Building Inspector the correct number for such building, and as soon as such building is completed to provide it with the number designated by the Building Inspector.

**Section 500.170. Allotment of Numbers.** [Code 1962 §7-17; CC 1979 §26-83; Ord. No. 01-2013 §1, 1-22-2013]

It shall be the duty of the Building Inspector to allot the house number of any building upon the issuance of any building permit or when otherwise requested to do so by any person.

# Chapter 505

# ELECTRICAL CODE

## ARTICLE I
## In General

**Section 505.010. National Electrical Code — Adoption.** [1] [Code 1962 §9-1; CC 1979 §9-1; Ord. No. 724 §1, 7-15-1969; Ord. No. 921 §2, 5-18-1976; Ord. No. 87-16, 8-18-1987; Ord. No. 93-20 §1, 2, 6-1-1993; Ord. No. 14-2000 §1, 4-18-2000; Ord. No. 195-2005 §1, 1-18-2005; Ord. No. 03-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, Missouri, being marked and designated as "The National Electrical Code, 2008 Edition" as published by the National Fire Protection Association, Inc. be and is hereby adopted as the Electrical Code of the City of Neosho, Missouri for the control of electrical wiring, electrical devices or electric material; and each and all of the regulations, provisions, penalties, conditions and terms of said National Electrical Code are hereby referred to, adopted and made a part hereof, as if fully set out in this Section, except as otherwise provided by this Chapter.

**Section 505.020. Interpretation of Chapter as to Civil Liability of Individuals.** [Code 1962 §9-12; CC 1979 §9-2; Ord. No. 03-2013 §1, 1-22-2013]

This Chapter shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring, electric devices or electric material, for damage to persons or property caused by any such liability by reason of the inspection authorized by this Chapter or the certificate of inspection issued pursuant to this Chapter.

**Section 505.030. Violations of Chapter.** [Code 1962 §9-13; CC 1979 §9-3; Ord. No. 195-2005 §2, 1-18-2005; Ord. No. 03-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the National Electric Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

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1. **Charter Reference — Authority to adopt technical codes by reference §2.17. Cross References — Building code, ch. 500, art. II; fire prevention code, §500.070; plumbing code, ch. 510; mechanical code, ch. 515; property maintenance code, ch. 520.**

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## ARTICLE II
## Electrical Inspector

**Section 505.040. Building Inspector to Perform Duties.** [Code 1962 §9-2; CC 1979 §9-16; Ord. No. 03-2013 §1, 1-22-2013]

The duties of the Electrical Inspector as set out in this Chapter shall be performed by the Building Inspector of the City.

**Section 505.050. Right of Entry — Authority Generally.** [Code 1962 §9-3; CC 1979 §9-17; Ord. No. 03-2013 §1, 1-22-2013]

The Electrical Inspector shall have the right during reasonable hours to enter any building in the discharge of his/her official duties, or for the purpose of making any inspection or test of the installation of electrical wiring, electrical devices or electrical material contained therein and shall have the authority to cause the turning off of all electrical current and to cut or disconnect, in cases of emergency, any wires where such electrical current is dangerous to life or property or may interfere with work of the Fire Department.

**Section 505.060. Records to Be Kept.** [Code 1962 §9-4; CC 1979 §9-18; Ord. No. 03-2013 §1, 1-22-2013]

The Electrical Inspector shall keep complete records of all permits issued, inspections made and other official work performed under the provisions of this Chapter. He/she shall be provided with the necessary help to carry out the provisions of this Section.

**Section 505.070. Discontinuance of Service to Defective Installations.** [Code 1962 §9-10; CC 1979 §9-19; Ord. No. 03-2013 §1, 1-22-2013]

The Electrical Inspector is hereby empowered to disconnect or order the discontinuance of electrical service to any electrical wiring, devices or material found to be defectively installed until the installation of such wiring, devices and material has been made safe as directed by the Electrical Inspector.

## ARTICLE III
## Permits and Inspections [2]

**Section 505.080. Work Permits Generally.** [Code 1962 §9-5; CC 1979 §9-31; Ord. No. 03-2013 §1, 1-22-2013]

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2. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

A. No alterations or addition shall be made in the existing wiring of any building, nor shall any building be wired for the placing of any electric lights, motors, heating devices or any apparatus requiring the use of electrical current, nor shall any alterations be made in the wiring in any building after inspection, without first notifying the Electrical Inspector and securing a permit therefor; provided that the provisions of this Section shall not apply to minor repair work, such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords.

B. Applications for permits pursuant to this Section describing the proposed work shall be made by the person installing the same and such permit, when issued, will be issued to such applicant.

C. This Section shall not apply to maintenance and repair on the premises of a person regularly employing journeymen electricians for that purpose.

**Section 505.090. Certificate of Inspection and Approval — Generally.** [Code 1962 §9-6; CC 1979 §9-32; Ord. No. 03-2013 §1, 1-22-2013]

A. Upon the completion of any installation of wiring or electrical equipment for which a permit pursuant to this Chapter is required, it shall be the duty of the person installing the same to notify the Electrical Inspector who shall inspect the installation within twenty-four (24) hours of the time such notice is given, and, if it is found to be fully in compliance with this Chapter and does not constitute a hazard to life and property, and upon the payment of the proper fees as designated by Section 505.110, he/she shall issue to such person for delivery to the owner a certificate of inspection and approval authorizing connection to the electrical service and turning on the current.

B. All wires which are to be hidden from view shall be inspected before concealment and any person installing such wires will notify the Electrical Inspector giving him/her twenty-four (24) hours in which to make the required inspection before such wires are concealed.

**Section 505.100. Certificate of Inspection and Approval — Pre-Requisites to Issuance.** [Code 1962 §9-7; CC 1979 §9-33; Ord. No. 03-2013 §1, 1-22-2013]

No certificate of inspection and approval shall be issued pursuant to Section 505.090 unless electric light, power and heating installations are in strict conformity with the provisions of this Chapter, and unless they are in conformity with the most approved methods of construction for safety to life and property, and upon the payment of the proper fees as designated by Section 505.110. The regulations as laid down in the National Electrical Code adopted by Section 505.010 of this Chapter shall be prima facie evidence of the most approved methods.

**Section 505.110. Certificate of Inspection and Approval — Fees.** [Code 1962 §9-8; CC 1979 §9-34; Ord. No. 93-26 §1, 8-10-1993; Ord. No. 260-2006 §1, 9-5-2006; Ord. No. 03-2013 §1, 1-22-2013]

There shall be paid to the Building Inspector, in advance, by the person requesting any electrical inspection, the sum of twenty-five dollars ($25.00) for inspection of temporary meter loop, the sum of twenty-five dollars ($25.00) for the inspection of the permanent meter loop and the sum of twenty-five dollars ($25.00) for the breaker box.

**Section 505.120. Notice and Correction of Unsafe, Etc., Wiring, Etc.** [Code 1962 §9-9; CC 1979 §9-35; Ord. No. 03-2013 §1, 1-22-2013]

When the installation of any electrical wiring, devices or materials is found to be in a dangerous or unsafe condition, the person using or operating the same shall be notified and shall make the necessary repairs or changes required to place such wiring, devices or materials found to be in a dangerous or unsafe condition in a safe condition and shall have such work completed within fifteen (15) days, or within any longer period specified by the Electrical Inspector in such notice.

**Section 505.130. Review When Installations Condemned.** [Code 1962 §9-11; CC 1979 §9-36; Ord. No. 03-2013 §1, 1-22-2013]

When the Electrical Inspector condemns all or part of any electrical installation, the owner thereof may, within five (5) days after receiving written notice from the Electrical Inspector, file a petition in writing for a review of such action of the Electrical Inspector with the City Manager, upon receipt of which the City Manager shall at once proceed to determine whether such electrical installation complies with this Chapter, and within three (3) days, make a decision in accordance with his/her findings.

# Chapter 510

# PLUMBING

Cross References — Water and sewers, Title VII; backflow protection, §§710.220 — 710.310.

## ARTICLE I
## Code Adoption [1]

**Section 510.010. Plumbing Code — Adoption.** [CC 1979 §23-15; Ord. No. 921 §2, 5-18-1976; Ord. No. 87-17, 8-18-1987; Ord. No. 93-19 §§1, 2, 6-1-1993; Ord. No. 16-2000 §1, 4-18-2000; Ord. No. 196-2005 §1, 1-18-2005; Ord. No. 325-2008 §2, 3-18-2008; Ord. No. 08-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, being marked and designated as "International Plumbing Code, 2009 Edition", as published by the International Code Council, Inc. be and is hereby adopted as the Plumbing Code of the City of Neosho, Missouri, regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the City of Neosho and providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code are hereby referred to, adopted and made a part hereof, as if fully set out in this Section, with the additions, insertions, deletions and changes, if any, prescribed in Section 510.015 of this Article, except as otherwise provided by this Chapter.

**Section 510.015. Additions, Insertions and Changes.** [Ord. No. 16-2000 §2, 4-18-2000; Ord. No. 196-2005 §2, 1-18-2005; Ord. No. 08-2013 §1, 1-22-2013]

The following Sections are hereby revised as follows:

Section 101.1. Insert: City of Neosho, Missouri

Section 106.6.2. Insert: Section 510.080 of this Chapter

Section 106.6.3. Insert: Fifty percent (50%) and fifty percent (50%)

Section 108.4. Insert: Section 510.020 of this Chapter

Section 108.5. Insert: $0 and five hundred dollars ($500.00)

Section 305.6.1. Insert: Eighteen (18) inches and eighteen (18) inches

Section 904.1. Insert: Eighteen (18) inches

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1. **Charter Reference — Authority to adopt technical codes by reference §2.17. Cross References — Building code, ch. 500, art. II; fire prevention code adopted, §500.070; electrical code adopted, §505.010; mechanical code, ch. 515.**

**Section 510.020. Penalty.** [Ord. No. 16-2000 §3, 4-18-2000; Ord. No. 196-2005 §3, 1-18-2005; Ord. No. 08-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of the Chapter or the provisions of the International Plumbing Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction therefore shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## ARTICLE II
## Licenses, Permits and Inspections [2]

**Section 510.030. Plumber's License — Required.** [Code 1962 §23-26; CC 1979 §23-28; Ord. No. 08-2013 §1, 1-22-2013]

No person shall engage in the business of plumbing or do any plumbing work whatsoever, except minor repair work, unless he/she is licensed as a plumber by the City.

**Section 510.040. Plumber's License — Application.** [Code 1962 §23-27; CC 1979 §23-29; Ord. No. 08-2013 §1, 1-22-2013]

Any person desiring to do business as a plumber in the City shall file in the office of the License Clerk an application, giving the name of such person and his/her place of business, and asking to be licensed as a plumber. Such application shall be signed by two (2) responsible citizens of the City, vouching for the business capacity and reputation of the applicant, that he/she is a master of his/her trade and willing to be governed in all respects by all rules and regulations which are or which may hereafter be in force, governing its sanitary sewer system.

**Section 510.050. Special Work Permit Generally.** [Code 1962 §23-28; CC 1979 §23-30; Ord. No. 08-2013 §1, 1-22-2013]

A. No person, master plumber or journeyman plumber shall begin any job of plumbing work in or about any building until he/she has secured from the Building Inspector a permit to do such work, except as provided by this Section, and in order to secure such special permit written application shall be made on blanks furnished by the Building Inspector.

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2. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

B. Such application shall show the name of the owner, agent or occupant of premises, street and house number, the name of the master plumber having charge of the work and a description of the work to be done, setting forth the number and kind of fixtures.

C. No special permit shall be required on minor repair work such as the repairs of leaks in pipes, traps or cocks, opening up stoppage in waste or supply pipes, traps or drains or replacing broken fixtures when waste pipes are not disturbed and thawing frozen pipes inside of buildings, but where waste pipes from fixtures are changed, or a waste pipe is run from a fixture, a special permit shall be obtained and the Plumbing Inspector notified and the work inspected before the same is covered up.

**Section 510.060. Permit to Connect House Drains to Sewers.** [Code 1962 §23-29; CC 1979 §23-31; Ord. No. 08-2013 §1, 1-22-2013]

Any person engaged in connecting house drains with sewers shall obtain a permit from the Building Inspector before beginning work.

**Section 510.070. Inspections — Generally — Tests — Inspection Certificate.** [Code 1962 §23-30; CC 1979 §23-32; Ord. No. 08-2013 §1, 1-22-2013]

A. The Plumbing Inspector shall be notified when plumbing work is ready for inspection and tests, and all work shall be left uncovered for examination. The whole system of drain, soil waste and ventilation pipes shall be filled with water, or subjected to an air pressure of not less than five (5) pounds to the square inch, and in all cases where there is only a part of the system to be tested at one time the Inspector shall request an additional test of the whole system and it shall be absolutely tight.

B. It shall be the duty of every plumber to notify the Plumbing Inspector when any job of plumbing is ready for inspection, which shall be as follows:

1. When soil pipes shall be completed through the building, the waste pipes from the different fixtures have been run, all openings in lead pipes soldered up and iron pipes properly plugged or capped and the work tested and made tight, and before any joint in soil pipe or fitting and waste pipes shall be covered up. At such time all openings shall be left in soil or waste pipes for the proper connection of all fixtures.

2. When all fixtures have been attached and the water turned on to test the same.

C. If, upon examination and test pursuant to this Section, the Plumbing Inspector finds that the work has been done according to the provisions of this Chapter, he/she shall furnish the plumber doing the work a certificate to that effect without expense. It shall be the duty of the Plumbing Inspector to answer the call or notice of any master plumber to test any job of work within five (5) working hours.

**Section 510.080. Inspections — Fees.** [Code 1962 §23-31; CC 1979 §23-33; Ord. No. 93-27 §1, 8-10-1993; Ord. No. 16-2000 §4, 4-18-2000; Ord. No. 261-2006 §1, 9-5-2006; Ord. No. 08-2013 §1, 1-22-2013]

A fee of twenty-five dollars ($25.00) shall be collected by the Plumbing Inspector for inspecting any work done in or about any building, fifty dollars ($50.00) for sewer connections, eighty-five dollars ($85.00) for a four (4) inch sewer saddle and one hundred ten dollars ($110.00) for a six (6) inch sewer saddle. Such fees are to be paid into the General Fund of the City. No permit shall be issued until parties applying therefor have paid to the Building Inspector such inspection fee. No work shall be approved by the Plumbing Inspector until the inspection fees are paid.

# Chapter 515

## MECHANICAL CODE

Charter Reference — Authority to adopt technical codes by reference §2.17.

**Section 515.010. International Mechanical Code — Adoption.** [1] [CC 1979 §7-96; Ord. No. 921 §2, 5-18-1976; Ord. No. 87-15 §7-96, 8-18-1987; Ord. No. 93-18 §1, 6-1-1993; Ord. No. 15-2000 §1, 4-18-2000; Ord. No. 197-2005 §1, 1-18-2005; Ord. No. 02-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, Missouri, being marked and designated as "The International Mechanical Code, 2009 Edition", including Appendix Chapter A, as published by the International Code Council be and is hereby adopted as the Mechanical Code of the City of Neosho, Missouri, regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code on file in the office of the City Clerk of the City of Neosho are hereby referred to, adopted and made a part hereof, as if fully set out in this Section, with the additions, insertions, deletions and changes, if any, prescribed in Section 515.020 of this Chapter, except as otherwise provided by this Chapter.

**Section 515.020. Additions, Insertions and Changes.** [Ord. No. 15-2000 §2, 4-18-2000; Ord. No. 197-2005 §2, 1-18-2005; Ord. No. 02-2013 §1, 1-22-2013]

The following Sections are hereby revised as follows:

Section 101.1. Insert: City of Neosho

Section 106.5.2. Insert: Section 515.030 of this Chapter

Section 106.5.3. Insert: Fifty percent (50%) and fifty percent (50%)

Section 108.4. Insert: Section 515.040 of this Chapter

Section 108.5. Insert: $0 and five hundred dollars ($500.00)

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1. **Cross References — Building code, ch. 500, art. II; electrical code adopted, §505.010; fire prevention code adopted, §500.070; plumbing code, ch. 510; property maintenance code adopted, ch. 520.**

**Section 515.030. Permit Fees — Charge for Additional Inspections.** [2] [Code 1962 §3-15; CC 1979 §7-97; Ord. No. 93-25 §2, 8-10-1993; Ord. No. 15-2000 §3, 4-18-2000; Ord. No. 262-2006 §1, 9-5-2006; Ord. No. 02-2013 §1, 1-22-2013]

A permit fee of twenty-five dollars ($25.00) shall be paid at the time of the application for the appropriate permit to cover one (1) inspection of the installation of a system covered by the code adopted by this Chapter.

**Section 515.040. Penalty.** [Ord. No. 15-2000 §4, 4-18-2000; Ord. No. 197-2005 §3, 1-18-2005; Ord. No. 02-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the International Mechanical Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

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[2]. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

# Chapter 520

## INTERNATIONAL PROPERTY MAINTENANCE CODE

**Section 520.010. International Property Maintenance Code — Adoption.** [Ord. No. 94-16 §§I — IV, 5-17-1994; Ord. No. 17-2000 §1, 4-18-2000; Ord. No. 198-2005 §1, 1-18-2005; Ord. No. 05-2013 §1, 1-22-2013]

A. A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, Missouri, being marked and designated as "The International Property Maintenance Code, 2009 Edition" as published by the International Code Council be and is hereby adopted as the Property Maintenance Code of the City of Neosho, Missouri, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted and made a part hereof, as if fully set out in this Section, with the additions, insertions, deletions and changes, if any, prescribed in Section 520.020 of this Chapter, except as otherwise provided by this Chapter.

1. Chapters 1 through 7 will be enforced by the City of Neosho when a written complaint is delivered to the Building Inspector of the City of Neosho as the Official Code Enforcement Officer.

2. Upon receipt of the written complaint the Building Inspector shall act in accordance with the code to remedy whatever deficiencies a particular residence may have. The Building Inspector is authorized to summons to court any property owner failing to comply with the Building Inspector's directives to comply with the code.

**Section 520.020. Additions, Insertions and Changes.** [Ord. No. 17-2000 §2, 4-18-2000; Ord. No. 198-2005 §2, 1-18-2005; Ord. No. 05-2013 §1, 1-22-2013]

The following Sections are hereby revised as follows:

Section 101.1. Insert: City of Neosho

Section 302.4. Insert: Twelve (12) inches

Section 602.3. Insert: October first (1st) and March thirtieth (30th)

Section 602.4. Insert: October first (1st) and March thirtieth (30th)

**Section 520.030. Penalty.** [Ord. No. 198-2005 §3, 1-18-2005; Ord. No. 05-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the International Property Maintenance Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## Chapter 522

## INTERNATIONAL RESIDENTIAL CODE

**Section 522.010. International Residential Code — Adoption.** [Ord. No. 199-2005 §1, 1-18-2005; Ord. No. 04-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, Missouri, being marked and designated as "The International Residential Code, 2009 Edition", including Appendix Chapters A through Q, as published by the International Code Council be and is hereby adopted as the Residential Code of the City of Neosho, Missouri, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuances of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of the said Residential Code on file in the office of City Clerk of the City of Neosho, Missouri, are hereby referred to, adopted and made a part of hereof, as if fully set out in this Section, with the additions, insertions deletions and changes, if any, prescribed in Section 522.020 of this Chapter.

**Section 522.020. Additions, Insertions and Changes.** [Ord. No. 199-2005 §2, 1-18-2005; Ord. No. 04-2013 §1, 1-22-2013]

The following Sections are hereby revised as follows:

| | | |
|---|---|---|
| Section R101.1. | Insert: | City of Neosho, Missouri. Sprinkler systems shall not be required in Group "R-3" as defined by the 2009 International Fire Code. |

**Section 522.030. Penalty.** [Ord. No. 199-2005 §3, 1-18-2005; Ord. No. 04-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the International Residential Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful

construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## Chapter 523

## INTERNATIONAL ENERGY CONSERVATION CODE

**Section 523.010. International Energy Conservation Code — Adoption.** [Ord. No. 200-2005 §1, 1-18-2005; Ord. No. 06-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, Missouri, being marked and designated as "The International Energy Conservation Code, 2009 Edition", including the Appendix, as published by the International Code Council be and is hereby adopted as the Energy Conservation Code of the City of Neosho, Missouri, for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Energy Conservation Code on file in the office of the City Clerk are hereby referred to, adopted and made a part of as if fully set out in this Chapter.

**Section 523.020. Additions, Insertions and Changes.** [Ord. No. 200-2005 §2, 1-18-2005; Ord. No. 06-2013 §1, 1-22-2013]

The following Sections are hereby revised as follows.

Section 101.1. Insert: City of Neosho, Missouri

Leak testing of ducts shall not be required.

Leak testing of buildings shall not be required.

**Section 523.030. Penalty.** [Ord. No. 200-2005 §3, 1-18-2005; Ord. No. 06-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the Energy Conservation Code adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal

occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

# Chapter 524

## INTERNATIONAL FUEL GAS CODE

**Section 524.010. International Fuel Gas Code — Adoption.** [Ord. No. 201-2005 §1, 1-18-2005; Ord. No. 07-2013 §1, 1-22-2013]

A certain document, a copy of which is on file in the office of the Building Inspector of the City of Neosho, Missouri, being marked and designated as "The International Fuel Gas Code, 2009 Edition" including the Appendix Chapters A, B, C and D, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Neosho, Missouri, for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code on file in the office of the City Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this Chapter.

**Section 524.020. Additions, Insertions and Changes.** [Ord. No. 201-2005 §2, 1-18-2005; Ord. No. 07-2013 §1, 1-22-2013]

The following Sections are hereby revised as follows:

| | | |
|---|---|---|
| Section 101.1. | Insert: | City of Neosho, Missouri |
| Section 106.6.2. | Insert: | Twenty-five dollars ($25.00) for inspection |
| Section 106.3. | Insert: | Refunds; in the case of revocation of a permit or abandonment or discontinuance of a building project, fees collected under the above Sections shall be refunded where such work has not been commenced prior to abandonment thereof; however, if any such work has been commenced, no refund of any fee shall be made. |
| Section 108.4 | Insert: | Section 524.030 |
| Section 108.5 | Insert: | $0 and five hundred dollars ($500.00) |

**Section 524.030. Penalty.** [Ord. No. 201-2005 §3, 1-18-2005; Ord. No. 07-2013 §1, 1-22-2013]

A. Any person violating any of the provisions of this Chapter or the provisions of the Fuel Gas Code adopted in this Chapter shall be deemed guilty of a misdemeanor

and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars ($500.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

B. In addition to the imposition of the penalties herein described, the Building Inspector is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

# Chapter 525

# DANGEROUS BUILDINGS AND STRUCTURES

## ARTICLE I
## Generally

**Section 525.010. Purpose and Scope.** [Ord. No. 95-28 §1(7-48), 5-2-1995]

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 Neosho, Missouri.

**Section 525.020. Dangerous Buildings Defined.** [Ord. No. 95-28 §1(7-49), 5-2-1995]

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

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members, or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.

3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.

4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the City.

5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.

6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.

7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.

8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.

9. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City.

**Section 525.030. Dangerous Buildings Declared Nuisance.** [Ord. No. 95-28 §1(7-50), 5-2-1995]

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

**Section 525.040. Standards for Repair, Vacation or Demolition.** [Ord. No. 95-28 §1(7-51), 5-2-1995]

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

1. If the dangerous building can reasonably be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.

2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.

3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished.

4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this City or Statute of the State of Missouri, it shall be repaired or demolished.

**Section 525.050. Duties of Building Inspector — Procedure and Notice.** [Ord. No. 95-28 §1(7-52), 5-2-1995]

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

1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether

any conditions exist that render such place to be a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.

2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Building Inspector determines that there are reasonable grounds to believe that such building is dangerous.

3. Inspect any building, wall or structure reported by the Fire or Police Departments of this City as probably existing in violation of this Chapter.

4. Notify 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) consecutive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Newton County, of any building found by him/her to be a dangerous building within the standards set forth in Section 525.020.

4. 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 Newton County may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done;

provided, that any person notified under this Subsection to repair, vacate or demolish any building or clean up the property, shall be given such reasonable time not exceeding thirty (30) days, to commence the required work.

5. The notice provided for in this Section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building, a statement indicating that as a dangerous building, said building or structure constitutes a nuisance and an order requiring the designated work to be commenced within the time provided for in the above Subsection.

6. Report in writing to the Director of Public Works the noncompliance 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 Director of Public Works and testify as to the condition of dangerous buildings.

8. Immediately report to the Director of Public Works concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Director of Public Works 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 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 Recorders of Deeds of Newton County. It is unlawful to remove this notice until such notice is complied with."

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

**Section 525.060. Duties of the Director of Public Works.** [Ord. No. 95-28 §1(7-53), 5-2-1995]

A. The Director of Public Works 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 Director of Public Works shall cause an inspection to be made forthwith. If the Director of Public Works deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Director of Public Works may request an inspection and report be made by any other City Department or retain services of an expert whenever the Director of Public Works deems such service necessary.

2. Upon receipt of a report from the Building Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other persons(s) having 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 Director of Public Works shall hold a hearing giving the affected parties full and adequate hearing on the matter.

2. Written notice of said hearing shall be given, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of those modes of service then, by publication in a newspaper qualified to publish legal notices, at least ten (10) days in advance of the hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Newton County, to appear before the Director of Public Works 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.

2. 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 525.020 of this Chapter.

4. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, and a nuisance and detrimental to the health, safety or welfare of the residents of the City, the Director of Public Works shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons(s) having an interest in said building as shown by the land records of Newton County to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this City or the owner or any person having an interest in said building as shown by the land records of Newton County, may vacate and demolish said dangerous building at his/her own risk to prevent the acquiring by the City of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, or a nuisance or detrimental to the health, safety or welfare of the residents of the City, no order shall be issued.

5. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Director of Public Works shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant; and the Director of Public Works shall certify the cost of the work borne by the City for such repair, vacation, demolition or clean up to the officer in charge of finance 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 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 Section 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 eight percent (8%) 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 Director of Public Works 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 this Chapter.

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 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 clean up 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 Director of Public Works 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 Director of Public Works shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection (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 525.070. Duties of the City Attorney.** [Ord. No. 95-28 §1(7-54), 5-2-1995]

A. The City Attorney shall in regard to this Article:

1. Prosecute all persons failing to comply with the terms of the notices provided for in this Article and Subsections (4) and (8) of Section 525.050 of this Article and Subsection (2) of Section 525.060 of this Article and the order provided for in Subsection (4) of Section 525.060 of this Article.

2. Appear at all hearings before the Director of Public Works in regard to dangerous buildings.

3. Bring suit to collect all municipal liens, assessments, or costs incurred by the Director of Public Works in doing or causing to be done repairing, reconditioning, removing or demolishing dangerous buildings.

4. Take such other legal action as is necessary to carry out the terms and provisions of this Article.

**Section 525.080. Duties of the Fire Department and Police Department.** [Ord. No. 95-28 §1(7-55), 5-2-1995]

The Chief of the City Fire Department and the Chief of the City Police Department shall make a report in writing to the Director of Public Works of any dangerous buildings or structures which are, may be, or are suspected to be dangerous buildings as defined in Section 525.020 of this Article. Such reports must be delivered to the Director of Public Works within twenty-four (24) hours of the discovery of such buildings by any employee of the Fire Department or Police Department.

**Section 525.090. Tests — Director of Public Works' Authority to Require.** [Ord. No. 95-28 §1(7-56), 5-2-1995]

*Generally.* Whenever there is insufficient evidence of compliance with the provisions of this Article or evidence that any material or any construction does not conform to the requirements of this Article, or in order to substantiate claims for alternate materials or methods of construction, the Director of Public Works may require tests as proof of compliance to be made at the expense of the owner or his/her agent.

**Section 525.100. Test Methods.** [Ord. No. 95-28 §1(7-57), 5-2-1995]

Test methods shall be specified by this Article for the material in question. If there are no appropriate test methods specified in this Article, the Director of Public Works shall determine the test procedure to be used. Copies of the results of all such tests shall be retained by the Director of Public Works for a period of not less than two (2) years after the making thereof.

**Section 525.110. Emergencies.** [Ord. No. 95-28 §1(7-58), 5-2-1995]

In cases where it reasonably appears that there is immediate danger to the health, safety or welfare of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building Inspector shall report such facts to the Public Works Director and the Public Works Director may

cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 525.060, Subsection (5) et seq.

**Section 525.120. Administrative Liability.** [Ord. No. 95-28 §1(7-59), 5-2-1995]

No officer, agent or employee of the City shall render himself/herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties under this Article. Any suit brought against any officer, agent or employee of the City as a result of any act required or permitted in the discharge of his/her duties under this Article shall be defended by the City Attorney until the final determination of the proceedings therein.

**Section 525.130. Violations — Disregarding Notices or Orders.** [Ord. No. 95-28 §1(7-60), 5-2-1995]

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 Public Works Director or who shall fail to proceed continuously without unnecessary delay; and any person removing any notices provided for in this Chapter; and any person violating any other provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars ($500.00). Each day that a person fails to comply with an order of the Public Works Director may be deemed a separate offense.

## ARTICLE II
## Board of Appeals

**Section 525.140. Established.** [Ord. No. 95-28 §1(7-68), 5-2-1995]

There is hereby established a Board of Appeals.

**Section 525.150. Composition.** [Ord. No. 95-28 §1(7-69), 5-2-1995]

A. The Board of Appeals established by this Article shall consist of seven (7) members as follows:

1. The Mayor;
2. One (1) additional member of the City Council as designated by the Council.
3. The City Manager;
4. The Chief of Police;
5. The Fire Chief;
6. The City Health Officer;
7. The Chairman of the City Planning and Zoning Commission.

**Section 525.160. Powers.** [Ord. No. 95-28 §1(7-70), 5-2-1995]

A. The Board of Appeals established by this Article shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Director of Public Works in the enforcement of this Article.

2. To require attendance of witnesses and production of records and other documents necessary to the conduct of full and impartial hearing.

**Section 525.170. Quorum — Organization — Procedure.** [Ord. No. 95-28 §1(7-71), 5-2-1995]

Four (4) members of the Board created by this Article shall constitute a quorum. The Board of Appeals shall elect their own Chairman and Secretary. The City Attorney shall be present at all hearings and shall represent the position of the Director of Public Works. The appellant may be represented by Counsel.

**Section 525.180. Appeals — Generally.** [Ord. No. 95-28 §1(7-72), 5-2-1995]

A. Appeals to the Board established by this Article shall be taken within fifteen (15) days from the service of notice as provided for in Sections 525.050(4) and (8) and 525.060(2) of this Article.

B. The notice of appeal shall set forth the following:

1. The full name and address of the appellant;

2. The name and address of counsel for the appellant, if he/she intends to appear with the counsel at the hearing;

3. The allegations of error appealed from.

C. An appeal stays all proceedings in furtherance of the action appealed from.

**Section 525.190. Appeal Hearings — Decision.** [Ord. No. 95-28 §1(7-73), 5-2-1995]

A. The Board of Appeals established by this Article shall fix a reasonable time, not less than ten (10) days, from the hearing of the appeal.

B. The Board of Appeals shall render its decision in writing within ten (10) days of the conclusion of the hearing after which appeal may be taken to the Circuit Court as provided by Chapter 536, RSMo. Notice of the decision of the Board of Appeals shall be given by ordinary mail:

1. To the appellant at the address given in the notice of appeal;

2. To the Director of Public Works at the City Hall.

# Chapter 530

# MOVING OF BUILDINGS

Cross References — Police, ch. 200; motor vehicles and traffic, Title III; streets, sidewalks and public places, ch. 535.

## ARTICLE I
## Generally

**Section 530.010. Effect of Mover's Failure to Repair or Compensate for Damages, Etc.** [Code 1962 §7-25; CC 1979 §7-109]

If any house mover shall, while acting within the scope of this Article, damage or destroy any public or private property and fail or refuse to repair, renew or pay for the same, or shall fail or refuse to pay the expense of the raising, cutting or repair of any electric wire or cable, or the removal and replacement of any pole bearing the same as required by the terms of this Article, a written claim containing a statement of such damages or expense may be filed with the Building Inspector, who shall investigate the same, and if he/she finds the same to be just and reasonable, no further permits within the scope of this Article shall be issued to such house mover until such claim is satisfied.

**Section 530.020. Compliance With Building Regulations at New Location Required.** [Code 1962 §7-26; CC 1979 §7-110]

No building or structure shall be moved or relocated unless it can be and is to be made to comply with the requirements of the ordinances governing the erection of new buildings upon the proposed new location; provided that, before a building or structure is moved, a building permit in the prescribed manner and form shall have been approved and issued. Such permit shall provide and allow for such work, additions, alterations or repairs that are intended or are necessary to put the relocated building or structure in the required livable or usable condition; provided further, that, no building or structure shall be moved from without to within the City limits unless it already complies with such structural and framing details as the Building Code, adopted pursuant to Section 500.020, requires for new work.

**Section 530.030. Route — Consultation With Utilities — Changes.** [1] [Code 1962 §7-27; CC 1979 §7-111]

Before issuing any permit to move a building, the Building Inspector shall consult the person having charge of the maintenance of any electrical wires or cables belonging to any public service corporation and suspended over or across any public street or alley,

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1. **Cross Reference — Water, sewers and sewage disposal, Title VII.**

along the proposed route relative to the practicability of the route proposed and shall have authority to require any change in such route which he/she shall deem proper under the attendant circumstances.

**Section 530.040. Route — Notice to Police and Fire Chiefs.** [2] [Code 1962 §7-28; CC 1979 §7-112]

No house mover shall proceed to move any building or other structure under a moving permit required by this Article without first having given the Chief of Police and the Fire Chief at least six (6) hours' notice of the proposed route over the City streets on which such moving shall be done, the time such moving shall commence and how long the same shall be in process.

**Section 530.050. Moving Utility Wires and Poles — Notice.** [Code 1962 §7-29, 7-30; CC 1979 §7-113]

A. *Owners.* Whenever, for the purpose of facilitating the moving of any building, it is necessary to raise or cut any telephone or telegraph wire or cable, or any electric wire or move any pole bearing any such wire or cable, it shall be the duty of the house mover having charge of the moving of such building to give the person owning or operating such poles, wires or cables at least forty-eight (48) hours' notice of the time and place of such actions.

B. *When Police or Fire Departments Involved.* In case the poles or wires of the Fire or Police Department or their alarm systems are to be interfered with pursuant to Subsection (A) of this Section, such notice shall be served upon the Chief of the Fire Department.

**Section 530.060. Moving Utility Wires and Poles — Mover Allowed to Perform Work — Manner.** [Code 1962 §7-31; CC 1979 §7-114]

No house mover shall raise, cut or move any pole, wire or cable mentioned in Section 530.050(A) unless the person or authorities owning or having control of the same fail or refuse so to do after notice as provided in such Section, and then only competent workmen or linemen shall be employed in such work, and the same shall be done in a careful and workmanlike manner, and such poles, wires and cables promptly replaced and damages thereto promptly repaired at the expense of the house mover.

**Section 530.070. Moving Utility Wires and Poles — Furnishing and Paying Workmen, Etc.** [Code 1962 §7-32; CC 1979 §7-115]

After the service of notice as required by Sections 530.050(B) or 530.060 it shall be the duty of the person owning or operating poles, wires or cables mentioned in Section 530.050(A), or the duty of the Chief of the Fire Department, as the case may be, to furnish competent workmen or linemen to remove such poles or raise or cut wires or cables. The regular wages of such workmen or linemen, while engaged at such work,

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2. **Cross References — Fire chief, ch. 205; police chief, ch. 200.**

shall be paid by such house mover, except when such poles, wires or cables are not installed in conformity with governing regulations of the City, or authority of the State.

**Section 530.080. Restrictions as to Buildings Standing in Streets, Etc.** [Code 1962 §§7-33 — 7-36; CC 1979 §7-116]

A. *Time Limit.* No house mover shall suffer or permit any building to be or remain in any of the streets or alleys of the City for any time longer than may be specified in the permit, required by Section 530.140, issued by the Building Inspector. No building shall, in any event, be allowed to remain at a standstill in any public street or other public place for a longer period than twelve (12) hours without the consent in writing of the Building Inspector.

B. *Warning Lights.* When any building is left in any street at night, two (2) or more flares or lanterns with red glass globes shall be conspicuously posted at each end of such building so as to give warning in both directions of the street. All such lanterns or flares shall be in good order, securely placed in position.

C. *Prohibited in Intersections at Night.* No building shall be left standing at night in any street intersection.

D. *Notice to Fire Chief.* The Chief of the Fire Department shall be notified of the location of any building left standing in the street at night.

**Section 530.090. Moving Buildings Across Tracks.** [Code 1962 §7-37; CC 1979 §7-117]

If it is necessary to move any building upon or across any street railway tracks or any railroad tracks, the same shall be done in such a manner and at such time as to interfere as little as possible with the operation of cars or trains thereon.

**Section 530.100. Protection for Pavement, Etc.** [Code 1962 §7-38; CC 1979 §7-118]

When necessary to protect the pavement or sidewalk, planks of sufficient size and thickness to prevent injury to such pavement or sidewalk shall be laid for the wheels of the truck moving a structure pursuant to this Article.

**Section 530.110. Removal, Etc., of Trees or Fixtures Restricted.** [Code 1962 §7-39; CC 1979 §7-119]

No tree on any street shall be removed or the branches of any tree cut or trimmed in order to facilitate the moving of any building, except with the consent of the property owner and under the supervision of the Building Inspector. No fixture other than a tree on any street or alley shall be removed, displaced or otherwise interfered with to facilitate the moving of any building except with the consent and under the supervision of the Building Inspector.

**Section 530.120. Authority of Building Inspector to Require Additional Precautionary Measures.** [Code 1962 §7-40; CC 1979 §7-120]

The Building Inspector shall have power to require the use of precautionary measures other than those specifically mentioned in this Article, when necessary or proper to protect life, limb or property in the course of moving a building or structure pursuant to this Article.

## ARTICLE II
## Licenses and Permits [3]

**Section 530.130. House Mover's License Required.** [Code 1962 §7-18; CC 1979 §7-128]

Every person who shall engage in the business of house moving within the City shall obtain a license therefor from the City Collector.

**Section 530.140. Moving Permit — Required.** [Code 1962 §7-19; CC 1979 §7-129]

No person shall move any building or structure along or across any street or other highway within the corporate limits of the City without a permit therefor from the Building Inspector issued in accordance with the provisions of this Article. No such permit shall be granted to any person except a licensed house mover.

**Section 530.150. Moving Permit — Application.** [Code 1962 §7-20; CC 1979 §7-130]

All applications for permits to move buildings upon or across the streets or other highways of the City shall be made to the Building Inspector, and shall state the location of the building proposed to be moved, its greatest length, width and height, the principal material of its walls and roof, its proposed use in its new location, the dimensions of the lot onto which it is to be moved, the depth of the front, side and rear yards, and shall show by diagram the proposed position or setting of the building on the lot or lots, and shall also state definitely the route over which same is proposed to be moved, the length of time required for removal and the proposed new locations thereof.

**Section 530.160. Moving Permit — Bond Prerequisite to Issuance.** [Code 1962 §7-21; CC 1979 §7-131]

A. Each applicant for a permit required by this Article shall execute and deposit in the office of the City Collector a bond to be approved by the City Manager and the City Attorney in an amount prescribed by the City Manager, with two (2) or more personal securities or a reliable bonding company as security.

B. Such bond shall be conditioned that the applicant will indemnify and save harmless the City from all accidents and damages caused by negligence in protecting his/her work or by unfaithful or inadequate work done, or from any damage done by the moving of any building or structure to any public or private property, or by any unreasonable delay in moving such house, building or structure from the streets or alleys. The applicant shall also condition that he/she will pay all fines imposed upon him/her for any violation of this Chapter.

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3. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

C. Such bond shall extend for one (1) year from and after the date of approval and filing thereof, and no moving permit shall be issued to any person until the bond shall have been approved and filed as herein provided.

D. The bond shall cover all permits issued for one (1) year from such approval and the filing of same, or until the applicant forfeits such bond by reasons of his/her failure to comply with all of the conditions therein.

**Section 530.170. Moving Permit — Investigation Prerequisite to Issuance.** [Code 1962 §7-22; CC 1979 §7-132]

Before granting a permit required by this Article, it shall be the duty of the Building Inspector to examine the building, the route over which it is proposed to be moved and the new location.

**Section 530.180. Moving Permit — Fees.** [Code 1962 §7-24; CC 1979 §7-133]

A. Before any permit to move a building or structure is granted under the provisions of this Article, the applicant for such permit shall pay a fee therefor as follows:

1. On or across public thoroughfares, except as mentioned in Subsections A(1a and b) below, twenty-five dollars ($25.00).

a. Not exceeding twenty-four (24) feet wide, thirty-six (36) feet long and twenty-four (24) feet high, ten dollars ($10.00).

b. Not exceeding ten (10) feet wide, twenty (20) feet long and ten (10) feet high, five dollars ($5.00).

2. From one lot to another without moving on a public thoroughfare, five dollars ($5.00).

3. From one location to another on the same lot, five dollars ($5.00).

B. Where it is proposed to move a building or structure from without to within the City limits, an additional permit fee must be paid in advance for the required inspection. A minimum fee of five dollars ($5.00) shall be charged, plus one dollar ($1.00) for each mile or fraction of a mile in excess of five (5) miles from the established City limits that has to be traveled to make the inspection.

**Section 530.190. Moving Permit — Issuance or Denial.** [Code 1962 §7-23; CC 1979 §7-134]

If the condition of a building desired to be moved, the character of such location, and the nature of the proposed route is such that the building can be moved with safety and in accordance with this Article, and if the use to which the same is to be put in the new location and the height of the building, together with the width of the lot, area of front, side and rear yards and area per family, are sufficient to meet the requirements of the Zoning Code, then the permit required by this Article shall be granted, but otherwise the same shall be refused.

# Chapter 535

## STREETS, SIDEWALKS AND PUBLIC PLACES

Cross References — Police, ch. 200; vehicle wheels depositing mud, etc., on streets, §230.120; railroads, Title III; driving on sidewalks prohibited, §340.070; planning and zoning commission, ch. 400; zoning regulations, ch. 405; subdivision regulations, ch. 410; use of streets by peddlers, §615.100.

### ARTICLE I
### Generally

**Section 535.010. Street Superintendent Generally.** [1] [Code 1962 §27-1; CC 1979 §26-1]

The Street Superintendent shall oversee and superintend the grading of streets and the construction and repair of all bridges, sidewalks and gutters ordered to be constructed, repaired, graded or built, and shall perform such other duties as may be required of him/her by the provisions of this Code and other ordinances of the City.

**Section 535.020. Specifications.** [CC 1979 §26-2; Ord. No. 902 §§1 — 4, 6-17-1975; Ord. No. 938 §§1 — 4, 10-21-1976; Ord. No. 1142 §§1, 2, 6-15-1982]

A. The City Manager and the City Attorney, with the concurrence of the City Council, have caused an architect/engineer to prepare standard specifications for alternative surfacing of streets and alleys, and for construction of curbs and gutters and sidewalks, a copy of which standard specifications, as amended to include the "City of Neosho Specifications for Asphalt Curbs," which is on file in the City Clerk's office and designated as "City of Neosho Street Standard Specifications for Asphaltic Concrete Paving; Portland Cement Concrete Paving; Concrete Curbs and Gutter; and Concrete Sidewalks."

B. Such standard specifications, as amended, are hereby adopted as standard specifications for all construction and resurfacing work on streets and alleys and all construction or replacement of curbs and gutters and sidewalks in the City.

C. A copy of such standard specifications shall be kept on file with the City Clerk and any amendments or additions thereto shall be approved by the City Council with such amendments or additions placed on file with the City Clerk.

D. In subdivisions where costs of street improvements are borne by the developer of the subdivision, such developer shall be entitled to choose the type of street surfacing from among the alternative surfacing methods provided for by such

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1. **Cross Reference — Administration, ch. 110, art. I.**

standard specifications. The type of street surfacing for all other street construction or resurfacing shall be determined by the City Council.

## ARTICLE II
## **Repairs**

**Section 535.030. Generally.** [Code 1962 §27-10; CC 1979 §26-61]

No formality shall be required to authorize the repairing of any street or other paving, curbing, guttering, macadamizing, or part thereof, or to reconstruct the same, or to levy an assessment therefor.

**Section 535.040. Street Superintendent to Cause Work to Be Done, Etc.** [Code 1962 §27-11; CC 1979 §26-62]

The Street Superintendent or other officer designated by the City shall, without any notice, cause necessary repair work to be done, keep an account of the cost thereof and report the same to the City Manager.

**Section 535.050. Special Tax to Defray Cost.** [Code 1962 §27-12; CC 1979 §26-63]

When the Street Superintendent or other officer has reported to the City Manager the cost of any repair work done on any street or other public way, the City Council may levy a special tax to defray the cost thereof, and each lot or piece of ground abutting on the street or way so repaired shall be liable for its part of the cost of the repair.

**Section 535.060. Emergency Repairs, Etc.** [Code 1962 §27-13; CC 1979 §26-64]

In cases of emergency, where life or limb are endangered, or commerce or travel are impeded, the Street Superintendent shall have the authority to make such temporary repairs or erect such barricades as will remove or prevent such danger, and shall report the same promptly to the City Manager.

# Chapter 540

## POLES AND WIRES

**Section 540.010. Certain Companies Authorized to Set Poles, Wires, Etc, in Streets, Etc., Pursuant to Chapter.** [Code 1962 §24-1; CC 1979 §26-95]

Any telegraph, telephone or other company doing business in the City, or desiring to do business in the City, and using poles to carry wires for the transmission of electric power or current, is hereby authorized to set its poles, wires and other fixtures along, across or under any of the public streets and alleys of the City, subject to the regulations provided by this Chapter.

**Section 540.020. Setting Poles in Alleys.** [Code 1962 §24-2; CC 1979 §26-96]

Whenever, in the judgment of the City Council, the use of any alley for the placing of poles is practicable, the poles of a company referred to in Section 540.010 shall be placed upon and along the alley, instead of along and upon the street parallel thereto. When the poles are set in any alley, they shall be placed as near the side line of such alley as practicable, and in such manner as not to inconvenience the public or the adjoining proprietors or residents.

**Section 540.030. Trimming Trees, Etc., Near Wires, Etc.** [Code 1962 §24-3; CC 1979 §26-97]

The right is hereby granted to all companies mentioned in Section 540.010 to trim trees, brush or hedges upon and overhanging the streets, alleys, sidewalks and public places of the City, so as to prevent such foliage from coming in contact with wires and cables; provided, that all of such trimming shall be done under the supervision and direction of the Governing Body of the City or of any City Official to whom such duties have been or may be delegated.

# Chapter 545

# EXCAVATIONS

Cross Reference — Excavations for septic tanks, §705.380.

## ARTICLE I
## Generally

**Section 545.010. Issuance — Definition.** [1] [Code 1962 §27-15; CC 1979 §26-24; Ord. No. 98-19 §II, 7-7-1998]

A. *Issuance.* The City Inspector shall issue an excavation permit if the proposed excavation is for a proper purpose and will be made properly and if the required deposit has been filed with the City. Generally excavations are strongly discouraged. Excavations should be made as the last resort.

B. *Definitions.* Whenever the word *"street"* or *"highway"* appears in this Article, it shall be construed to include all streets, highways, alleys, sidewalks and other public grounds in the City.

**Section 545.020. Cash Deposit or Certificate of Underground Hazard Insurance.** [Code 1962 §27-19; CC 1979 §26-25; Ord. No. 98-19 §II, 7-7-1998]

A. *Cash Deposit.*

1. The City Inspector, upon receiving an application for a permit to make an excavation in a street, sidewalk, alley, or other public way, shall note the condition of the way, the City shall present the same to the applicant, and require of the applicant a cash deposit in the amount of two hundred fifty dollars ($250.00).

2. After the excavation has been made and the street, sidewalk, alley or other public way has been restored to its normal condition, the person holding the permit therefor shall immediately report that fact to the City Inspector. Upon the receipt of such report the City Inspector shall inspect same. If the way is restored properly, he/she shall refund the cash deposit, less fifty dollars ($50.00). If, however, work remains to be done, in order to properly restore the way to its normal condition, the City Inspector shall specify the work to be done and order the holder of the permit to do the same in the manner designated and within a reasonable time, before the cash deposit will be surrendered. If the holder of the permit, after the expiration of a reasonable time, fails, neglects, or refuses to do the work specified, the City Inspector

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1. **Cross Reference — Rules of construction and definitions generally §100.020.**

shall cause the same to be done, paying the cost thereof out of the money deposited by the permit holder, and refunding the balance remaining to the holder of the permit, if any balance remains.

B. *Certificate Of Underground Hazard Insurance As Alternative.*

1. Plumbers and drain layers doing business in the City and all telephone companies, telegraph companies, electric light and power companies, gas companies, and all other persons or companies engaged in any business or line of work necessitating the continuous making of excavations in the public streets, alleys, sidewalks, the other public ways of the City or the removal of guttering or curbing, shall execute and deliver to the City Inspector a certificate of underground hazard insurance to be filed in the City Inspector's office. Every effort shall be made by the aforementioned persons and companies to restore all sidewalks, curbs, paving and guttering, and all streets, alleys and other public ways in a careful and efficient manner to be as good and sound conditions as the same were at the time the excavation was made or any material moved therefrom.

2. If any plumbers, drain layers, telephone companies, telegraph companies, electric light and power companies, gas companies, and all other persons or companies who have been issued an excavation permit fail to restore streets, sidewalks, curbing, guttering or any other public ways to the satisfaction of the Street Commissioner, the Street Commissioner shall order the restoration of public ways by the City Street Department, with the cost of the restoration to be billed to the plumbers, drain layers, or companies or others listed on the certificate of underground hazard insurance on file in the office of the City Inspector.

**Section 545.030. Interference With Traffic Generally — Closing Streets.** [Code 1962 27-20; CC 1979 §26-26]

A permittee under Article II of this Chapter shall take appropriate measures to assure that during the performance of the excavation work traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public; provided, that, the City Manager may permit the closing of streets to all traffic for a period of time prescribed by him/her if in his/her opinion it is necessary.

**Section 545.040. Clearance for Fire Equipment, Etc.** [Code 1962 §27-21; CC 1979 §26-27]

All excavation work performed pursuant to this Chapter shall be conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fireplugs. Passageways leading to fire escapes or firefighting equipment shall be kept free of piles of material or other obstructions.

**Section 545.050. Vehicular and Pedestrian Crossings Over Excavations — Confining Excavated Earth.** [Code 1962 §27-22; CC 1979 §26-28]

A permittee under Article II of this Chapter shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of plank, timbers and blocking of adequate size to accommodate vehicular traffic safely, or approved steel grating. Decking shall be not less than four (4) inches thick and shall be securely fastened together with heavy wire and staples. Pedestrian crossings shall consist of planking three (3) inches thick, twelve (12) inches wide and of adequate length, together with necessary blocking, or approved steel grating. The walk shall be not less than three (3) feet in width and shall be provided with a railing as required by the City Manager.

**Section 545.060. Removal and Protection of Utilities.** [Code 1962 §27-23; CC 1979 §26-29]

A permittee under Article II of this Chapter shall not interfere with any existing utility without the written consent of the City Manager and the utility company or person owning the utility. If it becomes necessary to remove an existing utility this shall be done by its owner. No utility owned by the City shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility.

**Section 545.070. Protection of Adjoining Property — Entering Private Property.** [Code 1962 §27-24; CC 1979 §26-30]

A permittee under Article II of this Chapter shall, at all times and at his/her own expense, preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where, in the protection of such property, it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain permission from the owner of such private property for such purpose.

**Section 545.080. Foot Bridge Over Sidewalk Excavations.** [Code 1962 §27-25; CC 1979 §26-31]

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate foot bridge over such excavation on the line of the sidewalk, which bridge shall be at least three (3) feet wide and securely railed on each side so that pedestrians may pass over it safely at all times.

**Section 545.090. Protective Barriers, Lights, Etc.** [Code 1962 §27-26; CC 1979 §26-32]

A permittee under Article II of this Chapter shall erect such fence, railing or barriers about the site of the excavation work as will prevent danger to persons using the City streets or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets,

suitable and sufficient lights which shall be kept burning throughout the night during the maintenance of such obstructions.

**Section 545.100. Attractive Nuisance Prohibited.** [Code 1962 §27-27; CC 1979 §26-33]

It shall be unlawful for any permittee under Article II of this Chapter to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and hazardous to their safety or health.

**Section 545.110. Damage to Existing Improvements Generally.** [Code 1962 §27-28; CC 1979 §26-34]

All damage done to existing improvements during the progress of any excavation work pursuant to this Chapter shall be repaired by the permittee responsible therefor. Materials for such repair shall conform with the requirements of any applicable provisions of this Code or other ordinance.

**Section 545.120. Preservation of Monuments, Etc.** [Code 1962 §27-29; CC 1979 §26-35]

No permittee under Article II of this Chapter shall disturb any surface monuments or survey pens or stakes found on the line of excavation work until ordered to do so by the Street Superintendent.

**Section 545.130. Backfilling.** [Code 1962 §27-30; CC 1979 §26-36]

Backfilling in any street opened or excavated pursuant to an excavation permit issued under Article II of this Chapter shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compacting shall be done by mechanical tappers or vibrators, by rolling in layers, or by water settling, or as required by the soil in question and sound engineering practices generally recognized in the construction industry. The decision as to whether a trench shall be backfilled by water settling shall be based upon such engineering practices and shall be made by the Street Superintendent.

**Section 545.140. Restoration of Surface.** [Code 1962 §27-31; CC 1979 §26-37; Ord. No. 98-19 §II, 7-7-1998]

Upon completion of the excavation, fill excavated area with three-fourths (¾) inches concrete rock within one (1) foot of the original elevation. The remainder of the excavation shall be filled with eight (8) inches concrete, four (4) inches asphalt (hot), rolled and properly finished to make a smooth riding surface. All dirt, rock and other materials which are dug as a result of the original excavation shall be hauled off and shall not be replaced in the excavation.

**Section 545.150. Inspections — Enforcement of Article.** [Code 1962 §27-32; CC 1979 §26-38]

The Street Superintendent shall make such inspections as are reasonably necessary in the enforcement of this Article. The City Manager shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this Article.

**Section 545.160. Applicability of Certain Sections to City Work.** [Code 1962 §27-33; CC 1979 §26-39]

Sections 545.020, 545.030, 545.070, 545.170 and 545.180 of this Chapter shall not be applicable to any excavation work under the direction of competent City authorities by employees of the City or by any contractor of the City performing work for and in behalf of the City necessitating openings or excavations in streets.

## ARTICLE II
## **Permit** [2]

**Section 545.170. Required.** [Code 1962 §27-16; CC 1979 §26-47]

It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose, or to place, deposit and leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefor from the City as provided by this Chapter.

**Section 545.180. Application.** [Code 1962 §27-17; CC 1979 §26-48]

No excavation permit required by this Article shall be issued unless a written application for the issuance of an excavation permit is submitted to the City Collector and approved by the City Manager. The written application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and date of completion of the excavation, and other data as may reasonably be required by the City Manager. The City Manager may require the application to be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to such excavation and of the proposed excavated surfaces, the location of the excavation work, and such other information as may be prescribed by the City Manager.

**Section 545.190. When Work Being Done for Hire.** [Code 1962 §27-18; CC 1979 §26-49]

No permit shall be issued under this Article by the City Collector except to those persons licensed by the City as contractors, plumbers or electricians when work is being done for hire.

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2. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

# Chapter 550

## HOUSING REHABILITATION GRANT GUIDELINES

**Section 550.010. Purpose.** [Ord. No. 94-2 §1, 2-15-1994]

The purpose of this rehabilitation program is to correct code violations, overcrowding, unsanitary conditions, and/or to otherwise provide a decent, safe, and sanitary housing and living environment (within the requirements of the CDBG Housing Quality Standards [HQS], for persons of low-to-moderate income levels living in the City of Neosho, Missouri.

**Section 550.020. General Objectives.** [Ord. No. 94-2 §2, 2-15-1994]

A. This program is designed to preserve the housing stock within the confines of a pre-selected target area. That area is generally described as the area bound on the north by Smith Street, on the east by College Street, on the south by Grand Street, and on the west by High Street.

B. Only those households which qualify as low-to-moderate income families (LMI) as defined in Section 550.030 of this Chapter will receive assistance.

C. This program targets the resident household, rather than the house; therefore, *both homeowners and renters will be qualified for assistance.* Landlords who are interested (but whose personal income make them overqualified) will be required to contribute twenty-five percent (25%) of the construction costs, along with other restrictions as defined in Section 550.030.

D. CDBG Housing Quality Standards (HQS); and/or City building, electrical, plumbing, mechanical, property maintenance, and general nuisance codes now in effect, or adopted by the City Council of the City during the life of this program, whichever are stricter, will be enforced in the specifications of this project.

E. All rehabilitation work will be performed by qualified, licensed, and insured contractors. The City reserves the right through its City Manager and Program Administrator to disbar any contractor due to poor performance, unreasonable time to completion, failure to provide lien releases, affidavits, or documents, or any other breach of contract requirements.

F. Competitive bids will be let on all projects and the lowest responsible selected. To prevent discouraging contractors from participating in the program, the homeowners will not be allowed to contract with a different contractor and pay the difference. All eligible, registered woman- and minority-business enterprises (WBE/MBE) will be contacted at the beginning of the construction phase through

direct mail and public advertisement for the purposes of bidding. Contracts and their related documents must be signed by the homeowner, tenant (where applicable), contractor, and the City.

**Section 550.030. Limitations.** [Ord. No. 94-2 §3, 2-15-1994]

A. The City may not use CDBG funds to rehabilitate, build or acquire a house owned or occupied in whole or in part by any publicly elected official, or the immediate family or any person employed by the City in a decision-making capacity. Also, City Officials, immediate family members, or administrative agencies or officials may not have any financial interest in the contracting firms selected. If a City Official should own a material supply company at which contractors might buy material, this conflict of interest provision does not occur, provided a disclaimer appears in the Construction Work Order (CWO) stating that materials can be purchased from suppliers other than local place of business.

B. The amount of any approved grant will be the total cost of the rehabilitation, not to exceed the sum of thirteen thousand dollars ($13,000.00), unless written permission to exceed that amount is given from CDBG DED. Recipients do not repay grant amounts, unless a violation of this Section occurs.

C. Only properties within the target area will be eligible for grant assistance. If funds remain available after all eligible target area applications have been executed, applicants from neighborhoods outside the target area may apply and be prioritized. The limitations of "outside the target area" are that: they must be functionally related, have similar characteristics, and are adjacent to the designated target area (contiguous border).

D. In order to encourage landlord investment in LMI housing, to encourage LMI home buyers, and to facilitate the relocation of LMI families' homes away from the new floodway project in the target area, the property to be rehabilitated need *not* have been owned by the applicant prior to application. However, the following restrictions will apply before contracting:

1. The owner must have a *recorded* deed of ownership (Warranty Deed). A Deed of Trust does not prove ownership. A Contract for Deed)/Land Sales Contract/Lease with Option to Buy properly executed shall *not* constitute ownership, but shall be considered an incomplete sale, and therefor will be processed as a rental (assistance and advice will be provide by the program administrator should the owner desire to complete the title transfer.) Any person who rents to another member of his/her immediate family will not be considered a landlord, and the occupant of the house may be considered as an owner-occupant for the purposes of this program. However, the owner of record will sign all contracts.

2. The property owner must sign an agreement with the City to repay the entire grant amount if the property is sold within three (3) years of the date of the contract for housing rehabilitation. Should a death or placement into a long-term healthcare facility occur to the owner, and the home is placed into the

care or ownership of an immediate family member, the provisions of the above Subparagraph (1) would take effect and the transfer of title would not be considered a sale (however, the party inheriting the property would be bound by the same three (3) year restriction noted above. Should the new owner choose to rent rather than sell the property to avoid the payback penalty, he/she must rent to an LMI household for at least the first (1st) year, and the provision in Subsection (E) would be in effect.

E. *Voluntary Program.* All interested persons must make an application before any action can be taken. The application will include an itemized worksheet in which the applicant must reveal all sources of income for the twelve (12) months prior to the date of the contract in order to qualify as a LMI household. "Dramatic change of income" (divorce, job joss, retirement) may be projected into the future, but must be verified at least once every three (3) months for a one (1) year period. The applicant must verify all income through source documentation (i.e. voluntary submittal of last year's income tax return; or one (1) year of bank and savings statements, social security statement, W-2's, interest accrued on accounts, welfare, etc. (see application for detail). Application processing shall be the responsibility of the Program Administrator.

E. FY-93 Income Limits for Applicants (subject to annual adjustment):

| **Number of Persons/Households** | **Total Adjusted Annual Household Income** |
|---|---|
| 1 | $16,800.00 |
| 2 | $19,200.00 |
| 3 | $21,600.00 |
| 4 | $24,000.00 |
| 5 | $25,900.00 |
| 6 | $27,850.00 |
| 7 | $29,750.00 |
| 8 | $31,700.00 |

F. *Prerequisites for Priority Ranking.*

1. The statewide objective of the CDBG Program is to eliminate circumstances which affect the Health and Safety of the low-to-moderate income (LMI) residents in the designated target area. In order to reach those most susceptible, the following rating system will be used by the Program Administrator to prioritize applicants for housing rehabilitation funding by the City (this does not eliminate those who do not receive these points, but lowers them in priority rank until fund reserves are depleted).

   a. Elderly (over 65): 10 points per person.

b. Handicapped: 10 points per person.

c. Disabled or permanent infirmity: 5 points per person.

d. Female Head-of-Household (FHH): 10 points.

e. Emergency: 10 points.

f. Very low income: 10 points.

g. Less than one (1) Bedroom per two (2) occupants of the same sex, or less than one (1) bedroom for each unmarried (non-cohabitating) person of the opposite sex: 5 points per household.

h. Any of the following households which have no dependents.

h. Married or cohabitating couple, non-related male or female roommates, or single male or female: 5 points per person below retirement age (65).

2. See Section 550.050 for more information on items (a) through (h) of Subparagraph (1) above.

3. To qualify for any of the above points, an applicant must be able to verify by document. A driver's license or birth certificate will verify age. A third (3rd) party source such as another Federal or State assistance agency (Social Security, Family Services, etc.), doctor, or psychiatrist will prove handicap, disability or infirmity. The Program Administrator and Inspector will verify items d, e, f, g and h through the applicant's income verification and site inspection.

**Section 550.040. Scope of Work.** [Ord. No. 94-2 §4, 2-15-1994]

A. A complete inspection will be made by the Program Housing Inspector. A work write-up will be prepared, as well as a cost estimate when there will be less than three (3) bids from private contractors. All decisions concerning repairs to the structure will be made by the Program Administrator/Housing Inspector in accordance with the CDBG HQS. No CDBG funds will be spent if the minimum Health and Safety Standards can not be met. Final approval will be made by the Program Administrator, with right to appeal before the City Manager.

B. The Program Housing Inspector will review all line items on the Construction Work Order write-up (CWO), (as well as other pertinent information), with the Owner and interested Contractors at a Prebid Conference.

C. The Program Housing Inspector will conduct the Public Bid-Letting at City Hall in the presence of an official representative of the City.

D. All contract and related documents will be prepared and submitted for approval and signatures by the Program Administrator. The Program Administrator will approve all Contractor's Applications for Payment (CAP) after verification by the Housing Inspector. The City Manager will review and approve or reject all prioritizing

information, bidding and contract documents, rehabilitation activities, and final inspection certificate prior to authorizing the final payment (CAP) to the contractor.

E. Contract change orders (Field Work Authorization [FWA]), use of contingency funds, timing of "critical time construction" site inspections, submission of the Certificate of Final Inspection, and other construction management services shall be the sole responsibility of the Program Housing Inspector, under the supervision of the Program Administrator, and City Manager.

F. The Contractor will be required to submit an affidavit revealing all subcontractors, suppliers, and labor used on each job; and all lien releases, gas pressure tests, lead-based paint encapsulation or abatement certification, heat system certification, and insulation certificate as required prior to receiving final payment.

**Section 550.050. Definitions.** [Ord. No. 94-2 §4, 2-15-1994]

The following terms when used in this Chapter, shall have the meanings set out herein:

BEDROOM — A bedroom shall be a heated and electrically lit room which affords privacy to the individual, is used primarily for sleeping and storage of clothing year round, has a minimum of seventy (70) square feet, and its least dimension is six (6) feet.

DEPENDANT — A member of the family household (excluding foster children) *other than the family head or spouse,* who is under eighteen (18) years of age or is a disabled or handicapped person, or is a full-time student.

DISABLED — A person who is under a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423), or who has a development disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7).

EMERGENCY — A condition, situation, pressing need, or re-occurring event within the physical structure or atmosphere of the confines of a home which directly affects the health and safety of the occupants, demanding immediate action.

FEMALE HEAD OF HOUSEHOLD — A female who has a least one (1) dependant and pays more than fifty percent (50%) of the costs to maintain a home.

HANDICAPPED — A person having a physical or mental impairment that:

1. Is expected to be a long, continued and indefinite duration;

2. Substantially impedes his/her ability to live independently; and

3. Is of such a nature that such ability could be improved by more suitable housing conditions.

IMMEDIATE FAMILY MEMBER — An immediate family member includes: fathers, mothers, sons, daughters, brothers, and sisters.

INFIRMITY — A situation where a person is medically determined to be of poor or deteriorated vitality; weak, feeble, or not physically solid or stable; and of a condition

which is expected to remain for a long, continued and indefinite duration causing the need for care, lodging and treatment; and is of such a nature that conditions could be improved by appropriate housing improvements.

LOW-TO-MODERATE INCOME (LMI) — Adjusted annual income for the current fiscal year after allowable deductions. Definition of income is determined by Missouri's Department of Economic Development (DED) Exhibit HO-11 (24 CFR Part 813). Maximum adjusted allowable income is determined by the current Low and Very Low Income Charts for the County received from DED).

VERY LOW INCOME — Limits for applicants (subject to annual adjustment by DED):

| **Number of Persons/Household** | **FY-93 Adjusted Annual Income** |
|---|---|
| 1 | $10,500.00 |
| 2 | $12,000.00 |
| 3 | $13,500.00 |
| 4 | $15,000.00 |
| 5 | $16,200.00 |
| 6 | $17,400.00 |
| 7 | $18,600.00 |
| 8 | $19,800.00 |

# Chapter 600

# ALCOHOLIC BEVERAGES

Cross References — Alcohol related traffic offenses, ch. 342; sale of intoxicating beverages by drivers of taxicabs, §625.120.

Editor's Note — Ord. no. 353-2008 §I, adopted September 16, 2008, repealed ch. 600 and enacted new provisions set out herein. Former ch. 600 derived from Code 1962 §§4-1 — 4-5, 4-7, 4-9, 4-12 — 4-32, 21-15; CC 1979 §§4-1 — 4-8, 4-20, 4-22, 4-24, 4-27 — 4-28, 4-39 — 4-55; ord. no. 761 §1, 1-5-1971; ord. no. 771 §1, 1-5-1971; ord. no. 796 §§1 — 2, 7-20-1971; ord. no. 942 §§1 — 2, 12-7-1976; ord. no. 965 §1, 7-19-1977; ord. no. 973 §1, 10-4-1977; ord. no. 1017 §§1 — 2, 10-17-1978; ord. no. 1219 §1, 5-15-1984; ord. no. 88-16 §4-4, 4-5-1988; ord. no. 88-17 §4-24, 4-5-1988; ord. no. 88-22 §2, 4-19-1988; ord. no. 88-23, 5-3-1988; ord. no. 88-24 §2, 5-3-1988; ord. no. 89-28 §§1 — 2, 10-3-1989; ord. no. 89-29 §2, 10-3-1989; ord. no. 91-24 §§1 — 2, 5-21-1991; ord. no. 93-24 §§1 — 2, 6-15-1993; ord. no. 98-24 §2, 7-21-1998; ord. no. 288-2007 §1, 4-3-2007; ord. no. 344-2008 §1, 7-15-2008.

## ARTICLE I
## Generally

**Section 600.010. Definitions Relating to This Chapter.** [Ord. No. 353-2008 §I, 9-16-2008]

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

APPLICANT — Any person applying for a liquor license.

GENERAL MERCHANDISE STORE — Any retail establishment whose liquor and beer sales constitute less than thirty percent (30%) of the gross annual sales and which does not sell liquor or beer by the drink.

INTOXICATING LIQUOR — Includes 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 (.5%) by volume, except for non-intoxicating beer as defined in Section 312.010, RSMo. All beverages having an alcoholic content of less than one-half of one percent (.5%) by volume shall be exempt from the provisions of this Chapter, but subject to inspection as provided by Sections 196.365B — 196.445, RSMo.

NON-INTOXICATING BEER — Any beer manufactured from pure hops or pure extract of hops and pure barley malt or other wholesome grains or cereals and wholesome yeast

and pure water and free from all harmful substances, preservatives and adulterants and having an alcoholic content of more than one-half of one percent (.5%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

MINORS — Those persons under the age of twenty-one (21) years.

PRIVATE CLUB — A corporation, whether operated for profit or not, recognized by the Missouri Secretary of State as being in good standing with regular duties assigned to members and which has regular dues collected from members.

RESTAURANT — An establishment where:

1. A permanent kitchen facility where at least commercial grade stove, sink and refrigeration equipment are located;
2. Food is served to the general public during the hours of 7:00 A.M. until 9:00 P.M.; and
3. The establishment is open for the purpose of serving food to the general public at least four (4) hours during such time period and a staff of at least two (2) employees is dedicated to the preparation, serving and cleanup of food items for sale to the general public.

**Section 600.020. Sale During Certain Hours Prohibited.** [1] [Ord. No. 353-2008 §I, 9-16-2008]

No person shall purchase, sell, give away or otherwise dispose of any beer, wine or intoxicating liquor or allow such acts to be done upon or about his premises, in any quantities, at any time when such disposal is prohibited by the law of the State of Missouri.

**Section 600.030. Sale or Supply to Persons Under Twenty-One Years of Age.** [2] [Ord. No. 353-2008 §I, 9-16-2008]

No person shall sell, give away or otherwise supply any beer, wine or intoxicating liquor or allow such act to be done upon or about his premises to any person under the age of twenty-one (21) years.

**Section 600.040. Possession or Purchase by Persons Under Twenty-One Years of Age.** [Ord. No. 353-2008 §I, 9-16-2008]

The possession, actual or constructive, or purchase of any beer, wine or intoxicating liquor by any person under the age of twenty-one (21) years is prohibited.

**Section 600.050. Drinking in Public — Intoxicating Liquor.** [Ord. No. 353-2008 §I, 9-16-2008]

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1. **State Law Reference — Hours when sales are prohibited, §311.290, RSMo.**

2. **State Law References — Sales by minors, §311.300, RSMo.; sales to minors, §311.310, RSMo.; misrepresentation of age by minor to obtain liquor, §311.320, RSMo.**

A. No person shall drink beer, wine or intoxicating liquor in any quantity upon any street, avenue, alley, sidewalk or in any public place within the City.

B. Unless specifically authorized from time to time by the City Council, no beer, wine or intoxicating liquor shall be allowed to be sold or given away or to be brought into, used, possessed or drunk within any of the public parks in the City.

**Section 600.060. Transporting Open Container.** [Ord. No. 353-2008 §I, 9-16-2008]

A person commits the offense of transporting an open container if a container of non-intoxicating beer or intoxicating liquor is found to be open within a vehicle which that person has under his/her control or in which that person is a passenger and is available for ready consumption.

**Section 600.070. Possession of Identification by Persons Under Twenty-One Years of Age.** [Ord. No. 353-2008 §I, 9-16-2008]

The possession of any device or tool or other means indicating that the person in possession is twenty-one (21) years of age or older when he is not is prohibited.

**Section 600.080. Violation of Chapter — Generally.** [Ord. No. 353-2008 §I, 9-16-2008]

Any person violating any of the provisions of this Chapter, except where some penalty is otherwise provided, shall upon conviction thereof be adjudged guilty of a misdemeanor and subject to punishment as provided in Section 100.130 of this Code; provided, that upon final conviction of any person for a violation of any of the provisions of this Chapter, such conviction shall automatically be operated to revoke any license issued to such person pursuant to this Chapter; provided further, that the term *"conviction"*, as used herein, shall mean conviction upon final determination of any prosecution of any violation of this Chapter; provided further, that no person having been convicted of the violation of any of the provisions of this Chapter shall be issued a license or a renewal therefore for a period of one (1) year from the date of such conviction.

**Section 600.090. Municipal Judge to Certify Convictions to Council.** [Ord. No. 353-2008 §I, 9-16-2008]

Upon conviction of any person under the provision of this Chapter, it shall be the duty of the Municipal Judge to certify such conviction to the City Council.

## ARTICLE II
## Sales

**Section 600.100. Liquor by the Drink.** [Ord. No. 353-2008 §I, 9-16-2008]

No person shall be allowed to sell intoxicating liquor at retail by the drink for consumption on the premises where sold until such person has first obtained a license to sell the same from the State of Missouri and the City and until they have met all qualification set forth in this Chapter.

**Section 600.110. Presence of Minors on Premises.** [Ord. No. 353-2008 §I, 9-16-2008]

A. *Minors.* No person owning or operating an establishment licensed for the sale of any beer, wine or intoxicating liquor at retail whose gross receipts for the sale of such beverages is sixty percent (60%) or more of all gross receipts for business conducted in said establishment shall permit any minor to enter, remain, loiter in or frequent such establishment, unless:

1. No beer, wine or intoxicating liquor of any kind is available for sale or consumption to persons on the premises during times when minors are allowed on the premises;

2. Such person establishes that he is operating a restaurant as defined in this Article;

3. Such person hosts a private party for a designated special event such as, but not limited to, a wedding or graduation reception, in which the attendees of such event use a portion of the establishment not open to the general public and a parent or guardian of each minor under the age of eighteen (18) is present.

B. *Premise Where Liquor Is Consumed.* No person owning or operating an establishment where beer, wine or intoxicating liquor of any kind is consumed by persons not operating or owning such establishment, and such beer, wine or intoxicating liquor was not purchased within such establishment, shall permit a minor to enter, remain, loiter in or frequent such establishment unless the exceptions to enforcement of Subsection (A) are met.

C. For purposes of this Section, the amount of sales for any beer, wine or intoxicating liquor at retail shall be subject to audit by the City Finance Department and shall be verified on an annual basis by a notarized statement prepared by a certified public accountant, public accountant, auditor, comptroller or similarly licensed accountant that receipts from the sale of any beer, wine and intoxicating liquor did not exceed sixty percent (60%) of the entire gross receipts from the conduct of business within the establishment. The establishment shall maintain, at a minimum and at all times on the premises or at a place easily accessible to the Director of Finance, copies of the following records in order to substantiate the sales figures reported in such statement: pre-numbered guest checks, cash register tapes, bank statements and canceled checks and invoices for food, beer, intoxicating liquor and other items if available for sale at the establishment. Additional records may be required by the Director of Finance as deemed necessary to verify the contents of the notarized statement required herein.

D. This Section shall not apply to any establishment, entity or person exempt from liquor licensing requirements by the State of Missouri.

**Section 600.120. Transactions by Retail Licensees Involving Purchase, Exchange or Pledge of Personal Property.** [Ord. No. 353-2008 §I, 9-16-2008]

A. No person or employee of a person conducting a business by virtue of a retail liquor license issued by the City for the sale of intoxicating liquors of any type shall accept, during business hours, at the place of business operating under any such license, any personal property as a pledge for money lent by any such licensee or employee.

B. No person being the holder of a liquor license or any employee of any such licensee shall purchase from any person or customer, during business hours at the place of business covered by such license, any secondhand personal property other than personal property necessary to the conduct of such licensee's retail liquor business.

C. No person being the holder of a retail liquor license of any type or employee of any such person shall exchange any intoxicating liquor of any type for personal property, other than money or negotiable instruments commonly used as a means of barter and exchange.

**Section 600.130. Drink Specials Prohibited.** [Ord. No. 353-2008 §I, 9-16-2008]

A. No person or employee of a person conducting a business by virtue of any retail beer or liquor license issued by the City for the sale of beer or intoxicating liquors of any type shall:

1. Offer for sale beer or intoxicating liquor of any type at less than the cost of the beer or liquor to the license holder;

2. Sell, offer to sell or deliver to any person an unlimited number of drinks containing beer or intoxicating liquor of any type during a set period of time for a fixed price.

## ARTICLE III
## Licenses

**Section 600.140. Required.** [Ord. No. 353-2008 §I, 9-16-2008]

It shall be unlawful for any person to manufacture, sell or expose for sale, either at wholesale or retail, in the City any non-intoxicating beer or intoxicating liquors as defined by Section 600.010 in any quantity without first having obtained a license from the City therefore, except as otherwise provided by this Article.

**Section 600.150. Application.** [Ord. No. 353-2008 §I, 9-16-2008]

Every applicant for a license under this Article shall file a verified application, which shall state the facts as to the applicant's qualifications for such license and shall be made on a form prepared by the Licensing Clerk. If the applicant has complied with all City building, fire, health, zoning or other relevant City codes at the time of filing the application, the City shall issue the license or give notice of denial within thirty (30) days of the receipt of the application or if the applicant has not met all code requirements at the time of the application, the license shall not be issued or the notice of denial shall be given within thirty (30) days after applicant provides proof of compliance with City codes.

**Section 600.160. Qualifications of Licensees.** [Ord. No. 353-2008 §I, 9-16-2008]

No person shall be granted a license to sell intoxicating liquor unless such person is of good moral character, nor shall any corporation or LLC be granted a license unless the managing officer of such corporation is of good moral character. No person shall be granted a license or permit under this Article whose license has been previously revoked or who has been convicted of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor or who employs in his business as such dealer any person whose license has been revoked or who has been convicted of violating such law.

**Section 600.170. Inspections.** [Ord. No. 353-2008 §I, 9-16-2008]

A. As a condition of being granted or being allowed to hold, or continuing to hold, a license issued under this Article, all licensees and applicants for licenses issued under this Article shall allow the premises licensed or to be licensed and all portions of the outbuildings of the premises, including, but not limited to, all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics and all buildings used in connection with the operations carried on under the license and which are in the licensee's or applicant's possession or under his control and all places where he keeps or has liquor stored, to be entered and inspected by Police Officers and persons authorized by the Police Department to carry out or assist in such work, to verify the licensee's or applicant's compliance with the Federal, State and local laws, regulations and ordinances applicable to the operation and conduct of the business of the licensee or applicant.

B. Failure or refusal of an applicant or licensee or any of his employees or agents to allow such officers or authorized persons to perform such inspections of the premises at any time the applicant or licensee is open for business or at any other reasonable time shall be grounds for the non-issuance, suspension, revocation or non-renewal of a liquor license by the City pursuant to Sections 600.150 and 600.220 — 600.250.

C. All businesses and commercial establishments within the City limits in which alcoholic beverages are possessed or consumed upon the premises by patrons or customers of the business or establishment, whether or not sold, provided or distributed by the business, as a condition of their being granted or allowed to continue to hold a business license from the City, shall also allow entries and inspections of their premises by Police Department personnel as described in Subsections (A) and (B). Failure or refusal of such a business or establishment or any of its employees or agents to allow such officers or authorized persons to perform such inspections of the premises at any time the business or establishment is open for business or at any other reasonable time shall be grounds for the non-issuance, suspension, revocation or non-renewal of the establishment's business license by the City of Neosho.

**Section 600.180. Licensing of Premises Not Used for Retail Sale of Alcoholic Beverages Within Past Twelve Months.** [Ord. No. 353-2008 §I, 9-16-2008]

If an application for a license for retail sale of intoxicating liquor or non-intoxicating beer in the original package or the retail sale of intoxicating liquor or non-intoxicating beer by the drink is made for a location which has not been used in the conduct of a retail liquor or beer business for a period of twelve (12) months prior to application, it shall be necessary before any license is issued that the requirements set forth in this Article and if applicable Section 405.170 be met.

**Section 600.190. Reissuance of License When Premises Are Sold.** [Ord. No. 353-2008 §I, 9-16-2008]

Nothing in this Chapter shall prohibit the cancellation of a license issued under this Article for an establishment upon the sale thereof and the reissuance of a license for the same location to the purchaser, provided all other requirements of this Article have been met.

**Section 600.200. Premises Near Schools or Churches.** [Ord. No. 353-2008 §I, 9-16-2008]

A. No license shall be granted under this Article for the sale of intoxicating liquor or non-intoxicating beer within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship, unless the applicant therefore shall first obtain the consent in writing of such school or the consent in writing of such church or place of worship.

B. The distance of one hundred (100) feet specified in this Section shall be measured from the public entrance of licensee to the public entrance of such school or church.

C. Provided further, that the City Council may consider a reduction of the distance requirements set out in Subsection (A) and grant such reduction of the distance requirements by resolution to a distance down to and including zero (0) feet in its discretion following notice and a hearing as required by Section 311.080, RSMo., as amended in 2005 and as amended from time to time, if the Licensing Clerk has made a finding that no adverse impact will take place based on his or her review and evaluation of the criteria set forth as follows:

    1. Call for Police service and enforcement actions to any establishment owned or operated by the applicant or other entities in which the applicant has an ownership interest have not been any more numerous than the average calls for a similar establishment in the past twelve (12) months within the City; and

    2. Violations of any liquor law or ordinance by the applicant in any establishment operated or owned by the applicant or other entities in which the applicant has an ownership interest; and

    3. Calls for service through the City's public information office and enforcement actions related to any establishment owned or operated by the applicant or other entities in which the applicant has an ownership interest have not been any more numerous than the average calls for a similar establishment in the past twelve (12) months within the City; and

4. Public infrastructure and services within a ten (10) block radius in any direction is sufficient to handle increased traffic, parking, sewerage, water, other utilities or other needs such as police and fire services of the establishment when considering the total occupancy allowed; and

5. A feasible plan for providing parking and security for patrons is presented and approved by the City Manager and Chief of Police for applications for establishments with an occupancy potential of more than fifty (50); and

6. The applicant is current in all State, County, City and community improvement or other special district taxes or assessment; and

7. The applicant has not violated any City or State laws in the operation of any establishment with a liquor license.

D. The applicant for a license to be issued under Subsection (C) shall pay an initial non-refundable application fee of two hundred fifty dollars ($250.00) in addition to any other fees or costs associated with the application for operation of the business and the applicable renewal fee as set out in the City's annual fee study upon applying for a renewal of the license. The license granted under Subsection (C) shall be valid from the date granted until January first (1st) of the following calendar year and may be renewed by the Licensing Clerk on an annual basis thereafter for as long as the applicant/licensee or the operation of the establishment remains in compliance with all the criteria listed herein. Should the applicant or licensee violate or come out of compliance with any criteria listed herein or other City code or State law, a hearing shall be held in accordance with this Article for either the revocation of the license or denial of the renewal of the license to the distance requirements. Upon a finding that the applicant has failed to remain in compliance with any requirement of this Section, the license shall either be deemed null and void or not renewed and the liquor license of such establishment and applicant shall be surrendered and the applicant or licensee shall cease the sale of intoxicating liquor or non-intoxicating beer at the location for which the license was granted.

**Section 600.210. Transfer.** [Ord. No. 353-2008 §I, 9-16-2008]

A. *Transfer To Other Person.* No license for the sale of intoxicating liquor shall be transferable to another person. If a corporation shall hold such a license, the sale or transfer of more than twenty-five percent (25%) of the issued stock of such corporation within any twelve (12) month period or the pledge, assignment, transfer or otherwise of more than twenty-five percent (25%) of the stock of such corporation within any period of twelve (12) months in which the voting power of such stock is carried with such pledge, assignment, transfer or otherwise shall be deemed, for the purposes of this Chapter, to constitute a transfer of a license for the sale of intoxicating liquor or non-intoxicating beer or if within any twelve (12) month period the amount of issued stock is increased by more than twenty-five percent (25%), whether by issue or reissue, then, in any of such occurrences, such sale, issues, transfers, reissues, assignments or otherwise shall be deemed transfers

of the corporate license to sell intoxicating liquor or non-intoxicating beer and such transfer of such license is prohibited; provided that sales, issues, reissues, pledges, assignments or otherwise completely between existing stockholders of any corporation shall not be deemed a transfer of such a license.

B. *Transfer To Different Location.* The holder of a license for the sale of intoxicating liquor may transfer the license to another lawful location upon the payment of a twenty-five dollar ($25.00) transfer fee to the Licensing Clerk, provided that the requirements set forth in this Article and if applicable Section 405.170 be met.

**Section 600.220. Failure to Renew License.** [Ord. No. 353-2008 §I, 9-16-2008]

If any holder of a license for the sale of intoxicating liquor or non-intoxicating beer shall fail to renew such license and pay the license fee within ten (10) days after such license fee is due and payable, such license shall be canceled by the Licensing Clerk. Whenever such license shall be canceled, no license shall be issued for the same location unless the requirements set forth in this Article and if applicable Section 405.170 be met.

**Section 600.230. Grounds for Suspension or Revocation — Notice of Proposed Suspension or Revocation.** [Ord. No. 353-2008 §I, 9-16-2008]

A. The Licensing Clerk or his designee may, in addition to other penalties provided by ordinance, suspend or revoke a license issued under this Article if the licensee or his employees or agents violate any of the following provisions:

1. An offense resulting in a conviction involving the use of force or violence upon the person of another in the operation of the business of the licensee.

2. A conviction of a crime involving a felony by the licensee or any of the officers or the managing officer of the licensee.

3. Any false, misleading or fraudulent statement of fact in the license application for the licensee or in any other document required by the City in conjunction therewith.

4. Violation of any of the provisions of this Article or any of the laws of this City.

5. Violation of the laws of the State of Missouri or the United States of America or any rule or regulation pertaining to the sale and licensing of intoxicating liquors or non-intoxicating beer.

6. Operation of the business in such a manner that it constitutes a nuisance to the neighborhood.

7. Conduct by the officers, employees or managing officers of the licensee such as public drunkenness when working or while on the premises, indecent exposure when working or when on the premises or other similar conduct which shows improper conduct by an individual who is licensed pursuant to this Article. For purposes of this Section, the term *"premises"* shall include the

licensed premises, the parking lots and the area around the business which is owned, used and maintained as part of the business.

B. The Licensing Clerk or his designee shall notify the licensee in writing of the intended action and the reasons therefore and of the right to request a hearing in regard thereto. The action indicated in the written notice shall be final unless the licensee shall file a written request for hearing with the Licensing Clerk within ten (10) days of the notice. If a notice of hearing is received, the Licensing Clerk shall proceed in accordance with Section 600.230.

**Section 600.240. Hearing on Denial or Proposed Suspension or Revocation.** [Ord. No. 353-2008 §I, 9-16-2008]

Any person who has been denied a license or renewal thereof by the Licensing Clerk under this Article or who is licensed pursuant to this Article and who has received a notice of intent to suspend or revoke the license may request a hearing before the City Manager or a hearing officer designated by the City Manager. Requests for such hearings shall be filed with the Licensing Clerk within ten (10) days after notice is given of the denial or the intention to suspend or revoke. Upon receipt of a timely written request for hearing, the City Manager, or a hearing examiner designated by the City Manager, shall call a hearing and shall set forth in writing and send to the applicant or licensee or permittee, by means of registered mail, certified mail or hand delivery, notice that, within a period of not less than five (5) days and not more than fourteen (14) days from the date of the mailing of the notice, a hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial, suspension or revocation of a license or permit. The notification shall include the date, time and place of the hearing. The City Manager is hereby authorized to appoint a hearing examiner, who shall have authority to conduct the hearing as set forth in this Section. The applicant or licensee may have the assistance of counsel or may appear by counsel and shall have the right to present evidence. If the applicant or licensee fails to appear at the hearing, the evidence of the existence of facts which constitute grounds for the denial, suspension or revocation of the license or permit shall be considered unrebutted. The hearing need not be conducted according to the rules of evidence. Any relevant evidence may be admitted and considered by the City Manager if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Objections to evidence shall be noted and a ruling given by the hearing officer. The hearing officer shall have authority to rule on all issues of law and fact. A copy of the decision of the hearing officer specifying findings of fact and the reasons for the decision shall be furnished to the applicant or licensee. The final decision shall be issued in written form within thirty (30) days of the completion of the hearing. For purposes of appeal, the decision of the hearing officer shall be final. Upon a final decision being rendered, the parties shall be informed of the right to appeal under the provisions of the Administrative Procedure Act Chapter 536, RSMo. Any decision not appealed within thirty (30) days from the date of a decision is final. Upon receipt of the notice of appeal, the record shall be prepared immediately and filed with the appropriate court and the hearing officer's order shall be stayed.

**Section 600.250. Reissuance of License After Revocation.** [Ord. No. 353-2008 §I, 9-16-2008]

Whenever the City has revoked a business license, it shall be necessary before any license is issued to operate a liquor establishment at the same location that the procedures for issuance of a license be followed as set forth in this Article and if applicable Section 405.170.

**Section 600.260. Prerequisites for Renewal.** [Ord. No. 353-2008 §I, 9-16-2008]

Before the Licensing Clerk renews a liquor license issued under this Article, the City Manager shall determine if the applicant has complied with the laws of the City pertaining to liquor establishments. If the City Manager determines that the applicant has failed to comply with the laws of the City, the City Manager shall not issue the license and shall notify the applicant pursuant to Section 600.230.

**Section 600.270. Existing Licenses.** [Ord. No. 353-2008 §I, 9-16-2008]

All establishments which have obtained liquor licenses prior to the effective date of the ordinance from which this division is derived shall be deemed in compliance with this division upon application for renewal of or upon application for a change in liquor license at the same location, except the premises of existing establishments shall be included for the purpose of determining whether or not a new establishment shall be issued a liquor license.

# Chapter 605

# LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS

Charter Reference — Power to license, tax and regulate businesses, occupations, professions, vocations, activities and things §7.01.

Cross References — Permit required for parades and processions, §340.050; soliciting business by standing in roadway, §345.100; license required for trailer camps, §420.070; garbage and trash containers in trailer camps, §420.280; permits and inspections for electrical work, ch. 505, art. III; plumbing licenses, permits and inspections, ch. 510, art. II; permit fees for mechanical work, §515.030; licenses and permit for moving of buildings, ch. 530, art. II; permits for street excavation, ch. 545, art. II; alcoholic beverage licenses, ch. 600, art. III; operators licenses for pool halls, ch. 610, art. III; permit and license for peddlers, ch. 615; pawnbrokers, ch. 620; certificate of public convenience and necessity for taxicabs, ch. 625, art. II; drivers licenses for taxicab drivers, ch. 625, art. III.

## ARTICLE I
## Licenses — Generally

**Section 605.010. Required.** [CC 1979 §15-16; Ord. No. 87-13, 6-16-1987]

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 article shall procure and pay for a license therefor from the City except those excluded by State law.

**Section 605.020. Form — Validation.** [CC 1979 §15-17; Ord. No. 87-13, 6-16-1987]

The following form shall be used for all regular business licenses. All licenses shall be signed by the City Collector and shall be invalid for all purposes until so signed and validated by the City Collector or his/her agent.

APPLICATION FOR BUSINESS LICENSE

New Application _____ Renewal Application _____

Name _____ Date of Birth _____

Address _____ SS# _____

Home Phone _____ Business Phone _____

Sales Tax Number _____

Zoning Classification _____

Business Gross Sales: (check appropriate line)

_____ from $0 to $50,000 gross sales

_____ over $50,000 to $100,000 gross sales

_____ over $100,000 to $500,000 gross sales.

_____ over $500,000 gross sales.

Type of bond and amount _____

Issuing company for bond _____

Name of company representing _____

Address _____

Kinds of goods or services to be sold _____

Relationship with company _____

_____

Applicant

Approved by:

_____

City Collector or Agent

**Section 605.030. Prerequisites to Issuance.** [CC 1979 §15-18; Ord. No. 87-13, 6-16-1987]

No license provided for or required under any of the provisions of this Code or other ordinances of the City shall be issued by the City Collector or agent or any other department thereof to any person if the business is indebted to the City for nonpayment of any fees for licenses, permits, utility bills, or any other debts of the City.

**Section 605.040. Certain Insurance Policies, Etc., Required Before Issuance of Licenses for Plumbers, Electricians, Contractors and Subcontractors.** [CC 1979 §15-19; Ord. No. 87-13, 6-16-1987; Ord. No. 511-2012 §1, 8-7-2012]

A. In addition to payment of the license fees required of plumbers, electricians and general and special contractors and subcontractors in Section 605.010, before a plumber's, electrician's or general or special subcontractor's license may be issued to any applicant, each applicant shall produce for the inspection and approval of the City Collector the following policies of insurance together with receipts showing the premiums fully paid for the period for which the license is sought:

1. Bodily injury insurance liability coverage of twenty-five thousand dollars ($25,000.00) per incident.

2. Property damage, twenty-five thousand dollars ($25,000.00).

3. *Bonding requirements.*

a. If a contractor performs work within the City limits of Neosho, a license and permit bond, ten thousand dollars ($10,000.00).

b. Unless otherwise provided, if a contractor performs work for the City of Neosho, a performance bond running to the City, ten thousand dollars ($10,000.00).

B. In addition to the requirements set forth above by this Section and the license fees required to be paid, each applicant for a plumber's license shall comply with all provisions of the Plumbing Code of the City.

**Section 605.050. Issuance to Two or More Persons, Etc. — Assignability.** [CC 1979 §15-20; Ord. No. 87-13, 6-16-1987]

A license 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 ordinances.

**Section 605.060. Separate License Required for Each Place of Business and Each Business at Same Location.** [CC 1979 §15-21; Ord. No. 87-13, 6-16-1987]

A separate license shall be obtained for each place of business conducted, operated, maintained or carried on by every person engaged in any occupation, calling, trade or enterprise for which a license is required by this Article and for each location of the same business, occupation or calling. Every merchant or corporation who is engaged in more than one of the businesses, trades or occupations named in this Article for which a license is required shall be required to obtain a separate license for each business, whether the business be conducted in the same place or not.

**Section 605.070. Licenses to Be Preserved and Displayed.** [CC 1979 §15-22; Ord. No. 87-13, 6-16-1987]

All licenses granted by the City pursuant to this Article shall be carefully preserved and shall be displayed in a conspicuous place in the places of business authorized to be conducted by such licenses. Failure to display a license in said manner shall be prima facie evidence of doing business without a license, punishable under Section 605.130.

**Section 605.080. Term — Expiration Date — When Licenses Delinquent.** [CC 1979 §15-23; Ord. No. 87-13, 6-16-1987]

All licenses pursuant to this Article shall be issued by the City Collector for a period of one (1) year, unless otherwise specified by this Article, and shall expire on the next following thirtieth (30th) day of June and all fees for licenses issued pursuant to this Article shall become delinquent on the next succeeding July first (1st) after issuance.

**Section 605.090. Fees — Generally.** [CC 1979 §15-24; Ord. No. 87-13, 6-16-1987]

All businesses with a permanent business address shall pay the following fees, based upon gross sales:

| | Fee |
|---|---|
| From $0 to $50,000 gross sales | $10.00 |
| Over $50,000 to $100,000 gross sales | $15.00 |
| Over $100,000 to $500,000 gross sales | $20.00 |
| Over $500,000 gross sales | $25.00 |

**Section 605.100. Fees — Non-Resident Plumbers, General Contractors, Special Contractors, Subcontractors and Electricians.** [CC 1979 §15-25; Ord. No. 87-13, 6-16-1987]

Every person whose residence or situs is outside the corporate limits of the City, applying for a license as an electrician, general contractor, special contractor, subcontractor or plumber shall be entitled to the issuance of the license applied for at the annual fee of one dollar ($1.00) provided, a resident of the City applying for a similar license in the municipality of the applicant's residence or situs would be issued such a license for the one dollar ($1.00) fee. In the event that the municipality wherein the applicant maintains his/her residence or situs would require a resident of the City to pay a greater fee for the issuance of a similar license, then and in such event the applicant for a license from the City shall pay the same licensing fee which would be charged a resident of the City applying for a similar license in the municipality of the applicant's residence or situs. Determination of the fees charged by another municipality will be done by ordinary mail. If requested by the applicant, telephone or telegraphic confirmation will be made by the City Collector and the applicant will pay an additional five dollars ($5.00) to offset the cost of the telephone call or telegraphic message.

**Section 605.110. Fees — Payment Prerequisite to Issuance of License.** [CC 1979 §15-26; Ord. No. 87-13, 6-16-1987]

The City Collector shall not issue any license pursuant to this Article until the party applying for the same shall have paid the City Collector the sum of money charged therefor.

**Section 605.120. Fees — Penalty for Delayed Payment.** [CC 1979 §15-27; Ord. No. 87-13, 6-16-1987]

For each month or fraction thereof, except the month of July, that any license tax remains unpaid, after the same becomes due and payable, there shall be added to such license a penalty of five percent (5%) per month of the amount of license tax. The penalty herein provided shall be in addition to all other penalties elsewhere provided for the violation of the provisions of this Article.

**Section 605.130. Doing Business Without License — Making Certain False Statements.** [CC 1979 §15-28; Ord. No. 87-13, 6-16-1987]

Any person who engages in any business, occupation, pursuit, profession or trade or in keeping or maintaining any institution, establishment, article, utility or commodity, without first procuring and paying for a license to do so, or who knowingly makes a false statement in his/her application for an occupation license as to conditions or factors on which the license fee is or shall be based shall be deemed guilty of a misdemeanor.

**Section 605.140. Duties of Chief of Police.** [1] [CC 1979 §15-29; Ord. No. 87-13, 6-16-1987]

It shall be the duty of the Chief of Police to prevent any person commencing, carrying on or conducting any business, trade, calling, amusement, entertainment or other thing for which a license is required without first procuring from the City a license therefor. It is hereby made the duty of the Chief of Police to report to the proper authorities of the City all violations therefore, to make arrests and to cooperate with the City Collector and other officials of the City in a strict enforcement of the provisions of this Chapter and all other license laws and ordinances.

## ARTICLE II
## Miscellaneous Provisions Regulations

**Section 605.150. Bed and Breakfast Facilities.** [CC 1979 §15-1; Ord. No. 92-51 §1, 11-3-1992]

A. Bed and breakfast facilities are subject to the following minimum standards:

1. A bed and breakfast shall be considered to be a single-family residential structure and shall not be treated as a hotel, except that a special use permit shall be required in any residential area. A bed and breakfast shall not operate as a restaurant unless zoned and licensed to do so.

2. A bed and breakfast shall be owner occupied. One (1) outside employee will be allowed to operate the business.

3. The provisions of this Section shall not be interpreted to affect locating zoning, fire safety, or housing regulations, except as set out in this Section.

4. A bed and breakfast shall serve breakfast at no extra cost to its tenants.

5. A bed and breakfast shall conform to all Federal, State and local laws and regulations concerning health, safety, licensing, non-discrimination or any other applicable law or regulations.

6. A bed and breakfast shall have a working smoke detector in every sleeping room and a fire extinguisher in proper working order or on every floor. No significant or substantial landscaping or structures shall be removed to provide the required parking.

7. A site plan of the property and a building floor plan shall be submitted with the application for special use permit showing guest room locations, exits, location of smoke detectors and fire extinguishers.

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[1]. **Cross Reference — Chief of police, ch. 200, art. III.**

8. The Council of the City of Neosho may revoke any special use permit granted under this Section for violation of any condition of said permit or if said facility shall become a nuisance to the community in which it is located.

9. Bed and breakfast facilities shall also be subject to any other conditions set by the City Council of the City of Neosho.

10. All bed and breakfast facilities shall contain a minimum of two thousand (2,000) square feet of living area.

# Chapter 610

# AMUSEMENTS

Cross Reference — Parks and recreation, ch. 235.

## ARTICLE I
## In General

**Section 610.010. Dance Halls, Etc. — When to Be Closed.** [1] [Code 1962 §21-9; CC 1979 §5-1; Ord: No. 973 §1, 10-4-77]

No person operating a public dance, dance hall, dance floor or nightclub within the City shall permit the same to remain open for business, or any person to use the same for dancing, between the hours of 1:30 A.M. and 6:00 A.M.

## ARTICLE II
## Pool Halls, Snooker and Recreation Parlors

**Section 610.020. Definitions.** [2] [Code 1962 §25-16; CC 1979 §5-13; Ord. No. 936 §4, 10-5-1976]

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

MECHANICAL AMUSEMENT DEVICE — Each machine which, upon the insertion of a coin, trade, token or slug, operates or may be operated as a game or contest of skill or amusement of any kind or description which contains no automatic payoff device for the return of money or slugs. A *"mechanical amusement device"* is hereby further defined as any machine, apparatus or contrivance which is used or may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine and is further defined as any type of a device which the owner thereof or person in possession thereof charges a fee for the use of such device which is used primarily for the amusement of participants. The term *"mechanical amusement device"* includes but is not limited to what are commonly referred to as pinball machines, bowling machines, foosball machines, shuffleboard machines and other similar type devices.

RECREATION PARLOR — Any establishment in which two (2) or more mechanical amusement devices are located for use by the public.

**Section 610.030. Minors Prohibited From Employment.** [Code 1962 §25-17; CC 1979 §5-14; Ord. No. 936 §5, 10-5-1976]

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1. **Cross Reference — Curfew for minors, §§215.400 — 215.420.**

2. **Cross Reference — Rules for construction and definitions generally, §100.020.**

No minor shall be employed as an operator, manager, assistant manager, or employee in charge at any pool hall, billiard parlor, snooker parlor or recreation parlor in the City. At least one (1) person in charge shall be on the premises of any pool hall, snooker parlor, billiard parlor or recreation parlor at all times during which the same is open for business, who is over the age of twenty-one (21) years.

**Section 610.040. Allowing Minors to Play, Etc. — Registration Book for Minors Under Age Sixteen.** [3] [Code 1962 §25-1; CC 1979 §5-15; Ord. No. 936 §1, 10-5-1976]

It shall be unlawful for the operator of any pool hall, snooker parlor, billiard parlor or recreation parlor to allow any person under the age of sixteen (16) years to play on any pool table, or operate any coin-operated amusement device or frequent any recreation parlor without the written consent of the father, mother or guardian of such minor on such form as prescribed by the Chief of Police. Such written consent shall be on file at the business location of any pool hall, snooker, billiard, or recreation parlor and open for inspection by any Police Officer of the City.

**Section 610.050. (Reserved)** [4]

**Section 610.060. Gambling.** [Code 1962 §25-4; CC 1979 §5-17]

No person shall play for money or purses of money at and upon any billiard game, pool game or other game played upon a table upon which balls and cues are used, or bet any money on any game named herein, whether as a player or otherwise.

**Section 610.070. Posting of Rules Pursuant to Chapter.** [Code 1962 §25-5; CC 1979 §5-18]

Rules for the operation of pool halls, snooker parlors, billiard parlors and recreation parlors as are set out in this Article shall be posted at a conspicuous place in the room used for play in such establishments.

**Section 610.080. Violations of Chapter.** [Code 1962 §25-6; CC 1979 §5-19; Ord. No. 936 §6, 10-5-1976]

Every person who shall violate any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and be subject to punishment as provided in Section 100.130 of this Code; provided however, that this Article shall not apply to any person who has set up in his/her own private residence any one of the tables referred to in this Article for his/her own private use and for the use of his/her family, nor to clubs or civic organizations where pool, billiards and other tables are used exclusively for club members and upon which no charge for playing is made, or to any not-for-profit or governmental organization.

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3. **Cross Reference — Curfew for minors, §§215.400 — 215.420.**

4. **Editor's Note — Ord. no. 98-5, enacted March 17, 1998, repealed section 610.050 without any provisions for replacement. Former said section derived from Code 1962 §25-2; CC 1979 §5-16; and ord. no. 936 §2, 10-5-1976. We have left the section reserved for the city's future use.**

ARTICLE III

## Pool Halls, Etc. — Operator's License [5]

**Section 610.090. Required — Proviso.** [Code 1962 §25-7; CC 1979 §5-26]

It shall be unlawful for any person to operate a pool hall or pool tables within the City without first having secured a license therefor; provided, that this Section shall not apply to any person having set up in his/her own private residence any one of such tables for his/her own private use and for the use of his/her family, nor to clubs where pool, billiard and other tables are used exclusively for club members and upon which no charge for playing is made.

**Section 610.100. Application.** [Code 1962 §25-8; CC 1979 §5-27; Ord. No. 936 §3, 10-5-1976]

The application for a license pursuant to this Article shall set out the name of the proposed operator and the premises to be occupied by the same.

**Section 610.110. City Collector to Issue Upon Approval of City Manager and City Council When Article Complied With.** [Code 1962, §25-9; CC 1979 §5-28; Ord. No. 936 §3, 10-5-1976]

The City Collector shall have the power to issue licenses to operators of pool halls, snooker parlors, billiard parlors and recreation parlors when the application for such license shall have been approved by the City Manager and a majority of the City Councilmen and when the requirements of this Article have been fulfilled.

**Section 610.120. Qualifications of Licensee.** [Code 1962 §25-10; CC 1979 §5-31; Ord. No. 660 §2, 7-5-1967; Ord. No. 936 §3, 10-5-1976]

No license pursuant to this Article shall be issued to any person unless the applicant for such license shall be of good moral character.

**Section 610.130. Transferability.** [Code 1962 §25-13; CC 1979 §5-32; Ord. No. 936 §3, 10-5-1976]

No license issued pursuant to this Article shall be transferable to another operator, nor shall it be valid if used by the same operator in a location other than that stated in the original application therefor.

**Section 610.140. Expiration.** [Code 1962 §25-12; CC 1979 §5-33; Ord. No. 936 §3, 10-5-1976]

All licenses issued pursuant to this Article shall expire on the thirtieth (30th) day of June of each year, regardless of what month they may be issued; provided, that any license issued after the thirty-first (31st) day of December shall expire as aforesaid.

**Section 610.150. Revocation and Reinstatement.** [Code 1962 §25-14; CC 1979 §5-34]

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5. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

Upon the conviction of any person for the violation of this Article, such conviction shall automatically revoke any license such convicted person may have to operate within the City any pool hall, snooker parlor, billiard parlor or recreation parlor. When any license to operate a pool hall, snooker parlor or recreation parlor has been revoked, the person desiring to have such license reinstated shall file with the City Collector an application stating why a new license should be issued to him/her. The City Collector, with the approval of the City Council, shall reissue such license to operate a pool hall, snooker parlor or recreation parlor within the City upon the payment of another license fee in the amount of seventy-five dollars ($75.00).

## ARTICLE IV
## **Adult Businesses — Regulations** [6]

**Section 610.160. Purpose and Findings.** [Ord. No. 328-2008 §I, 4-15-2008]

A. *Purpose.* It is the purpose of this Article to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material.

B. *Findings.* Based on evidence concerning the adverse secondary effects of adult uses on the community presented in findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), City of Erie v. Pap's A.M., TDA "Kandyland", 529 U.S. 277 (2000) and City of Los Angeles v. Alameda Books, Inc., 121 S. Ct. 1223 (2001), the Council finds:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

2. Certain employees of sexually oriented businesses defined in this Article as adult theatres and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

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[6]. **Editor's Note — Ord. No. 328-2008 §§I — XXII, adopted April 15, 2008, repealed sections 610.160 — 610.290 "adult businesses — regulations" and enacted new provisions set out herein. Former sections 610.160 — 610.290 derived from ord. no. 96-52 §1, 10-15-1996.**

3. Sexual acts, including masturbation and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows.

4. Offering and providing such space encourages such activities, which creates unhealthy conditions.

5. Persons frequent certain adult theatres, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

6. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States — 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.

8. As of December 31, 2006, there have been 15,658 reported cases of AIDS in the State of Missouri.

9. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

10. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

11. The findings noted in paragraphs number (1) through (10) raise substantial governmental concerns.

12. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

13. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore non-existent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

14. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.

15. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

16. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

17. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Article is designed to prevent or who are likely to be witnesses to such activity.

18. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Article.

19. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

20. The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Article.

**Section 610.170. Definitions.** [Ord. No. 328-2008 §II, 4-15-2008]

As used in this Article, the following words shall have the meanings set out herein:

ADULT ARCADE — Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE — A commercial establishment which, as one (1) of its principal purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

1. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual

representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

2. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE so long as one (1) of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT CABARET — A nightclub, bar, restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity or semi-nude; or

2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT MOTEL — A hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

ADULT MOTION PICTURE THEATER — A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT THEATER — A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

EMPLOYEE — A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

ESCORT — A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY — A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT — Includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

LICENSEE — A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

NUDE MODEL STUDIO — Any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
2. Where in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
3. Where no more than one (1) nude or semi-nude model is on the premises at any one time.

NUDITY or a STATE OF NUDITY — The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

PERSON — An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE or in a SEMI-NUDE CONDITION — The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER — A business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS — An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

SPECIFIED CRIMINAL ACTIVITY — Any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other States or countries;

2. For which:

    a. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

c. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES — Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

3. Excretory functions as part of, or in connection with, any of the activities set forth in 1 through 2 above.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS — The increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this Article takes effect.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS — Includes any of the following:

1. The sale, lease or sublease of the business;

2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law, upon the death of the person possessing the ownership or control.

**Section 610.180. Classification.** [Ord. No. 328-2008 §III, 4-15-2008]

A. Sexually oriented businesses are classified as follows:

1. Adult arcades;

2. Adult bookstores, adult novelty stores or adult video stores;

3. Adult cabarets;

4. Adult motels;

5. Adult motion picture theaters;

6. Adult theaters;

7. Escort agencies;

8. Nude model studios; and

9. Sexual encounter centers.

**Section 610.185. License Required.** [Ord. No. 328-2008 §IV, 4-15-2008]

A. It is unlawful:

1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Article.

2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this Article.

3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Article.

B. An application for a license must be made on a form provided by the City.

C. All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this Article.

D. A person who wishes to operate a sexually oriented business must sign the application for a license as an applicant. If a person other than an individual wishes to operate a sexually oriented business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors and controlling shareholder(s). Each application must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

a. An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age;

b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its State of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state:

   a. The sexually oriented business's fictitious name; and

   b. Submit the required registration documents.

3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

4. Whether the applicant, or a person residing with the applicant, has had a previous license under this Article or other similar sexually oriented business ordinances from another City or County denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

5. Whether the applicant, or a person residing with the applicant, holds any other licenses under this Article or other similar sexually oriented business ordinance from another City or County and, if so, the names and locations of such other licensed businesses.

6. The single classification of license for which the applicant is filing.

7. The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.

8. The applicant's mailing address and residential address.

9. A recent photograph of the applicant(s).

10. The applicant's driver's license number.

11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but it must be drawn to a designated scale

or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand three hundred twenty (1,320) feet of the property to be certified; the property lines of any established religious institution/synagogue, school or public park or recreation area within one thousand three hundred twenty (1,320) feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

13. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 610.240.

F. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:

1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;

2. Age, date and place of birth;

3. Height, weight, hair and eye color;

4. Present residence address and telephone number;

5. Present business address and telephone number;

6. Date, issuing State and number of driver's permit or other identification card information; and

7. Proof that the individual is at least eighteen (18) years of age.

G. Attached to the application form for a sexually oriented business employee license, as provided above, shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate in this or any other County, City, State or country has ever had a license, permit or authorization to do business denied, revoked or suspended or had any

professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

**Section 610.190. Issuance of License.** [Ord. No. 328-2008 §V, 4-15-2008]

A. Upon the filing of said application for a sexually oriented business employee license, the City shall issue a temporary license to said applicant. The application shall then be referred to the appropriate City departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:

1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

2. The applicant is under the age of eighteen (18) years;

3. The applicant has been convicted of a "specified criminal activity" as defined in this Article;

4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or State law, Statute, rule or regulation or prohibited by a particular provision of this Article; or

5. The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this Subsection shall be subject to appeal as set forth in Section 610.220.

B. A license granted pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has not been convicted of any specified criminal activity as defined in this Article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 610.195.

C. Within thirty (30) days after receipt of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant.

The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:

1. An applicant is under eighteen (18) years of age.

2. An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business.

3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

4. An applicant, or a person with whom the applicant is residing, has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

5. An applicant, or a person with whom the applicant is residing, has been convicted of a specified criminal activity defined in this Article.

6. The premises to be used for the sexually oriented business have not been approved by the Health Department, Fire Department and the Building Official as being in compliance with applicable laws and ordinances.

7. The license fee required by this Article has not been paid.

8. An applicant of the proposed establishment is in violation of, or is not in compliance with, any of the provisions of this Article.

D. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 610.180. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

E. The Health Department, Fire Department and the Building Official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.

F. A sexually oriented business license shall issue for only one (1) classification as found in Section 610.180.

**Section 610.195. Fees.** [Ord. No. 328-2008 §VI, 4-15-2008]

A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a five hundred dollar ($500.00) non-refundable application and investigation fee.

B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an

annual non-refundable license fee of thirty-five dollars ($35.00) within thirty (30) days of license issuance or renewal.

C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual five hundred thirty-five dollar ($535.00) non-refundable application, investigation and license fee.

D. All license applications and fees shall be submitted to the Director of Finance of the City.

**Section 610.200. Inspection.** [Ord. No. 328-2008 §VII, 4-15-2008]

A. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

B. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

**Section 610.210. Expiration of License.** [Ord. No. 328-2008 §VIII, 4-15-2008]

A. Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 610.185. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

B. When the City denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

**Section 610.215. Suspension.** [Ord. No. 328-2008 §IX, 4-15-2008]

A. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any Section of this Article;

2. Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter.

**Section 610.220. Revocation.** [Ord. No. 328-2008 §X, 4-15-2008]

A. The City shall revoke a license if a cause of suspension in Section 610.215 occurs and the license has been suspended within the preceding twelve (12) months.

B. The City shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted during the application process;

2. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;

3. A licensee has knowingly allowed prostitution on the premises;

4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises; or

6. A licensee is delinquent in payment to the City, County or State for any taxes or fees past due.

C. When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

**Section 610.225. Transfer of License.** [Ord. No. 328-2008 §XI, 4-15-2008]

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

**Section 610.230. Location of Sexually Oriented Businesses.** [Ord. No. 328-2008 §XII, 4-15-2008]

A. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than "M-2", Heavy Industrial District as defined and described in Section 405.170 of the Zoning Code.

B. A person commits an offense if the person operates or causes to be operated a sexually oriented business within one thousand three hundred twenty (1,320) feet of:

1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

2. A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

3. A boundary of a residential district as defined in the Zoning Code;

4. A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the City which is under the control, operation or management of the City park and recreation authorities;

5. The property line of a lot devoted to a residential use as defined in the Zoning Code;

6. An entertainment business which is oriented primarily towards children or family entertainment; or

7. A licensed premises licensed pursuant to the alcoholic beverage control regulations of the State.

C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within one thousand three hundred twenty (1,320) feet of another sexually oriented business.

D. A person commits a misdemeanor if that person causes or permits the operation, establishment or maintenance of more than one (1) sexually oriented business in the same building, structure or portion thereof or the increase of floor area of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

E. For the purpose of Subsection (B) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a use listed in Subsection (B). Presence of a City, County or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

F. For purposes of Subsection (C) of this Section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

G. Any sexually oriented business lawfully operating on April 15, 2008, that is in violation of Subsections (A) through (F) of this Section shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand three hundred twenty (1,320) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are non-conforming.

H. A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in Subsection (B) of this Section within one thousand three hundred twenty (1,320) feet of the sexually oriented business. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or been revoked.

**Section 610.235. Additional Regulations for Adult Motels.** [Ord. No. 328-2008 §XIII, 4-15-2008]

A. Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Article.

B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

C. For purposes of Subsection (B) of this Section, the terms *"rent"* or *"subrent"* mean the act of permitting a room to be occupied for any form of consideration.

**Section 610.240. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.** [Ord. No. 328-2008 §XIV, 4-15-2008]

A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all

overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The City may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.

4. It is the duty of the licensee of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this Subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the licensee to ensure that the view area specified in Subsection (A)(5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection (A)(1) of this Section.

7. No viewing room may be occupied by more than one (1) person at any time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.

9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The licensee shall cause all floor coverings in viewing booths to be non-porous, easily cleanable surfaces, with no rugs or carpeting.

14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, non-porous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48) inches of the floor.

B. A person having a duty under Subsections (1) through (14) of Subsection (A) above commits a misdemeanor if he knowingly fails to fulfill that duty.

**Section 610.245. Additional Regulations for Escort Agencies.** [Ord. No. 328-2008 §XV, 4-15-2008]

A. An escort agency shall not employ any person under the age of eighteen (18) years.

B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

**Section 610.250. Additional Regulations for Nude Model Studios.** [Ord. No. 328-2008 §XVI, 4-15-2008]

A. A nude model studio shall not employ any person under the age of eighteen (18) years.

B. A person under the age of eighteen (18) years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this Subsection if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

C. A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

D. A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

**Section 610.255. Additional Regulations Concerning Public Nudity.** [Ord. No. 328-2008 §XVII, 4-15-2008]

A. It shall be a misdemeanor for a person who knowingly and intentionally in a sexually oriented business appears in a state of nudity or depicts specified sexual activities.

B. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two (2) feet from the floor.

C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

D. It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

**Section 610.260. Prohibition Against Children in a Sexually Oriented Business.** [Ord. No. 328-2008 §XVIII, 4-15-2008]

A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

**Section 610.265. Hours of Operation.** [Ord. No. 328-2008 §XIX, 4-15-2008]

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays and one o'clock (1:00) A.M. and Noon (12:00) P.M. on Sundays.

**Section 610.270. Exemptions.** [Ord. No. 328-2008 §XX, 4-15-2008]

A. It is a defense to prosecution under Section 610.255 that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school licensed by the State of Missouri; a college, junior college or university supported entirely or partly by taxation;

2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

3. In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

b. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

c. Where no more than one (1) nude model is on the premises at any one time.

**Section 610.280. Penalty.** [Ord. No. 328-2008 §XXI, 4-15-2008]

Any person who violates this Chapter, upon conviction, may be punished in accordance with Section 100.130 of this Code. In addition, the City may seek injunctive relief to enjoin repeated violations of this Code.

# Chapter 615

## PEDDLERS, SOLICITORS AND CANVASSERS

Charter Reference — Authority to license and regulate businesses and occupations §7.01.

Cross Reference — Licenses and business regulations, ch. 605.

**Section 615.010. Definitions.** [CC 1979 §21-16; Ord. No. 88-26 §2, 5-17-1988]

As used in this Chapter, the following terms shall have the meanings set out herein:

PEDDLER — Includes any person whether a resident of the City of Neosho or not who travels from place to place, from house to house, or from street to street carrying, conveying or transporting goods, wares, or merchandise of any nature, offering or exposing the same for sale or soliciting the sale of goods, wares, or merchandise from any vehicle, truck, trailer or other mobile unit in the City or anyone who offers for sale merchandise or solicits business by means of a telephone from within the City.

PERSON — Includes the singular and plural and shall also mean and include any person, firm, corporation, association, club, partnership, society or any other organization.

SOLICITOR AND CANVASSER — A person who travels from place to place taking or attempting to take orders for the sale of goods, wares and merchandise or property of any nature for future delivery or for services to be furnished or performed in the future.

**Section 615.020. Permit and License.** [CC 1979 §21-17; Ord. No. 88-26 §2, 5-17-1988]

It shall be unlawful for any person to engage in the business of peddler, solicitor or canvasser as defined in this Chapter within the corporate limits of the City of Neosho without first obtaining a permit and license as provided herein and without paving the prescribed fee for issuance of the same.

**Section 615.030. Excluded Persons.** [CC 1979 §21-18; Ord. No. 88-26 §2, 5-17-1988]

A. The following persons are excluded from the application of the provisions of this Chapter:

   1. Persons engaged in selling personal property at wholesale to dealers in such property;

   2. Merchants having regular places of business in the City and their employees in taking orders at the houses of their customers for goods, wares and merchandise held in stock at such places of business and in delivering the goods so ordered. Such exclusion shall not apply to a person who for himself/herself or another person, firm or corporation hires, leases, uses or

occupies a building, structure or shelter or any other place for the purpose of exhibiting samples and taking orders for present or future delivery;

3. Persons selling daily or weekly newspapers or selling advertisements for daily or weekly newspaper, or persons selling advertising for radio or television stations;

4. Charitable, nonprofit or eleemosynary institutions who are registered with and certified by Internal Revenue Service as qualifying nonprofit corporations and their agents, servants and representatives who solicit funds or sell items without actual or anticipated profit unless all proceeds of such sales over the cost of the items sold are dedicated to the purposes for which the organization is formed;

5. Organizations formed within schools and churches serving Neosho, Missouri, who solicit or sell items for purposes incidental to such school or church; and

6. Special events sponsored by local trade groups or civic organizations; including but not limited to fall festival, sidewalk sale and Christmas parade, which are approved by the City Council.

**Section 615.040. Application.** [CC 1979 §21-19; Ord. No. 88-26 §2, 5-17-1988]

An applicant for a permit or license hereunder shall file with the City Collector in duplicate a sworn application in writing, on a form to be furnished by the City Collector, setting forth the information required by this Chapter. Any applicant shall pay a thirty dollar ($30.00) non-refundable application fee when submitting the completed application to the City Collector.

**Section 615.050. Contents of Application.** [CC 1979 §21-20; Ord. No. 88-26 §2, 5-17-1988]

A. The application shall provide the following information:

1. Full name, description, birth date, and social security number of each individual applicant.

2. Address, both legal and local.

3. Telephone number of individual, both residential and business.

4. Driver's license number and issuing State.

5. Sales tax number.

6. Nature of business and kinds of goods or services to be sold.

7. If employed by another, the name and address of the applicant's employer, together with a brief description of the credentials showing the exact relationship.

8. Length of time for which right to do business is requested.

9. Description and license number or other identification of any vehicle to be used.

10. Whether or not the applicant has held a peddler's license before in Missouri.

**Section 615.060. Investigation — Issuance of License.** [CC 1979 §21-21; Ord. No. 88-26 §2, 5-17-1988]

A. *Police Report.* Upon receipt of an application for permit or license the City Collector shall refer one (1) copy to the Chief of Police, who shall note thereon any record concerning the applicant which may appear from the official records in his/her charge and return the same promptly to the City Collector.

B. *City Collector's Inquiry.* The City Collector shall cause such other investigation or inquiry to be made concerning the applicant or applicant's employer as he/she may deem necessary to determine the character and business responsibility of the applicant and whether his/her application is in compliance with the terms and conditions of this Chapter. The City Collector shall also check to see if the applicant has paid any license fee from previous years.

C. *Issuance of Permit or License.* If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory and the application is in compliance with the terms and conditions of this Chapter, the City Collector shall issue the permit or license.

D. *Disapproval.* If, as a result of the investigation provided for in this Section, the applicant's character or business responsibility or that of his/her employer are found to be unsatisfactory or the facts stated in such application are found to be untrue, the Chief of Police or City Collector shall endorse on such application his/her disapproval thereof and the reasons for the same and the City Collector shall then notify the applicant that his/her application has been disapproved and that no license will be issued.

E. *Appeal.* Any applicant aggrieved by the action of the Chief of Police or the City Collector in the denial of a permit or license as provided herein shall have the right to appeal therefrom to the City Council of the City of Neosho. Such appeal shall be filed in writing with the City Council within fourteen (14) days after notice of the action complained of has been given to the applicant personally or mailed, postage prepaid, to the address stated in his/her application. The City Council shall set a time and place for a hearing on such appeal, notice of which shall be given to the applicant at least five (5) days prior to the date set for hearing. The decision and order of the City Council on such appeal shall be final and conclusive.

**Section 615.070. Revocation of License — Grounds for Revocation.** [CC 1979 §21-22; Ord. No. 88-26 §2, 5-17-1988]

A. Permits and licenses issued under the provisions of this Chapter may be revoked by the City Collector after notice has been served on the applicant for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for license.

2. Fraud misrepresentation or false statement made in the course of carrying on his/her business as a peddler. solicitor or canvasser.

3. Any violation of this Chapter.

4. Conviction of any felony or other crime involving dishonesty.

**Section 615.080. Notice of Revocation and Hearing.** [CC 1979 §21-23; Ord. No. 88-26 §2, 5-17-1988]

Notice of the revocation of a license shall be in writing, setting forth with particularity the grounds of complaint. Upon receipt of a complaint, the City Collector shall forthwith revoke the license so issued and shall contemporaneously therewith set a time and place for hearing. The hearing shall be conducted by the City Collector, at which hearing evidence may be presented by the complainant and the licensee or permittee. After receiving and considering such evidence the City Collector shall reinstate the license or shall permanently revoke the same. The hearing before the City Collector must be conducted within five (5) days from the date of the receipt of the complaint. Any person aggrieved by a decision of the City Collector shall have the right to appeal to the City Council of the City of Neosho as set forth in Section 615.060(E) above.

**Section 615.090. Transfer Prohibited.** [CC 1979 §21-24; Ord. No. 88-26 §2, 5-17-1988]

No license or permit issued under the provisions of this Chapter shall be used or worn at any time by any person other than the one to whom it was issued. Violation of this Section shall constitute a misdemeanor.

**Section 615.100. Use of Streets.** [1] [CC 1979 §21-25; Ord. No. 88-26 §2, 5-17-1988]

No peddler, canvasser or solicitor shall have any exclusive right to any location in the public streets nor shall any be permitted a stationary location nor shall any be permitted to operate in a congested area where operations might impede or inconvenience the public.

**Section 615.110. Fees.** [CC 1979 §21-26; Ord. No. 88-26 §2, 5-17-1988]

A. *Rate.* For the issuance of a license the City Collector shall assess and receive a fee based on gross sales as follows:

| | **Fee** |
|---|---|
| From $0.00 to $50,000.00 gross sales | $10.00 |
| Over $50,000.00 to $100,000.00 gross sales | $15.00 |
| Over $100,000.00 to $500,000.00 gross sales | $20.00 |

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[1]. **Cross Reference — Obstructing street, sidewalk, §215.530.**

| | |
|---|---|
| Over $500,000.00 gross sales | $25.00 |

B. *Exemption.* A license but no fee shall be required of one selling products of the farm or orchard actually produced by the seller on land owned or leased by the seller located within the State, nor shall any license be required of one selling firewood.

**Section 615.120. Expiration of License.** [CC 1979 §21-27; Ord. No. 88-26 §2, 5-17-1988]

All licenses issued under the provisions of this Chapter shall expire on the date specified on the license.

**Section 615.130. Penalty.** [CC 1979 §21-28; Ord. No. 88-26 §2, 5-17-1988]

Any person violating any of the provisions of this Chapter shall, upon conviction thereof, be punished according to Section 100.130 of this Code.

## Chapter 617

## PRIVATE DETECTIVES, PRIVATE INVESTIGATORS AND SECURITY GUARDS

**Section 617.010. Definitions.** [Ord. No. 400-2009 §1, 6-2-2009]

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning: private investigator and private detective.

PRIVATE INVESTIGATOR OR PRIVATE DETECTIVE — A person who extends himself to the public for hire, reward or compensation, either directly or indirectly, to furnish or supply information as to:

1. Evidence or testimony for an administrative, judicial or legislative proceeding;
2. Crimes, both public or private;
3. Personal character, actions or identity of any person;
4. Causes origins and responsibilities for occurrences or happenings;
5. Protection of persons; and
6. Location of property or persons.

Nothing contained in this definition shall be construed so as to exempt from the terms of this Section law enforcement officials engaged in off-duty private investigating activities.

The term "private investigator" shall not include within its meaning any of the following persons who are regularly employed and while such persons are engaged in their normal duties:

1. Collection agencies;
2. Insurance companies licensed to do business within the State;
3. Insurance adjusting or claims agencies;
4. Attorneys at law licensed to engage in the practice of their profession within the State or their agents;
5. Law Enforcement Officers or any person employed by a Federal, State, County or Municipal Government whose duty is to investigate;
6. Persons who are employed solely by one (1) establishment or business;
7. Agencies whose exclusive business is the furnishing of information as to the

business, financial and credit standing of persons with respect to insurance, indemnity bonds or commercial credit; and

8. Armored car services.

**Section 617.020. Penalty.** [Ord. No. 400-2009 §1, 6-2-2009]

In addition to revocation of the license issued under this Chapter, any person violating any of the provisions of this Chapter shall be subject to the penalties set forth in Section 100.130 of this Code of ordinances.

**Section 617.030. Duties of Licensees — Restrictions on Licenses.** [Ord. No. 400-2009 §1, 6-2-2009]

A. *Display And Possession Of License Certificate.* Licensees under this Chapter shall cause a certificate of such license to be displayed at all times in a conspicuous place in or on his place of business described in such license. The licensee shall carry on his person, at all times when performing services as a private detective, a certificate of the license issued under this Chapter.

B. *Impersonation of Peace Officer.* No person licensed under this Chapter shall impersonate or hold himself out as a Peace Officer of this State; nor shall any person operate or permit to be operated a motor vehicle with a siren or blinker light or with any insignia thereon bearing likeness to the insignia used by Peace Officers of this State. Nothing in this Section shall prohibit a licensee from having an amber light, flashing or rotating, utilized for the purpose of location identification.

C. *Carrying Firearms.* No provision of this Chapter is to infer the right or privilege to carry or use firearms.

D. *Carrying of Identification Card.* Private investigators or security guards shall carry on their person at all times when performing services as a private investigator or security guard an identification card issued by the Director of Finance.

**Section 617.040. Approval of Badge, Uniform, Insignia and Other Equipment.** [Ord. No. 400-2009 §1, 6-2-2009]

Any badge, uniform, insignia or other equipment to be worn or used by any private detective, private investigator or security guard, as provided for in this Chapter shall be first approved by the Chief of Police.

**Section 617.050. Required.** [Ord. No. 400-2009 §1, 6-2-2009]

A. *Private Investigators.* No individual shall engage in, maintain or conduct any activity as a private investigator in the City without first obtaining a license from the Director of Finance.

B. *Security Guards.* All persons engaged in providing services as security guards shall first secure a license from the Director of Finance.

**Section 617.060. Application — Temporary Permit.** [Ord. No. 400-2009 §1, 6-2-2009]

Applications for licenses under this Chapter shall be made available by the Police Department Records Division and shall include all information the Chief of Police deems necessary. Applications shall be submitted to the Chief of Police who upon request may grant a temporary permit to the applicant pending final review of the application. The applicant's employer shall execute an agreement of responsibility for the applicant's actions pending issuance of the license and that the applicant is of good moral character. Such permit shall terminate automatically upon issuance of the license and may also be revoked by the Chief of Police without hearing if the Chief of Police finds any statements therein to be incomplete or untrue or if the applicant would not otherwise qualify for a license under this Chapter.

**Section 617.070. Investigation.** [Ord. No. 400-2009 §1, 6-2-2009]

Within fifteen (15) days after receipt of an application for a license under this Chapter, the Chief of Police shall cause an investigation to be made of the applicant. The Chief of Police is authorized to require the applicant to make available any information or material the Chief of Police considers necessary for the investigation concerning the applicant. The Chief of Police, at any time after the issuance of the license, may initiate an investigation concerning the license and may require him to make available any information or material deemed necessary. Failure of the licensee to provide such information shall be grounds for denial, suspension or revocation of a license. Upon completion of the investigation, the Chief of Police shall send the application, with his recommendations, to the Director of Finance.

**Section 617.080. Standards of Issue.** [Ord. No. 400-2009 §1, 6-2-2009]

A. The Director of Finance shall issue a license under this Chapter only when he finds each of the following:

1. That the applicant is of good moral character, and

2. That the applicant has never been convicted of any felony or any misdemeanor involving moral turpitude, and

3. That the applicant is a natural or a fully naturalized citizen of the United States.

**Section 617.090. Employees.** [Ord. No. 400-2009 §1, 6-2-2009]

All employees of any person having or applying for a license under this Chapter shall meet the standards of Section 617.080.

**Section 617.100. Issuance or Denial.** [Ord. No. 400-2009 §1, 6-2-2009]

The Director of Finance shall act upon the application for a license under this Chapter within thirty (30) days after the filing thereof. If the Director of Finance disapproves the application, he shall notify the applicant in writing within ten (10) days thereafter, giving specific reasons for the denial.

**Section 617.110. Appeals.** [Ord. No. 400-2009 §1, 6-2-2009]

After denial of an application or denial of a renewal of an application or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

**Section 617.120. Fee.** [Ord. No. 400-2009 §1, 6-2-2009]

The license fee shall be set forth by resolution of the City Council.

**Section 617.130. Transfer.** [Ord. No. 400-2009 §1, 6-2-2009]

Licenses issued under this Chapter shall not be transferable.

**Section 617.140. Suspension or Revocation.** [Ord. No. 400-2009 §1, 6-2-2009]

Licenses issued under this Chapter shall be subject to revocation or suspension by the Director of Finance for violation of any of the provisions of this Chapter or misconduct by the licensee or his employees or activity amounting to dishonesty or fraud or failure to obey the laws of the United States or the State and the ordinances or regulations of the City governing the conduct of his investigative work, after reasonable notice and an opportunity to be heard has been given to the licensee.

**Section 617.150. Renewal.** [Ord. No. 400-2009 §1, 6-2-2009]

The Director of Finance shall issue renewal licenses to all licensees under this Chapter, whose licenses have not been suspended at the time the licenses have expired, upon payment of the license fee.

**Section 617.160. Term.** [Ord. No. 400-2009 §1, 6-2-2009]

All licenses issued under this Chapter shall be for a term of one (1) year.

**Section 617.170. Identification Card.** [Ord. No. 400-2009 §1, 6-2-2009]

The Director of Finance shall issue an identification card to each individual licensed under this Chapter showing all descriptive data as may be required by the Chief of Police. Identification cards shall not be transferable or assignable. If the identification card is lost, the Director of Finance shall be notified. Such identification card shall also indicate whether the holder of such identification card is licensed as a private investigator or whether such individual is licensed only as a security guard.

**Section 617.180. Liability Insurance.** [Ord. No. 400-2009 §1, 6-2-2009]

No license shall be issued under this Chapter unless the applicant files with the Director of Finance an approved policy of public liability insurance in the amount of three hundred thousand dollars ($300,000.00). Such policy of insurance shall be maintained in full force and full coverage at all times the license is in effect and shall cover all employees who engage in investigative or security work. The licensee shall provide proof of such liability insurance coverage at any time upon request of the Director of Finance or his assigns.

# Chapter 620

## PAWNBROKERS AND SECONDHAND DEALERS

Cross References — Yard and garage sales, ch. 630.

**Section 620.010. Definitions.** [CC 1979 §20.5-1; Ord. No. 1234 §1, 8-21-1984]

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this Chapter, have the meanings indicated in this Section:

JUNK DEALER — Any secondhand dealer, as defined below, who engages in the business of buying junk, old iron, tools, or fittings of any kind, copper, lead, brass, belting, mining rope, mining tubs, mining cards, mining tools or implements of any kind, or scrap metals or utensils, fittings, rags, rubber or paper.

PAWNBROKER — Every person engaged in the business of receiving property in pledges, or as security for money or other thing advanced to the pawner or pledger, or who purchases personal property and agrees to sell it back, or who makes a display at his/her place of business of the sign of the three (3) balls, or who makes or publicly exhibits any sign offering money to loan on personal property, except negotiable instruments.

SECONDHAND DEALER — Any person who buys for resale or receives on consignment or deals in the purchase or sale of used or secondhand household fixtures, water, gas, electric or plumbing fixtures or appurtenances, or several articles or units of building material, or other secondhand personal property of any kind whatever, excepting household furniture and bulk building material and machinery.

**Section 620.020. Hours of Business.** [CC 1979 §20.5-2; Ord. No. 1234 §8, 8-21-1984]

No pawnbroker, secondhand dealer or junk dealer shall keep his/her place of business open or transact any business therein between the hours of 9:00 P.M. and 7:00 A.M., excepting on Saturday night of each week, when he/she may keep his/her place of business open until 12:00 Midnight.

**Section 620.030. Articles Held Before Sale.** [CC 1979 §20.5-3; Ord. No. 1234 §10, 8-21-1984]

No dealer in secondhand articles, keeper of a junk shop or pawnbroker shall expose for sale, or sell or dispose of, any article or articles within five (5) days of the time of purchasing the same; provided however, that this Section shall not affect household goods, machinery or building material.

**Section 620.040. Receiving Property From Minor.** [CC 1979 §20.5-4; Ord. No. 1234 §7, 8-21-1984]

No pawnbroker, secondhand dealer or junk dealer shall take, buy or receive any personal property, goods, wares or merchandise, other than agricultural products, of any value from any minor or have in his/her possession any personal property, goods, wares or merchandise, so had and obtained without the written consent of such minor's parents or guardians.

**Section 620.050. Register of Property Required.** [CC 1979 §20.5-5; Ord. No. 1234 §2, 8-21-1984]

Every pawnbroker, secondhand dealer and junk dealer shall keep at his/her place of business a register, in which he/she shall enter, in writing, a minute description of all property taken, purchased or received, including any number that may be in or upon any article, together with the time and name, age nationality, color and place of residence, giving street and number, if within the City, of the person selling or leaving such property, also the amount paid for or loaned upon such property, the interest charge, and the time when loan falls due. Such register shall be kept clean and legible. Such entries shall be made within one (1) hour after the receipt or purchase of such property. Every entry shall be made in ink and shall not in any manner be erased, obliterated or defaced.

**Section 620.060. Copy of Register to Be Delivered to Chief of Police.** [CC 1979 §20.5-6; Ord. No. 1234 §3, 8-21-1984]

It shall be the duty of every pawnbroker, secondhand dealer and junk dealer to make out and deliver to the Chief of Police at least once a week a legible and correct copy from the register maintained pursuant to Section 620.020 of all personal property or other valuable things received or deposited or purchased, and a description of the persons by whom left in pledge or from whom purchased. No person shall be required to furnish such description of any property purchased from manufacturers or wholesale dealers having an established place of business, or of any goods purchased at open sale from any bankrupt stock, or from any other person having an established place of business. Such goods shall be accompanied by a bill of sale or other evidence of open and legitimate purchase, and shall be shown to the Chief of Police, the chief of detectives or any member of the Police Force when demanded.

**Section 620.070. Report to Police of Goods to Be Shipped Out of City.** [CC 1979 §20.5-7; Ord. No. 1234 §9, 8-21-1984]

Every pawnbroker, secondhand dealer and junk dealer shall give the Chief of Police of the City notice of all goods to be shipped out of the City, the consignee, the destination, date of shipment and date of loading, and give the Chief of Police or chief of detectives, or any member of the Police Force, opportunity to examine such goods before or at the time of loading and shipping.

**Section 620.080. Inspection of Register — Exhibition of Property Purchased.** [CC 1979 §20.5-8; Ord. No. 1234 §4, 8-21-1984]

The register referred to in Section 620.050 shall, at all times, be kept open to the inspection of the Chief of Police or any Officer of the Police Force of the City, or anyone authorized in writing for that purpose by the Chief of Police, which authority shall be exhibited to the pawnbroker, secondhand dealer or junk dealer. Every pawnbroker, secondhand dealer or junk dealer shall also, upon request, show and exhibit to any such person or officer, for inspection, any article purchased, taken or received by him/her.

**Section 620.090. Pawnbrokers' Tickets Generally.** [CC 1979 §20.5-9; Ord. No. 1234 §5, 8-21-1984]

Every pawnbroker shall give to every person leaving property with him/her a plainly written or printed ticket, containing a copy of the substance of all entries required by Section 620.050 to be kept in such register, for which no charge shall be made.

**Section 620.100. Exhibition of Property Upon Presentation of Ticket.** [CC 1979 §20.5-10; Ord. No. 1234 §6, 8-21-1984]

Every pawnbroker shall, during business hours, upon the request of any pledger presenting the memorandum or ticket provided for in Section 620.080 or upon the request of any assignee or transferee thereof presenting such memorandum, exhibit to such person the article pledged and described in such memorandum.

# Chapter 625

## VEHICLES FOR HIRE - TAXICABS

Cross References — Municipal court, ch. 135; police, ch. 200; motor vehicles and traffic, Title III; railroads, ch. 380; streets, sidewalks and public places, ch. 535; licenses and miscellaneous business regulations, ch. 605.

### ARTICLE I
### In General

**Section 625.010. Definitions.** [1] [Code 1962 §29-1; CC 1979 §29-16]

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

CERTIFICATE — A certificate of public convenience and necessity issued by the City Council.

CRUISING — The driving of a taxicab on the streets, alleys or public places in the City in search of or solicitation of prospective passengers for hire.

DRIVER'S LICENSE — The permission granted by the City to a person to drive a taxicab upon the streets of the City.

HOLDER — A person to whom a certificate of public convenience and necessity has been issued.

OPEN STAND — A public place alongside the curb of a street or elsewhere in the City which has been designated by the City Council as reserved exclusively for the use of a holder.

TAXICAB — A motor vehicle engaged regularly or part-time in the business of carrying passengers for hire, having a seating capacity of not more than five (5), exclusive of the driver and not operated on a regular route or between fixed termini.

**Section 625.020. Service Generally.** [Code 1962 §29-2; CC 1979 §29-17]

All persons engaged in the taxicab business in the City and operating under the provisions of this Chapter shall render an overall service to the public desiring to use taxicabs. Holders of certificates of public convenience and necessity shall maintain a central place of business (cab stand) and keep the same open at all reasonable hours for the purpose of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of the City as soon as they can do so and

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1. **Cross Reference — Rules of construction and definitions generally, §100.020.**

if such services cannot be rendered within a reasonable time they shall notify the prospective passengers how long it will be before the call can be answered and give the reason therefor. Any holder who shall refuse to accept a call anywhere in the corporate limits of the City at any time when such holder has available cabs, or who shall unreasonably refuse to give overall service, shall be deemed a violator of this Chapter and the certificate granted to such holder shall be revoked at the discretion of the City Manager.

**Section 625.030. Vehicles — Equipment Required.** [2] [Code 1962 §29-3; CC 1979 §29-18]

A. Each vehicle operated under this Chapter shall, in addition to any other equipment required by law, have the following equipment:

1. *Interior light.* A light within the passenger compartment, which shall be lit while taking on and discharging passengers.

2. *Tire chains, etc.* Tire chains or snow tread tires which shall be applied or installed whenever the streets are in a slippery condition because of ice, snow or sleet.

**Section 625.040. Vehicles — Inspections.** [Code 1962 §29-4; CC 1979 §29-19]

Every vehicle operating under this Chapter may be inspected by the Police Department at any time and shall be periodically so inspected to see that the same is kept in a clean and sanitary condition and is in a safe operating condition.

**Section 625.050. Vehicles — Effect of Failure to Keep Vehicle Clean, Safe, Etc.** [Code 1962 §29-5; CC 1979 §29-20]

Failure of a holder of a certificate of public convenience and necessity under Article II of this Chapter to keep any vehicle neat, clean, sanitary and in safe operating condition shall be grounds for revocation of his/her certificate.

**Section 625.060. Designation and Identification of Taxicabs — Conflicting Color Schemes, Insignia, Etc.** [Code 1962 §29-6; CC 1979 §29-21]

Each taxicab operating under this Chapter shall bear on the outside of one (1) door, on each side, in painted letters in a contrasting color to the background, not less than one (1) inch in width nor less than four (4) inches in height, the name of the company, owner or firm name of the operator of the same, and, in addition, shall bear such identifying letters on the rear of such taxicab together with the identifying number of such cab at the same places, and in addition, may bear an identifying design approved by the City Manager. No vehicle covered by the terms of this Chapter shall be licensed to use any color scheme, identifying design, monogram or insignia to be used thereon which shall be found by the City Manager to conflict with or imitate any color scheme, identifying design, monogram or insignia used on a vehicle already operating under this Chapter, in such a manner as to be misleading or to tend to deceive or defraud the public; provided,

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[2]. **Cross Reference — Motor vehicle equipment generally, ch. 385.**

that if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram or insignia thereof is changed so as to be, as found by the City Manager, in conflict with or imitate any color scheme, identifying design, monogram or insignia of any other person, owner or operator, in such a manner as to be misleading or tend to deceive the public, the license of or certificate of public convenience and necessity covering such taxicab shall be suspended or revoked.

**Section 625.070. Cab Stands Generally.** [Code 1962 §29-7; CC 1979 §29-22]

A. Any holder or applicant for a certificate of public convenience and necessity desiring to establish a cab stand location in the City shall make application therefor to the City Manager, giving the location of such proposed cab stand. Upon filing of the application the Chief of Police shall make an investigation and report as to the traffic conditions at such proposed cab stand location. The City Manager shall take into consideration the convenience of the cab stand in providing service to the public and shall also take into consideration the report from the Chief of Police and then either grant or refuse such application. No cab stand may be located adjoining or adjacent to a church, and no cab stand shall be located facing upon the public square of the City. No holder or applicant therefor shall obtain permits for more than two (2) such cab stands within the downtown area off the public square.

B. The action of the City Manager in granting or refusing such application for a cab stand permit shall be reviewed by the City Council upon request therefor by any interested person.

**Section 625.080. Passengers — Solicitation.** [Code 1962 §§29-11, 29-12; CC 1979 §29-23]

A. *Loud or Annoying Manner — Following for Purposes of Solicitation.* No driver licensed pursuant to this Article shall solicit patronage in a loud or annoying tone of voice or by sign or in any manner annoy any person or obstruct the movement of any persons, or follow any person for the purpose of soliciting patronage.

B. *Solicitation at Terminal or Along Route of Common Carriers.* No driver, owner or operator of a taxicab operating under this Chapter shall solicit passengers at the terminal of any other common carrier or at any intermediate points along any established route of any other common carrier.

**Section 625.090. Passengers — Receipt and Discharge.** [Code 1962 §29-13; CC 1979 §29-24]

Drivers of taxicabs will not receive or discharge passengers in the roadway or at intersections but shall pull up to the right-hand sidewalk as nearly as possible or, in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right-hand or left-hand sidewalk, or side of the roadway in the absence of a sidewalk.

**Section 625.100. Passengers — Number to Be Carried Restricted.** [Code 1962 §29-14; CC 1979 §29-25]

A taxicab driver licensed pursuant to this Chapter shall not permit more than three (3) passengers to be carried in the rear seat and two (2) passengers to be carried in the front seat of any taxicab at any time. A child in arms shall not be counted as a passenger.

**Section 625.110. Passengers — Refusing to Carry.** [Code 1962 §29-15; CC 1979 §29-26]

No driver licensed pursuant to this Chapter shall refuse and neglect to convey any orderly person, upon request, unless previously engaged or unable or forbidden by the provisions of this Article to do so.

**Section 625.120. Soliciting Business for Hotel or House of Ill Repute — Sale of Intoxicating Liquors by Drivers.** [3] [Code 1962 §29-16; CC 1979 §29-27]

It shall be a violation of this Chapter for any driver of a taxicab to solicit business for any hotel, or to attempt to divert patronage from one hotel to another, nor shall any such driver engage in selling intoxicating liquors or soliciting business for any house of ill repute or use his/her vehicle for any purpose other than transporting of passengers and property.

**Section 625.130. Duty of Chief of Police to Enforce Chapter.** [Code 1962 §29-17; CC 1979 §29-28]

The Chief of Police is hereby given the authority and he/she is instructed to watch and observe the conduct of holders of certificates of public convenience and necessity and drivers operating under this Chapter. Upon discovering a violation of the provisions of this Article, the Chief of Police shall report the same to the City Manager who will order or take appropriate action.

**Section 625.140. Violation of Chapter.** [Code 1962 §29-18; CC 1979 §29-29]

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor.

## ARTICLE II
## Certificate of Public Convenience and Necessity [4]

**Section 625.150. Required.** [Code 1962 §29-19; CC 1979 §29-37; Ord. No. 865 §1 (29-19), 4-2-1974]

No person shall operate or permit a taxicab owned or controlled by him/her to be operated as a taxicab for hire upon the streets of the City without first having obtained a certificate of public convenience and necessity from the City Council.

**Section 625.160. Application — Contents.** [Code 1962 §29-20; CC 1979 §29-38; Ord. No. 865 §1 (29-20), 4-2-1974]

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3. **Cross Reference — Alcoholic beverages generally, ch. 600.**

4. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

A. Any person desiring to operate a taxicab in the City, shall make written application for the certificate required by Section 625.150 of this Article to the City Council. Such application shall be verified under oath and shall set forth:

1. A full identification of the applicant and all persons to be directly or indirectly interested in the certificate, if granted;

2. The residence and business address and the citizenship of the applicant and of all members of any firm or partnership and of all officers and directors of any corporation applying;

3. Whether or not the applicant, or any of the persons to be interested in the certificate, if granted, has been convicted of the violation of any national, State or municipal law;

4. Whether or not the applicant, or any person, firm or corporation with whom he/she has been associated or employed, has unpaid claims or unsatisfied judgments, against him/her, them or it for damages resulting from the negligent operation' of a vehicle;

5. Facts showing the need or demand for the contemplated taxi service;

6. The past experience, if any, that the applicant has had in rendering taxicab service and location and period of time that he/she has rendered such service at each location;

7. Whether or not any certificate or other permission to operate a taxicab, as owner or driver, issued to him/her has been revoked, and if so, the circumstances of such revocation;

8. The number of taxicabs proposed to be operated;

9. A description of the taxicabs proposed to be operated and of the proposed operation;

10. The color scheme, name and characteristic insignia to be used to designate the taxicabs of such applicant;

11. Such information as the City Council may reasonably request.

**Section 625.170. Application — Hearing Required — Notice.** [Code 1962 §29-21; CC 1979 §29-39; Ord. No. 865 §1(29-21), 4-2-1974]

Upon receipt of the application required by Section 625.150 of this Article, the City Clerk shall within twenty (20) days from the receipt thereof present the application to the City Council at a regular meeting. At least one (1) hearing before the City Council shall be held. Not less than five (5) days notice of such hearing shall be given by the City Clerk, by mail, to the applicant and to all holders of permits, at the addresses shown on their respective applications, and also by causing at least five (5) days notice of such hearing to be published in one (1) newspaper published in the City, the cost of such publication to be paid by applicant.

**Section 625.180. Application — Factors to Be Considered in Determining Existence of Public Convenience and Necessity.** [Code 1962 §29-22; CC 1979 §29-40; Ord. No. 865 §1 (29-22), 4-2-1974]

A. The City Council in determining, pursuant to an application for a certificate under this Article, whether a public convenience and necessity for additional taxicabs exists, will consider among other things, the following:

1. The resulting effect upon the business of the then existing holders of certificates.

2. Whether persons holding certificates for the operation of taxicabs are, under normal conditions, adequately serving the public;

3. Whether the requirements of public convenience and necessity can be adequately met and complied with only by the issuance of additional certificates.

**Section 625.190. Surety Bonds or Liability Insurance Prerequisite to Issuance.** [Code 1962 §29-23; CC 1979 §29-41; Ord. No. 865 §1 (29-24), 4-2-1974]

A. It shall be unlawful to operate a taxicab as defined in this Chapter or permit the same to be operated, nor shall any certificate be issued under the provisions of this Article unless the applicant for such certificate, in addition to all other requirements in this Chapter shall file and maintain with the City Clerk for each taxicab operated, either a bond or policy of liability of insurance as follows:

1. A bond of the applicant with a solvent and responsible surety company, authorized to do business under the laws of the State, as surety thereon, acceptable to the City Clerk and approved as to form by the City Attorney, conditioned that the applicant will pay all final judgments recovered against such applicant, for injury to, or death of, one (1) person, by reason of the carelessness and negligence of the driver or operator of such taxicab, up to the sum of twenty-five thousand dollars ($25,000.00) and fifty thousand dollars ($50,000.00) and for injury to, or death of more than one (1) person, resulting from a single accident, by reason of carelessness or negligence of the driver or operator of such taxicab, and ten thousand dollars ($10,000.00) for damage to property, including baggage or other property of a passenger or passengers carried in or on any such taxicab, resulting from any single accident, by reason of the carelessness or negligence of any driver or operator of such taxicab. Such bond shall contain a further provision obligating the surety company to give twenty (20) days written notice, before cancellation by the surety of such bond, to the City Clerk. Such certificate shall expire on the lapse of such bond or termination of the same by cancellation; unless within twenty (20) days, in case of notice of cancellation by surety, an applicant shall furnish another bond in conformity with this Section, acceptable to the City and approved as to form by the City Attorney;

2. A policy or certificate of liability insurance issued by a company authorized and licensed to do an insurance business in the State, for each taxicab for

which a license is sought, acceptable to and approved by the City Clerk and approved as to form by the City Attorney, and indemnifying the applicant in the sum of at least ten thousand dollars ($10,000.00) for injury to, or death of one (1) person by reason of the carelessness or negligence of the driver or operator of such taxicab, and twenty thousand dollars ($20,000.00) for injury to, or death of, more than one (1) person resulting from a single accident, by reason of the carelessness or negligence of the driver or operator of such taxicab, and five thousand dollars ($5,000.00) for damage to property, including baggage or other property of a passenger, carried in or on such taxicab, resulting from a single accident by reason of the carelessness or negligence of the driver or operator of said taxicab. The policy shall further contain a clause obligating the insurance company to give twenty (20) days written notice to the City Council before cancellation of the policy. The certificate expires upon the lapse of such policy or certificate, or termination of the same by cancellation; unless within twenty (20) days, in case of notice of cancellation of the insurance company, the holder of the certificate shall furnish another policy acceptable to the City Council. The bond or policy of insurance required by this Section shall contain a provision for continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon.

B. If at any time, in the judgment of the City Council, such bond or policy is deemed insufficient for any cause, the City Council may require the owner of a taxicab to replace such bond or policy with another, to be approved by the City Council.

**Section 625.200. Issuance.** [Code 1962 §29-22; CC 1979 §29-42; Ord. No. 865 §1 (29-23), 4-2-1974]

If the City Council shall find and declare that public convenience and necessity requires the granting of a certificate applied for pursuant to this Article, the City Council shall thereupon, after compliance by the applicant with all the requirements of this Article direct the City Clerk to issue such certificate.

**Section 625.210. Transfer.** [Code 1962 §29-25; CC 1979 §29-43; Ord. No. 865 §1 (29-25), 4-2-1974]

No certificate issued under the provisions of this Article shall be transferred from one owner to another, except after a finding of public convenience and necessity, arrived at by the City Council in the same manner as in the case of an original application. The applicant for a transfer of a certificate shall file with his/her application the consent, in writing, of the former owner of such certificate and shall comply with all the terms and provisions of this Article.

**Section 625.220. Revocation.** [Code 1962 §29-27; CC 1979 §29-44; Ord. No. 865 §§1(29-26)-1(29-29), 4-2-1974]

A. *Generally — Hearing.* The City Council shall have the power to revoke any certificate issued under this Article after ten (10) days notice to the person holding

such certificate and after a hearing, if a hearing is requested in writing by the person holding such certificate:

1. For the violation of any provision of this Article;

2. When it has been proven to their satisfaction that the holder of such certificate has discontinued taxicab operation;

3. When it has been proven that such person has willfully and persistently violated any ordinance of the City, or the laws of the United States or the State.

B. *For Fraud in Obtaining Certificate or License.* Whenever it shall appear upon investigation and hearing by the City Council that a certificate or license issued under the provisions of this Article has been obtained by misrepresentation or fraud, the permit shall be revoked.

C. *Failure to Satisfy Final Judgment.* The certificate of any person shall be forthwith revoked by the City Clerk whenever the City Clerk shall have received a certificate from any court, or the Clerk thereof, showing that such person shall have failed to satisfy, within thirty (30) days, any final judgment upon which execution has been lawfully issued against such person for damages on account of bodily injury, including death, or damage to property resulting from the ownership, maintenance, use or operation of a taxicab.

D. *Effect.* The person whose certificate has been revoked under the provisions of this Section shall forthwith cease to operate taxicabs.

**Section 625.230. Amendment.** [Code 1962 §29-26; CC 1979 §29-45; Ord. No. 865 §1(29-30), 4-2-1974]

Any certificate issued pursuant to this Article may be amended by the City Council to increase the number of taxicabs authorized to be operated thereunder under the same procedure provided for by this Article for the issuance of any certificates.

## ARTICLE III
## **Driver's License** [5]

**Section 625.240. Required.** [Code 1962 §29-28; CC 1979 §29-53]

No person shall operate a taxicab for hire upon the streets of the City, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab licensed by the City shall be so driven at any time for hire, unless the driver of such taxicab shall have first obtained and shall then have in force a taxicab driver's license issued under the provisions of this Article.

**Section 625.250. Application — Contents — Accompanying Documents.** [Code 1962 §§29-29, 29-30, 29-32; CC 1979 §29-54]

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5. **Cross Reference — Licenses and miscellaneous business regulations, ch. 605.**

A. *Contents.* An application for a taxicab driver's license shall be filed with the City Collector on forms provided by the City Manager. Such application shall be verified by the following information:

1. The names and addresses of three (3) residents of the City who have known the applicant for a period of one (1) year who will vouch for the sobriety, honesty and general good character of the applicant.

2. The experience of the applicant in the transportation of passengers.

3. The educational background of the applicant.

4. A concise history of the prior employment of the applicant.

5. A record of all convictions sustained by the applicant, including those for traffic violations.

6. The applicant's age.

B. *Medical Certificate to Accompany.* Each application pursuant to this Article shall be accompanied by a certificate from a physician of the City certifying that the applicant is not afflicted with any disease or infirmity which might make him/her unsafe or unsatisfactory as a driver.

C. *Certificate of Chief of Police to Accompany.* The Chief of Police shall certify, and such certificate shall be attached to each application for a taxicab driver's license, that the applicant has not been convicted of any violation of the provisions of this Code or other ordinances of the City.

**Section 625.260. Application — Examination of Applicant — Current State Operator's Permit a Prerequisite to Issuance.** [Code 1962 §29-31; CC 1979 §29-55]

Before any application for a taxicab driver's license is finally passed on by the City Manager, the applicant therefor shall be required to pass an examination as to his/her knowledge of the City and shall be required to show that he/she has a current operator's permit issued by the State.

**Section 625.270. Application — Consideration by City Manager — Approval and Rejection %%'entity-mdash'%% City Council May Reconsider, Etc. — Rejected Application and Issue.** [Code 1962 §29-33; CC 1979 §29-56]

The City Manager shall, upon consideration of the application for the license required by this Article and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the Council to offer evidence why his/her application should be reconsidered, and in the event the Council shall see fit to do so, it may order the Collector to issue such license so applied for.

**Section 625.280. Issuance — Fees, Contents.** [Code 1962 §29-34; CC 1979 §29-57]

Upon approval of an application for a taxicab driver's license by the City Manager or the City Council, the City Collector shall, upon payment by the applicant of the sum of five dollars ($5.00), issue a license to the applicant which shall bear the name, address, color, age, signature and photograph of the applicant.

**Section 625.290. Display.** [Code 1962 §29-35; CC 1979 §29-58]

Every driver licensed under this Article shall post his/her driver's license in such a place as to be in full view of all passengers while such driver is operating a taxicab.

**Section 625.300. Suspension and Revocation.** [Code 1962 §§29-36, 29-37; CC 1979 §29-59]

A. *Generally*. The Chief of Police, with the approval of the City Manager, is hereby given authority to suspend any driver's license issued under this Article for a driver's failure or refusal to comply with the provisions of this Article, and such suspension shall last for a period of not more than thirty (30) days. The City Council also has the authority to revoke any driver's license for failure to comply with the provisions of this Article; however, a license may not be revoked unless the driver has received notice ten (10) days prior thereto and has had an opportunity to be heard on his/her behalf.

B. *For Failure to Obey Laws.* Every driver shall comply with all City, State and Federal laws, and failure to do so shall be grounds for suspending or revoking such license.

**Section 625.310. Term — Renewal.** [Code 1962 §29-34; CC 1979 §29-60]

A license issued under this Article shall be in effect for the remainder of the fiscal year. A license for every fiscal year thereafter shall be issued upon payment of three dollars ($3.00), unless the license for the preceding year has been revoked.

# Chapter 630

## YARD AND GARAGE SALES

Cross Reference — Pawnbrokers and secondhand dealers, ch. 620.

**Section 630.010. Definitions.** [CC 1979 §15-71; Ord. No. 1223 §3, 8-7-1984]

The following terms shall, for the purposes of this Chapter, have the meanings ascribed to them herein:

GARAGE SALES AND YARD SALES — Includes all sales entitled garage sale, yard sale, lawn sale, attic sale, rummage sale, flea market sale, or any similar casual sale of tangible personal property which is advertised by any means where by the public at large is or can be made aware of said sale, including but not limited to being able to visually observe any goods for sale from any public thoroughfare.

GOODS — Includes any goods, warehouse merchandise, or other property capable of being the object of any sale regulated hereunder.

PERSON — Includes individuals, partnerships, voluntary associations, and corporations.

**Section 630.020. Penalty.** [CC 1979 §15-72; Ord. No. 1223 §6, 8-7-1984]

Any person, association, or corporation conducting any sale in violation of this Chapter shall upon conviction be fined not less than ten dollars ($10.00), nor more than one hundred dollars ($100.00), or be imprisoned for a period not to exceed ten (10) days for each violation.

**Section 630.030. Certain Sales Exempt.** [CC 1979 §15-73; Ord. No. 1223 §4, 8-7-1984]

A. The provisions of this Chapter shall not apply to or affect the following persons or sales:

1. Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

2. Persons acting in accordance with their powers and duties as public officials; and

3. Any person selling or advertising for sale any item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five (5) in number.

**Section 630.040. Limitation on Number of Days of Sale in Certain Districts.** [1] [CC 1979 §15-74; Ord. No. 1223 §1, 8-7-1984]

No person shall conduct, advertise, or in any way participate in any garage sale or yard sale as here defined, in any "R-1" First Dwelling House District, "R-2" Second Dwelling House District, or "R-3" Apartment House District location more than three (3) days in any one (1) calendar month.

**Section 630.050. License Required Outside Residential Districts.** [CC 1979 §15-75; Ord. No. 1223 §5, 8-7-1984]

Any person conducting a sale such as is described in Section 630.010 in a location other than an "R-1", "R-2", or an "R-3" District Classification shall first obtain a City license from the City Collector unless exempt under the provisions of Section 630.030.

**Section 630.060. Duty to Remove Goods From View — Limit on Consecutive Days of Sale.** [CC 1979 §15-76; Ord. No. 1223 §2, 8-7-1984]

It shall be the duty and obligation of any person conducting a yard sale or garage sale defined herein to remove all articles and goods offered for sale, from the public view, by 7:00 P.M. on the last day said sale is held. In no event shall any yard sale or garage sale be conducted for more than three (3) consecutive days.

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1. **Cross References — "R-1" zone, §405.070; "R-2" zone, §405.080; "R-3" zone, §405.090.**

# Chapter 635

## LICENSE TAX ON CIGARETTES

**Section 635.010. Imposed.** [CC 1979 §15-50; Ord. No. 1088, 6-27-1980; Ord. No. 96-54 §2, 10-15-1996]

There is hereby imposed a tax of two (2) mills per cigarette on all cigarettes sold within the municipal limits of the City of Neosho, subject to the following definitions and provisions.

**Section 635.020. Definitions.** [Ord. No. 96-54 §2, 10-15-1996]

When used hereinafter in this Chapter, the following words and phrases shall be defined to mean as follows:

CIGARETTE — A roll of tobacco or any substitute thereof wrapped in paper and used for smoking.

CONSUMER — A person who comes into possession of tobacco for the purpose of consuming it, giving it away or disposing of it in any way.

DEALER — Any person dealing directly with the manufacture of cigarettes in their purchase and in the business of selling cigarettes as a first seller.

FIRST SELLER — Means and includes all persons who make the initial or first distribution of cigarettes within the City.

PACKAGE — The individual package, box, or other container from which sales of cigarettes are normally made or intended to be made.

PERSON — Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals.

RETAILER — Persons other than a dealer or wholesaler as defined in this Section, who is engaged in the business of selling cigarettes at retail, who shall sell or offer for sale cigarettes, irrespective of quantity, number of sales, giving the same away or exposing the same where it may be taken, or purchased or otherwise acquired.

SALE — Any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, or any agreement therefor.

VENDING MACHINE OPERATOR — Includes all persons engaged in the distribution or sale of cigarettes by means of coin-operated vending machines.

WHOLESALER — Persons whose principal business is that of a wholesale jobber or who is known to the trade as such, who sells cigarettes for only the purpose of resale of giving them away, or exposing the same where they may be taken or purchased or otherwise acquired by the retailer.

**Section 635.030. Payment of Tax Required.** [Ord. No. 96-54 §2, 10-15-1996]

This tax shall be paid by the dealer or wholesaler, as defined in Section 635.020, selling cigarettes or offering them for sale.

**Section 635.040. Tax Levy.** [Ord. No. 96-54 §2, 10-15-1996]

Every dealer or wholesaler engaged in the business of selling cigarettes or offering or displaying the same for sale within the City shall pay an occupation tax at the rate of two dollars ($2.00) per thousand of all cigarettes sold or offered or displayed for sale. This tax shall be paid but once, as provided for in Section 635.060 and only by the dealer selling cigarettes or displaying or offering them for sale. The intent and meaning of this Chapter is that the same shall levy an occupation tax based upon and pursuant to the methods provided by Section 92.040, RSMo., 1959, and pursuant to the powers therein granted and the powers contained in the Code of Municipal ordinances of the City of Neosho.

**Section 635.050. Monthly Payment.** [Ord. No. 96-54 §2, 10-15-1996]

It shall be the duty of every dealer or wholesaler, as defined in Section 635.020, selling, offering, or displaying for sale any package of cigarettes to remit the monthly cigarette tax reporting form and full payment by the fifteenth (15th) day of each following month. The cancelled check, accompanied by the monthly cigarette tax reporting form, shall be proof of payment.

**Section 635.060. Rules and Regulations — Records.** [Ord. No. 96-54 §2, 10-15-1996]

A. For the purpose of enabling the City Collector to enforce the terms of this Chapter, the following provisions are enacted:

   1. Each dealer in the City and those wholesalers and retailers as defined in Section 635.020 shall procure and retain invoices showing the amount and value of the shipment of cigarettes received by him/her, the date thereof, and the name of the shipper, and shall retain this invoice for a period of three (3) years subject to the use and inspection of the City Collector.

   2. All dealers, wholesalers and retailers, as defined in Section 635.020 shall maintain and keep for a period of three (3) years such other records of cigarettes received, sold or delivered within the City as may be required by the City of Neosho.

   3. The City Collector or his/her duly authorized representatives are authorized to examine the books, papers, invoices and other records, stock of cigarettes in

and upon any premises where they are placed, stored or sold, and equipment of any such dealer, wholesaler, or retailer pertaining to the sale and delivery of cigarettes taxable under this Chapter.

4. To verify the accuracy of the occupation tax imposed and assessed by this Chapter, each person, as defined in Section 635.020, is directed and required to give to the City Collector or his/her duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

5. In addition to the powers herein granted to the City Collector, he/she is authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the delegation of his/her powers to a deputy or other employee of his/her office and any other matter or thing pertaining to the administration and enforcement of the provisions of this Chapter.

6. Cigarette tax reporting information received from the State of Missouri shall be held in confidence and used solely for verifying cigarette tax payments.

**Section 635.070. Refunds.** [Ord. No. 96-54 §2, 10-15-1996]

The City Collector is authorized to adopt, prescribe and promulgate rules and regulations including a monthly cigarette tax reporting form with regard to the presentation and proof of claim for refunds and credits as he/she may deem advisable.

**Section 635.080. Oaths and Subpoenas.** [Ord. No. 96-54 §2, 10-15-1996]

The City Collector or his/her employees or agents duly designated and authorized by him/her shall have power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their powers and duties under this Chapter. The City Collector shall have the power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the enforcement of this Chapter and to examine them in relation thereto.

**Section 635.090. Penalty for Violation.** [Ord. No. 96-54 §2, 10-15-1996]

Any person violating this Chapter by failing to file the report and make the payment provided for in Section 635.060 hereof shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisoned for not more than ninety (90) days or be punished by both such fine and imprisonment. Failure to file each monthly report and make each monthly payment shall be deemed a separate offense.

# Chapter 640

# LICENSE TAX ON UTILITIES

## ARTICLE I
## License Tax on Electric Power Companies

**Section 640.010. Light and Power Company Defined.** [CC 1979 §15-81; Ord. No. 1242 §4, 11-6-1984]

The term *"light and power company"* when used in this Article shall mean and include every corporation, company, association, firm and individual which is an "electrical corporation" owning and operating an "electric plant" as a "public utility" within the meaning of and as defined in the Missouri Public Service Commission law (Chapters 386 and 393, Revised Statutes of Missouri).

**Section 640.020. Levied.** [CC 1979 §15-82; Ord. No. 1242 §1, 11-6-1984]

Every light and power company, their successors and assigns, generating, manufacturing, selling, distributing, transmitting, supplying, and furnishing electricity, electric power, electric energy, and electric service ("license") in the City shall, for the privilege of doing business and engaging in said occupation therein, pay to the City a license and occupation tax.

**Section 640.030. Tax Additional.** [CC 1979 §15-83; Ord. No. 1242 §7, 11-6-1984]

The license and occupation tax herein provided shall be in addition to all other taxes, payments or fees now or hereafter required by law or ordinance.

**Section 640.040. Amount.** [CC 1979 §15-84; Ord. No. 1242 §2, 11-6-1984; Ord. 87-1 §1, 1-20-87]

In order to maintain its sources of revenue at its historical level, the City of Neosho, hereby determines to maintain the five percent (5%) gross receipts tax against the gross receipts of the Kansas Power and Light Company.

**Section 640.050. What Constitutes Gross Receipts.** [CC 1979 §15-85; Ord. No. 1242 §3, 11-6-1984]

A. The term *"gross receipts"* when used in this Article shall mean:

1. Except as otherwise provided in Subsection (B) hereof, all monies collected and received by licensee from the manufacture, distribution, and sale of electric power and energy to all of licensee's customers within the present and future boundaries of the City served under rate schedules as now or hereafter

approved by the Missouri Public Service Commission for residential, commercial, and industrial service having a reserve capacity of forty (40) kilowatts or less, before any deductions are made therefrom by the licensee for any expenses, costs, or charges of any kind.

2. All monies collected and received by licensee from the sale or lease of goods and products to all of licensee's customers within the present and future boundaries of the City, before any deductions are made therefrom by the licensee for any expenses, costs or charges of any kind.

B. Gross receipts shall not include:

1. Late charges and interest collected and received by licensee.

2. All monies collected and received by licensee from the following customers of licensee: Schools, churches and church schools.

**Section 640.060. Payment of Tax.** [CC 1979 §15-86; Ord. No. 1242 §5, 11-6-1984]

The licensee shall pay the tax herein provided monthly, said tax to be computed upon the basis of gross receipts collected and received by licensee which are subject to said tax from the first (1st) day through the last day of each month during which licensee is doing business and engaged in said occupation, beginning on November 6, 1985.

**Section 640.070. Reports.** [CC 1979 §15-87; Ord. No. 1242 §6, 11-6-1984]

The exact date after the end of each quarter on which the licensee shall pay the tax herein provided and the form and contents of reports filed by licensee with the City showing the gross receipts which are subject to said tax and the date on which said reports are due, shall be as mutually agreed upon by the City and the licensee.

ARTICLE II

**Telephone Companies' License Tax** [1]

**Section 640.080. Levied — Amount.** [Code 1962 §15-18; CC 1979 §15-44; Ord. No. 247-2006 §§1 — 2, 4-18-2006]

Every person engaged in the business of furnishing exchange telephone service in the City shall pay to the City, as an annual license tax, an amount equal to five percent (5%) of the gross receipts derived from the furnishing of such service within the City, as set forth by this Article.

**Section 640.090. Annual Statement of Gross Receipts — When Tax Paid — Certain Receipts Exempt — Credit for Services Rendered City.** [Code 1962 §15-19; CC 1979 §15-45]

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[1]. **Editor's note — Ordinance number 247-2006 was adopted April 18, 2006 in compliance with HB209 of the 2006 Missouri Legislative session. Provisions contained in HB209 were subsequently deemed unconstitutional by the Missouri Supreme Court on August 8, 2006 in City of Springfield, Appellant V Sprint Spectrum, L.P., Respondent Case No. SC87238. Subsequently Section 640.080 was reinstated as referenced below.**

All persons mentioned in Section 640.080 shall file with the City Clerk on or before the fifteenth (15th) day of March of each calendar year a sworn statement of gross receipts derived by such person from the furnishing of exchange telephone service in the City during the preceding calendar year. At the time of filing any such statement, the person involved shall pay to the City Collector five percent (5%) of such gross receipts. Gross receipts derived from the furnishing of such service to the City or any other municipal or governmental unit located in the City shall not be included in the foregoing statement, nor shall any tax be due on such gross receipts. The telephone company shall have the privilege of crediting such sums as may be due under this Article with any unpaid balance due such company for telephone service rendered or facilities furnished to the City.

**Section 640.100. To Be in Lieu of Other Taxes.** [Code 1962 §15-20; CC 1979 §15-46]

The payments required by the provisions of this Article shall be in lieu of all other excises, charges, exactions, rentals, impositions or other license or occupation taxes heretofore imposed upon any person engaged in the business described in Section 640.080, but nothing contained in this Article shall be construed to exempt such person from any general or special ad valorem tax imposed upon the public generally by the City.

# Chapter 700

## WATER, SEWERS AND SEWAGE DISPOSAL

Cross References — As to nuisances, ch. 220; plumbing regulations, ch. 510.

**Section 700.010. Combined Waterworks and Sewerage System.** [CC 1979 §30-1; Ord. No. 1239 §2, 9-4-1984; Ord. No. 92-1 §30-1, 1-7-1992]

The waterworks of the City and the sewerage system of the City and all future improvements and extensions thereto, whether to the waterworks or to the sewerage system or to both, shall be and the same are combined; and it is hereby declared that said waterworks and said sewerage system, and all future improvements and extensions thereto as aforesaid, thenceforth be operated and maintained as a Combined Waterworks and Sewerage System.

# Chapter 705

# SEWERS AND SEWAGE DISPOSAL

## ARTICLE I
## Generally

**Section 705.010. Purpose and Policy.** [CC 1979 §30-16; Ord. No. 1229 Ch. I §1, 7-17-1984; Ord. No. 92-1 §30-16, 1-7-1992]

A. This Article sets forth uniform requirements for direct and indirect contributors into the Wastewater Collection and Treatment System for the City and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations (40 CFR, Part 403).

B. The objectives of this Article are:

1. To prevent the introduction of pollutants into the municipal wastewater system or contaminate the resulting sludge;

2. To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

4. To provide for equitable distribution of the cost of the municipal wastewater system.

C. This Article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be pre-empted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

D. This Article shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the City POTW. Except as otherwise provided herein, the Superintendent of the City POTW shall administer, implement, and enforce the provisions of this Article.

**Section 705.020. Definitions and Abbreviations.** [CC 1979 §30-17; Ord. No. 1229 Ch. I §§2, 3, 7-17-1984; Ord. No. 92-1 §30-17, 1-7-1992]

A. *Specific Definitions:* Unless the context specifically indicates otherwise, the following terms and phrases as used in this Article shall have the meanings hereinafter designated:

ACT OR THE ACT — The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq.

APPROVAL AUTHORITY — The director in an NPDES State with an approved State pretreatment program and the administrator of the EPA in a non-NPDES State or NPDES State without an approved State pretreatment program.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER — An authorized representative of an industrial user may be:

1. A principal executive Officer of at least the level of Vice-President if the industrial user is a corporation;
2. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
3. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge operates.

BIOCHEMICAL OXYGEN DEMAND (BOD) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty degrees (20°C) Celsius expressed in terms of weight and concentration (milligrams per liter).

BUILDING SEWER — A sewer conveying wastewater from the premises of a user to the POTW.

CATEGORICAL STANDARDS — National categorical pretreatment standards or pretreatment standard.

CITY — The City of Neosho or the City Council of Neosho, Missouri.

COMPATIBLE POLLUTANT — Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the publicly owned treatment work's NPDES Permit, where the publicly owned treatment work is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's NPDES Permit.

CONTROL AUTHORITY — The term *"control authority"* shall refer to the *"approval authority,"* defined hereinabove, or the Superintendent if the City has an approved pretreatment program under the provisions of 40 CFR 403.11.

COOLING WATER — The water discharged from any use such as air-conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

DIRECT DISCHARGE — The discharge of treated or untreated wastewater directly to the waters of the State of Missouri.

ENVIRONMENTAL PROTECTION AGENCY, OR EPA — The U.S. Environmental Protection Agency; or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

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.

HOLDING TANK WASTE — Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INCOMPATIBLE POLLUTANT — All pollutants other than *"compatible pollutants"* as defined above.

INDIRECT DISCHARGE — The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 USC 1317) into the POTW (including holding tank waste discharged into the system).

INDUSTRIAL USER — A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to Section 402 of the Act (33 USC 1342).

INTERFERENCE — The inhibition or disruption of the POTW treatment processes or operations or which contributes to a violation of any requirement of the City's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 USC 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV) applicable to the method of disposal or use employed by the POTW.

NATIONAL CATEGORICAL PRETREATMENT STANDARD OR PRETREATMENT STANDARD — Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (e) of the Act (33 USC 1317) which applies to a specific category of industrial users. (33 USC 1317)

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM OR NPDES PERMIT — A permit issued pursuant to Section 402 of the Act (33 USC 1342).

NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGE STANDARD — Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR 403.5.

NEW SOURCE

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

    a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on a site on which is an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection 1 (b or c) above but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a *"new source"* as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin as part of a continuous on-site construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

PASS-THROUGH — A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge, is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation).

PERSON — Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH — The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTANT — Any dredged spoil, spoil, 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 water.

POLLUTION — The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

PRETREATMENT OR TREATMENT — The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR Section 403.6(d).

SIGNIFICANT INDUSTRIAL USER — All categorical industrial users. Any other industrial user which:

1. Discharges twenty-five thousand (25,000) gallons or more of process wastewater per day.
2. Contributes a process wastewater which makes up five percent (5%) or more of the dry weather average hydraulic or organic capacity of the treatment works.
3. Is designated as such by the *"control authority"*.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) — A classification pursuant to the "Standard Industrial Classification Manual" issued by the Executive Office of the President, Office of Management and Budget, 1972.

STATE — State of Missouri.

STORM WATER — Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUPERINTENDENT — The person designated by the City to supervise the operation of publicly owned treatment works and who is charged with certain duties and responsibilities by this Article, or his/her duly authorized representative.

SUSPENDED SOLIDS — The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

TOTAL TOXIC ORGANICS — The summation of all quantifiable values greater than .01 mg/l for the following toxic organics; refer to Federal Register Volumes 48 to 132, Friday, July 15, 1983, Subpart A. Metal Finishing Subcategory, Section 433.11(e) TTO.

TOXIC POLLUTANT — Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provision of CWA 307(a) or other acts.

USER — Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

WASTEWATER — The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WASTEWATER CONTRIBUTION PERMIT — As set forth in Section 705.480 et seq.

WATERS OF THE STATE — All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

B. *Abbreviations.* The following abbreviations shall have the designated meanings:

1. *BOD:* Biochemical oxygen demand
2. *CFR:* Code of Federal Regulations
3. *COD:* Chemical oxygen demand
4. *EPA:* Environmental Protection Agency
5. *1:* Liter
6. *mg:* Milligrams
7. *mg/l:* Milligrams per liter
8. *NPDES:* National Pollutant Discharge Elimination System
9. *POTW:* Publicly owned treatment works
10. *SIC:* Standard industrial classification
11. *SWDA:* Solid Waste Disposal Act, USC 6901 et seq.
12. *USC:* United States Code
13. *TSS:* Total suspended solids
14. *TTO:* Total toxic organics

**Section 705.030. Application of Article.** [CC 1979 §30-18; Ord. No. 1229 Ch. VII §1, 7-17-1984; Ord. No. 92-1 §30-18, 1-7-1992]

A. All provisions of this Article shall apply to sanitary sewage and industrial wastes except as stipulated herein.

B. All requirements of this Article apply to sewage being discharged into either a sanitary sewer or a storm sewer.

**Section 705.040. Use of City System Declared Privilege.** [CC 1979 §30-19; Ord. No. 1229 Ch. VII §2, 7-17-1984; Ord. No. 92-1 §30-19, 1-7-1992]

The use of the sewers and drains of the City for the purpose of removing sanitary sewage and industrial waste from property situated outside the City limits is hereby declared to be a privilege.

**Section 705.050. Compliance Required.** [CC 1979 §30-20; Ord. No. 1229 Ch. IV §1, 7-17-1984; Ord. No. 92-1 §30-20, 1-7-1992]

It shall be unlawful to discharge without a City permit to any natural outlet within the City or in any area under the jurisdiction of the City, or to the POTW any wastewater except as authorized by the Superintendent in accordance with the provisions of this Article.

**Section 705.060. Sanitary Toilet Required in Sewer District, Etc.** [CC 1979 §30-21; Ord. No. 1229 Ch. VII §3, 7-17-1984; Ord. No. 92-1 §30-21, 1-7-1992]

The owner of every building in which persons live or have their occupation and located within a sewer district shall maintain a sanitary toilet, connected with a sanitary sewer, for the use of the occupants of such building. The computation of such one hundred (100) feet shall mean one hundred (100) feet from the property line nearest the sewer main.

**Section 705.070. Unlawful Deposits Generally.** [1] [CC 1979 §30-22; Ord. No. 1229 Ch. VII §4, 7-17-1984; Ord. No. 92-1 §30-22, 1-7-1992]

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.

**Section 705.080. Protection of System From Damage.** [2] [CC 1979 §30-23; Ord. No. 1229 Ch. VII §8, 7-17-1984; Ord. No. 92-1 §30-23, 1-7-1992]

A. All regulations pertaining to building sewers and connections shall be governed by this Code.

B. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**Section 705.090. Falsifying Information.** [CC 1979 §30-24; Ord. No. 1229 Ch. VI §2, 7-17-1984; Ord. No. 92-1 §30-24, 1-7-1992]

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1. **Cross Reference — Depositing slops, septage, etc., on streets or sidewalks, §215.570.**

2. **Cross Reference — Destruction of property, generally, §215.270 et seq.**

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Article shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than three (3) months, or by both such fine and imprisonment.

**Section 705.100. Confidential Information.** [CC 1979 §30-25; Ord. No. 1229 Ch. IV §8, 7-17-1984; Ord. No. 92-1 §30-25, 1-17-1992]

A. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other Governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

B. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to Governmental agencies for uses related to this Article, the NPDES Permit, State Disposal System Permit and/or the pretreatment programs; however, such portions of a report shall be available for use by the State or any State Agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

C. Information accepted by the City as confidential shall not be transmitted to any Governmental agency (except EPA) or to the general public by the City until and unless a ten-day notification is given to the user.

## ARTICLE II
## **Enforcement**

**Section 705.110. Civil Penalties.** [CC 1979 §30-31; Ord. No. 1229 Ch. VI §1, 7-17-1984; Ord. No. 92-1 §30-31, 1-7-1992]

Any user who is found to have violated an order of the City Council or the orders, rules, regulations and permits issued hereunder shall be fined not less than five hundred dollars ($500.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Article or the orders, rules, regulations, and permit issued hereunder.

**Section 705.120. Notification of Violation.** [CC 1979 §30-32; Ord. No. 1229 Ch. V §3, 7-17-1984; Ord. No. 92-1 §30-32, 1-7-1992]

Whenever the City finds that any user has violated or is violating this Article, Wastewater Contribution Permit, or any prohibition, limitation or requirements contained herein, the City may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user.

**Section 705.130. Show-Cause Hearing.** [CC 1979 §30-33; Ord. No. 1229 Ch. V §4, 7-17-1984; Ord. No. 92-1 §30-33, 1-7-1992]

A. The City may order any user who causes or allows an unauthorized discharge to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

B. The City Council may itself conduct the hearing and take evidence, or may designate any of its members or any officer or employee of the City to:

    1. Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

    2. Take the evidence;

    3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

C. At any hearing held pursuant to this Article, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

D. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further order and directives as are necessary and appropriate may be issued.

**Section 705.140. Legal Action.** [CC 1979 §30-34; Ord. No. 1229 Ch. V §5, 7-17-1984; Ord. No. 92-1 §30-34, 1-7-1992]

If any person is found in violation of the provisions of this Article, Federal or State pretreatment requirements or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court of this County.

**Section 705.150. Suspension of Permit or Service.** [CC 1979 §30-35; Ord. No. 1229 Ch. V §1, 7-17-1984; Ord. No. 92-1 §30-35, 1-7-1992]

A. The City may suspend the wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the POTW, or causes the City to violate any condition of its NPDES Permit.

B. Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the Wastewater Contributions Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen (15) days of the date of occurrence.

**Section 705.160. Revocation of Permit.** [CC 1979 §30-36; Ord. No. 1229 Ch. V §2; 7-17-1984; Ord. No. 92-1 §30-36, 1-7-1992]

A. Any user who violates the following conditions of this Article or applicable State and Federal regulations is subject to having his/her permit revoked in accordance with the procedures of this Article:

1. Failure of a user to factually report the wastewater constituents and characteristics of his/her discharge;

2. Failure of the user to report and get approval from the City before any significant changes in operations and wastewater constituents are made;

3. Refusal of reasonable access to the user's premises for the purposes of inspection or monitoring; or

4. Violation of conditions of the permit.

**Section 705.170. Publication of Industrial Users in Significant Non-Compliance.** [CC 1979 §30-37; Ord. No. 92-1 §30-37, 1-7-1992]

A. The City shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term *"significant non-compliance"* shall mean:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a 6-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount.

2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).

3. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public).

4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge.

5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge Permit or enforcement order for starting construction, completing construction or attaining final compliance.

6. Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

7. Failure to accurately report non-compliance.

8. Any other violation(s) which the City determines will adversely affect the operation or implementation of the local pretreatment program.

## ARTICLE III
## Building Sewers and Connections

**Section 705.180. When Connections Required.** [CC 1979 §30-39; Ord. No. 92-1 §30-39, 1-7-1992; Ord. No. 96-62 §1, 12-17-1996]

A. All persons and property owners owning dwelling houses or buildings within the City, which buildings are, or shall be, located within two hundred (200) feet of a sewer, or in a block through which a sewer extends, shall make such connections with such sewer as may be necessary in the judgment of the City, for the purpose of disposing of all substances from any such building affecting the public health that may be lawfully and properly disposed of by means of such sewer.

B. The City may require property owners owning dwelling houses or buildings within the City which are located more than two hundred (200) feet of a sewer or outside a block through which a sewer extends to connect to such sewer when in the

judgment of the City the public sewer is reasonably accessible. The public sanitary sewer shall be considered reasonably accessible when the total cost of connection to the public sewer does not exceed the cost of a private sanitary sewer system by more than fifty percent (50%) as determined by the City Engineer, who shall determine such costs taking into consideration the following:

1. The cost of extending and installing the public sanitary sewer to the center of the street abutting upon the property to be served plus the cost of installing and connecting four (4) inch sewer service lines to the sewer main and running the same to a point four (4) feet outside the buildings to be served on said property.

2. The cost of a private sanitary sewer system for such property shall be determined considering the use of a concrete septic tank of one thousand one hundred (1,100) gallon minimum capacity, one (1) concrete distribution box and a minimum of two hundred (200) feet of field tile, all installed in accordance with acceptable standards.

C. All such sewer connections as ordered by the City in accordance with the provisions of this Section shall be in full compliance with the requirements of the provisions of the Plumbing Code of the City.

**Section 705.190. Connections by City Upon Owner's Failure to Connect — Collection of Costs.** [CC 1979 §30-40; Ord. No. 92-1 §30-40, 1-7-1992]

If any person required to connect the sewer system pursuant to Section 705.260 shall fail, neglect or refuse to connect any building with the sewer system as aforesaid and as herein provided for, for more than thirty (30) days after being notified in writing by the City, then the City may advertise for bids for the construction and making of such sewer connection and may contract therefor with the lowest responsible bidder or bidders and cause such premises to be connected with the sewer system; and the costs and expenses thereof shall be assessed against the property and premises to be connected.

**Section 705.200. Permit.** [CC 1979 §30-41; Ord. No. 1229 Ch. VIII §1, 7-17-1984; Ord. No. 92-1 §30-41, 1-7-1992; Ord. No. 93-23 §2, 6-15-1993]

A. There shall be one (1) building sewer permit covering contributors of sanitary sewage, as well as establishments producing industrial wastes.

B. The person or his/her agent shall make application on a special form furnished by the City. Connection and inspection fee of twenty-five dollars ($25.00) must accompany the application.

C. The permit application shall be supplemented by any plan, specification or other information considered pertinent in the judgment of the approving authority.

D. *Connection Fees.*

1. Any person making application to connect to an active Sewer District, shall before connection to the sewer main, pay to the City of Neosho the amount of

the principal charged per connection to the original sewer district members. Any sewer main extension making connection to an active sewer district line shall pay a connection fee for each platted lot prior to connection. These fees shall be applied to any remaining debt of the sewer district to which the connection is made. If the remaining debt is less than the total amount of the hook-up fee, the lesser amount shall apply.

2. The connection fee for Sewer District Number 17, also known as Macy Area Sewer District, will be four thousand two hundred dollars ($4,200.00) per connection.

**Section 705.210. Application for Service.** [CC 1979 §30-42; Ord. No. 1229 Ch. VIII §2, 7-17-1984; Ord. No. 92-1 §30-42, 1-7-1992]

Any person desiring or needing sewerage service from the City shall make written application for such service with the approving authority. The applicant shall state all information necessary to both the billing office and the Service Department, and shall agree to comply with all provisions of this Article and with any other ordinance affecting sewer services.

**Section 705.220. Costs to Be Borne by the User.** [CC 1979 §30-43; Ord. No. 1229 Ch. VIII §4, 7-17-1984; Ord. No. 92-1 §30-43, 1-7-1992]

All costs and expense incident to the installation and connection of the building sewer shall be borne by the person using the sewerage system. The person shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**Section 705.230. Work to Be Performed by Licensed, Bonded Plumbers — Exception.** [CC 1979 §30-44; Ord. No. 1229 Ch. VIII §3, 7-17-1984; Ord. No. 92-1 §30-44, 1-7-1992]

Only a plumber duly licensed by the City as a plumber and who has furnished a bond as required by ordinances of the City shall do plumbing work in connection with the sewer system of the City as herein provided, except that this Section shall not apply to persons who are under employment by the City.

**Section 705.240. Separate Building Sewer Required for Each Building — Exception.** [CC 1979 §30-45; Ord. No. 1229 Ch. VIII §5, 7-17-1984; Ord. No. 92-1 §30-45, 1-7-1992]

A separate and independent building sewer shall be provided for every building, except buildings of common ownership and control may use a common building sewer.

**Section 705.250. When Use of Old Building Sewers Permitted.** [CC 1979 §30-46; Ord. No. 1229 Ch. VIII §6, 7-17-1984; Ord. No. 92-1 §30-46, 1-7-1992]

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the authority, to meet all requirements of this Article.

**Section 705.260. Size, Slope, Alignment, Materials, and Installation Methods.** [CC 1979 §30-47; Ord. No. 1229 Ch. VIII §7, 7-17-1984; Ord. No. 92-1 §30-47, 1-7-1992]

The size, slope, alignment, materials of construction 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 the Plumbing Code or other applicable rules and regulations of the City.

**Section 705.270. Elevation.** [CC 1979 §30-48; Ord. No. 1229 Ch. VIII §8, 7-17-1984; Ord. No. 92-1 §30-48, 1-7-1992]

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.

**Section 705.280. Connection to Public Sewer.** [CC 1979 §30-49; Ord. No. 1229 Ch. VIII §9, 7-17-1984; Ord. No. 92-1 §30-49, 1-7-1992]

The connection of the building sewer into the public sewer shall be made by using a "Fowler Quick Way Sewer Tap" or a similar type connection as approved by the City Building Inspector. All such connections shall be made gastight and watertight.

## ARTICLE IV
## Mains

**Section 705.290. Conformance to State Standards — Connection of Unapproved Mains, Etc., to City System Prohibited.** [CC 1979 §30-56; Ord. No. 1229 Ch. IX §5, 7-17-1984; Ord. No. 92-1 §30-56, 1-7-1992]

A. All sewer mains and sewer lines constructed after June 6, 1955, for connection with the sewer system of the City shall be constructed in accordance with the standards and requirements of the State Clean Water Commission.

B. After such date, no sewer main or sewer line not approved by the State Clean Water Commission shall be connected with the City sewer system, nor shall a sewer line not approved by such commission be connected to a private sewer line which is in turn connected with the City sewer system.

**Section 705.300. Application for Extension.** [CC 1979 §30-57; Ord. No. 1229 Ch. IX §1, 7-17-1984; Ord. No. 92-1 §30-57, 1-7-1992]

Upon written application to the City Collector, any person may make a request for the extension of sewer mains and lines in the streets, alleys or easements within the City in order to permit connections with persons desiring sewer service where existing sewer lines are within reasonable distance for such construction.

**Section 705.310. Construction Plan — Costs.** [CC 1979 §30-58; Ord. No. 1229 Ch. IX §2, 7-17-1984; Ord. No. 92-1 §30-58, 1-7-1992]

The person or persons desiring a main extension will be responsible for the total cost of extending the sewer main. Contractors must be approved by the City prior to commencement of work. A profile map showing the location, depth, length, etc., must be approved by the City and State prior to construction.

**Section 705.320. Determination of Kind and Size of Lines, Etc.** [CC 1979 §30-59; Ord. No. 1229 Ch. IX §4, 7-17-1984; Ord. No. 92-1 §30-59, 1-7-1992]

The Water and Sewer Department, under the direction of the City Manager, shall determine the kind and size of sewer lines and appurtenances needed to adequately serve the City; and applicants who make their deposits and desire service under this Article are hereby advised of the same.

**Section 705.330. Mains to Be Under City Management Upon Completion.** [CC 1979 §30-60; Ord. No. 1229 Ch. IX §3, 7-17-1984; Ord. No. 92-1 §30-60, 1-7-1992]

Upon the completion of the construction of any mains and lines pursuant to this Article, the same shall become under the sole and exclusive management of the City.

## ARTICLE V
## Private Sewage Disposal

**Section 705.340. When Required.** [CC 1979 §30-66; Ord. No. 1229 Ch. X §1, 7-17-1984; Ord. No. 92-1 §30-66, 1-7-1992]

Where a public sanitary sewer is not available under the provisions of this Article, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

**Section 705.350. Permits and Percolation Test.** [CC 1979 §30-67; Ord. No. 1229 Ch. X §2, 7-17-1984; Ord. No. 92-1 §30-67, 1-7-1992]

A. *Prerequisite to Commencement of Construction.* Before commencement of construction of a private sewage disposal system, the person shall first obtain a written permit signed by the approving authority. A percolation test is required for all systems employing subsurface soil absorption facilities. The facility must be installed accordingly.

B. *Application.* 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 deemed necessary by the approving authority.

C. *Approval by Other Agencies Prerequisite to Issuance.* Before such a permit is issued by the City, the applicant must obtain approval of any State, Federal, or other local agency which has jurisdiction over the operation and construction of such system.

D. *Inspection and Approval by Approving Authority Prerequisite to Effectiveness.* A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the approving authority. 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 approving authority when the work is ready for final inspection, and before any underground portions are covered.

E. *Issuance Restricted When Lot Is Under Certain Size.* No permit by this Section shall be issued for any system employing subsurface soil absorption facilities where the area of the lot is less than fifteen thousand (15,000) square feet.

**Section 705.360. Type, Capacities, Location and Layout.** [CC 1979 §30-68; Ord. No. 1229 Ch. X §3, 7-17-1984; Ord. No. 92-1 §30-68, 1-7-1992]

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the regulating agency of the State.

**Section 705.370. Discharges to Natural Outlets.** [CC 1979 §30-69; Ord. No. 1229 Ch. X §5, 7-17-1984; Ord. No. 92-1 §30-69, 1-7-1992]

No septic tank or cesspool shall be permitted to discharge to any natural outlet.

**Section 705.380. Excavations.** [CC 1979 §30-70; Ord. No. 1229 Ch. X §4, 7-17-1984; Ord. No. 92-1 §30-70, 1-7-1992]

All materials thrown from trenches and other excavations made for the purpose of laying private sewers to connect with the district sewers shall be placed as not to obstruct travel or cause inconvenience to the public or adjoining owners. Proper barriers and lights shall be maintained in the manner provided by this Code. In backfilling, the dirt shall carefully be rammed or flooded so as to keep the pipe in position and avoid settling; and no rock shall be used in filling until there has been one (1) foot of fine earth or gravel placed over the pipe.

**Section 705.390. Operation and Maintenance.** [CC 1979 §30-71; Ord. No. 1229 Ch. X §6, 7-17-1984; Ord. No. 92-1 §30-71, 1-7-1992]

The contributor shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

## ARTICLE VI
## **Service Charges**

**Section 705.400. Purpose of Cost-Recovery Charges.** [CC 1979 §30-81; Ord. No. 1229 Ch. III §§1, 2, 7-17-1984; Ord. No. 92-1 §30-81, 1-7-1992]

A. It is the purpose of this Article to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be as set forth by the City's schedule of charges and fees.

B. The City may adopt charges and fees, which may include:

1. Fees for reimbursement of costs of setting up and operating the City's pretreatment program.

2. Fees for monitoring, inspections and surveillance procedures.

3. Fees for reviewing accidental discharge procedures and construction.

4. Fees for permit applications.

5. Fees for filing appeals.

6. Fees for consistent removal by the City of pollutants otherwise subject to Federal Pretreatment Standards.

7. Other fees as the City may deem necessary to carry out the requirements contained herein.

C. These fees relate solely to the matters covered by this Article and are separate from all other fees chargeable by the City. Fees will be based on actual costs to the City.

**Section 705.410. To Whom Charges Applicable.** [CC 1979 §30-82; Ord. No. 1229 Ch. III §3, 7-17-1984; Ord. No. 92-1 §30-82, 1-7-1992]

The sewer service charge shall be applicable to all persons having a sewer connection directly or indirectly with the sewerage system of the City.

**Section 705.420. Billing Procedures.** [CC 1979 §30-83; Ord. No. 1229 Ch. XI §6, 7-17-1984; Ord. No. 92-1 §30-83, 1-7-1992]

A. It shall be the duty of the City to prepare and mail to each customer a statement of the sewer service charge, and sewer surcharge.

B. Any sewer surcharge resulting from Section 705.460(B) shall be shown on the utility bill as a separate item, which shall show the amount of the sewer surcharge and shall be payable at the same time as the sewer service charge.

**Section 705.430. When Bills Due — Discontinuance of Service.** [CC 1979 §30-84; Ord. No. 1229 Ch. XI §7, 7-17-1984; Ord. No. 92-1 §30-84, 1-7-1992; Ord. No. 116-2002 §1, 9-26-2002]

A. All bills for sewer service shall be due and payable on or before the fifteenth (15th) day of each month following billing and will be charged with the water bill. If payment is not made within seven (7) days following the date on which the bill becomes due and payable, service may be discontinued by the City.

B. In the event payment is not made on or before the fifteenth (15th) day of the month on which a bill becomes due and payable, a penalty in the amount of twelve percent (12%) (minimum charge one dollar twenty-five cents ($1.25)) of the sewer revenue over due shall be charged to the consumer's account by the City.

C. The City may enforce collection of a delinquent account by the discontinuance of any other utility service furnished to the delinquent customer. A fee of ten dollars ($10.00) shall be charged for such disconnection of service.

**Section 705.440. Measurement of Sewage Flow.** [CC 1978 §30-85; Ord. No. 1229 Ch. XI §4, 7-17-1984; Ord. No. 92-1 §30-85, 1-7-1992]

Except as otherwise provided in Section 705.450(D) the gallons of sewage shall be determined as being identical to the gallons of water purchased. Should any contributor desire to meter actual sewage flow in lieu of using water meter flows, the contributor may, at his/her own expense, install, maintain and operate a totalizing sewage flow meter.

**Section 705.450. Classification of Users — Monthly Service Charges.** [CC 1979 §30-86; Ord. No. 1229 Ch. XI §§1, 2, 7-17-1984; Ord. No. 85-1 §1, 1-8-1985; Ord. No. 87-25 §1, 9-29-1987; Ord. No. 92-1 §30-86, 1-7-1992; Ord. No. 92-27 §1, 7-7-1992; Ord. No. 93-40 §1, 9-23-1993; Ord. No. 94-28 §I, 9-20-1994; Ord. No. 95-44 §I, 9-19-1995; Ord. No. 96-44 §I, 9-17-1996; Ord. No. 97-35 §I, 9-30-1997; Ord. No. 98-35 §I, 9-15-1998; Ord. No. 99-33 §1, 9-21-1999; Ord. No. 37-2000 §1, 9-19-2000; Ord. No. 82-2001 §1, 9-18-2001; Ord. No. 117-2002 §1, 9-26-2002; Ord. No. 151-2003 §1, 9-23-2003; Ord. No. 257-2006 §1, 9-5-2006; Ord. No. 308-2007 §1, 9-18-2007; Ord. No. 350-2008 §1, 9-16-2008; Ord. No. 384-2009 §1, 4-21-2009]

A. All persons, firms or corporations having a connection directly or indirectly with the sewer system of the City are hereby classified as "*residential users"* and *"other users."*

B. *"Residential users"* are hereby defined as residential dwelling units serving not more than two (2) families on a single sewer connection.

C. *"Other users"* shall include all persons, firms or corporations having a sewer connection directly or indirectly with the sewerage system of the City.

D. The monthly sewer service charge to residential users shall be the sum of six dollars twenty-three cents ($6.23) per month and the sum of three dollars thirty-two cents ($3.32) per one thousand (1,000) gallons.

E. The monthly service charge to "other users" shall be the sum of six dollars twenty-three cents ($6.23) per month and the sum of three dollars thirty-two cents ($3.32) per one thousand (1,000) gallons thereafter.

F. Hotels, motels, hospitals, schools, rest homes, multi-residential units, apartments, mobile home parks, multi-business units and office buildings having only one (1) water account shall be charged the normal monthly sewer service charge as provided for in Subsection(E) hereof.

G. Hotels, motels, hospitals, schools and rest homes shall not be included in the multi-residential or multi-business provisions but shall be charged the normal sewer service charge.

**Section 705.460. Surcharge for Certain Wastes.** [CC 1979 §30-87; Ord. No. 1229 Ch. XI §5, 7-17-1984; Ord. No. 92-1 §30-87, 1-7-1992; Ord. No. 93-6 §1, 2-23-1993; Ord. No. 385-2009 §1, 4-21-2009; Ord. No. 411-2009 §1, 9-1-2009; Ord. No. 488-2011 §1, 11-15-2011]

A. When the suspended solids or BOD content of sewage exceed the normal sewage concentrations of these constitutes, a sewage surcharge shall be levied as follows:

1. Suspended solids in excess of 250 mg/l, $0.05 per lb. beginning October 1, 2009.

1. Suspended solids in excess of 250 mg/l, $0.10 per lb. beginning October 1, 2010.

1. Suspended solids in excess of 250 mg/l, $0.16 per lb. beginning October 1, 2011.

2. BOD content in excess of 250 mg/l, $0.05 per lb. beginning October 1, 2009.

2. BOD content in excess of 250 mg/l, $0.10 per lb. beginning October 1, 2010.

2. BOD content in excess of 250 mg/l, $0.20 per lb. beginning October 1, 2011.

This charge will be in addition to the monthly minimum plus volumetric charges.

B. Any contributor may, if so desired, treat so as to reduce either the excess suspended solids or BOD, or both, to normal levels before discharging such sewage into the public sewers. The surcharge fee is to be based on actual cost of treatment, adjusted biennially.

**Section 705.470. Hauled Waste.** [CC 1979 §30-88; Ord. No. 92-1 §30-88, 1-7-1992; Ord. No. 488-2011 §2, 11-15-2011]

Hauled waste will be charged at a value of twenty dollars ($20.00) per one thousand (1,000) gallons.

ARTICLE VII
**Wastewater Contribution Permit**

**Section 705.480. For Whom Required.** [CC 1979 §30-101; Ord. No. 1229 Ch. IV §2.1, 7-17-1984; Ord. No. 92-1 §30-101, 1-7-1992]

All significant users, or any user the City feels would have an impact on the POTW, shall obtain a Wastewater Contribution Permit within one hundred eighty (180) days after the effective date of this Article.

**Section 705.490. Application.** [CC 1979 §30-102; Ord. No. 1229 Ch. IV §2.2, 7-17-1984; Ord. No. 92-102 §30-102, 1-7-1992]

A. Users required to obtain a Wastewater Contribution Permit shall complete and file with the City an application in the form prescribed by the City, and accompanied by a fee of fifty dollars ($50.00). Existing users shall apply for a Wastewater Contribution Permit within thirty (30) days after the effective date of this Article, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name, address and location if different from the address.

2. SIC number according to the "Standard Industrial Classification Manual," Bureau of the Budget, 1972, as amended.

3. Wastewater constituents and characteristics, including but not limited to those mentioned in Section 705.570 et seq., as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.

4. Time and duration of contribution.

5. Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonable variations, if any.

6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.

7. Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.

8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State or deferral pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operations and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

9. If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

    a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

    b. No increment referred to in Paragraph (a) above shall exceed nine (9) months.

    c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the

construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

10. Each product produced by type, amount, process or processes and rate of production.

11. Type and amount of raw materials processes (average and maximum per day).

12. Number of type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

13. The user shall submit a list of any Environmental Control Permits held by the facility.

14. *Certification statement.* A statement, reviewed by an authorized representative of the industrial user (as defined in 40 CFR 403.12(1)) and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

15. Any other information as may be deemed by the City to be necessary to evaluate the permit application.

B. The City will evaluate the date furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Contribution Permit subject to terms and conditions provided herein.

**Section 705.500. Conditions.** [CC 1979 §30-103; Ord. No. 1229 Ch. IV §2.4, 7-17-1984; Ord. No. 92-1 §30-103, 1-7-1992]

A. Wastewater Discharge Permits shall be expressly subject to all provisions of this Article and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.

2. Limits on the average and maximum wastewater constituents and characteristics.

3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

4. Requirements for installation and maintenance of inspection and sampling facilities.

5. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for test and reporting schedule.

6. Compliance schedules.

7. Requirements for submission of technical reports or discharge reports (see Section 705.540).

8. Requirements for maintaining and retaining plant records relating to wastewater discharge (for at least three (3) years) as specified by the City, and affording City access thereto.

9. Requirements to notify the City and get their approval before any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

10. Requirements for notification of slug discharges.

11. Other conditions as deemed appropriate by the City to ensure compliance with this Chapter.

**Section 705.510. Duration.** [CC 1979 §30-104; Ord. No. 1229 Ch. IV §2.5, 7-17-1984; Ord. No. 92-1 §30-104, 1-7-1992]

A permit shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in Section 705.490 are modified or other just cause exists. The user shall be informed of any proposed changes in his/her permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**Section 705.520. Transfer.** [CC 1979 §30-105; Ord. No. 1229 Ch. IV §2.6, 7-17-1984; Ord. No. 92-1 §30-105, 1-7-1992]

Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

**Section 705.530. Modifications.** [CC 1979 §30-106; Ord. No. 1229 Ch. IV §2.3, 7-17-1984; Ord. No. 92-1 §30-106, 1-7-1992]

Within ninety (90) days of the promulgation of a national categorical pretreatment standard, the Wastewater Contribution Permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a Wastewater Contribution Permit as required by Section 705.490, the user shall apply for a Wastewater Contribution Permit within one

hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing Wastewater Contribution Permit shall submit to the Superintendent within one hundred eighty (180) days after the promulgation of an applicable Federal categorical pretreatment standard the information required by Subsection A(8) and (9) of Section 705.490.

**Section 705.540. Reporting Requirements for Permittee.** [CC 1979 §30-107; Ord. No. 1229 Ch. IV §3, 7-17-1984; Ord. No. 92-1 §30-107, 1-7-1992; Ord. No. 96-55 §1, 11-5-1996]

A. *Baseline Monitoring Report.*

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the Superintendent a report which contains the information listed in Subparagraph (2) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed in Subparagraph (2) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

2. The industrial user shall submit the information required by this Section including:

   a. *Identifying information.* The name and address of the facility including the name of the operator and owners.

   b. *Wastewater discharge permits.* A list of any environmental control Wastewater Discharge Permits held by or for the facility.

   c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

   d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

   e. *Measurement of pollutants.*

      (1) Identify the categorical pretreatment standards applicable to each regulated process.

(2) Submit the results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the City of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported.

(3) Sampling must be performed in accordance with procedures set out in Subsection (E) of this Section.

f. *Certification.* A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

B. *Periodic Compliance Reports.*

1. Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Superintendent semi-annual reports due on July twentieth (20th) and January twentieth (20th) of each year, unless required more frequently in the pretreatment standard or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, the report shall include a record of all daily flows which during the reporting period exceed the average daily flow. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted.

2. The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Subparagraph (1) of this Subsection (B) shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures

established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. (*Comment:* Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluent for Priority Pollutants," April, 1977, and amendments thereto, or with any other sampling analytical procedures approved by the administrator.)

3. All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

4. If an industrial user subject to the reporting requirement in and of this Section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in Subsection (E) of this Section, the results of this monitoring shall be included in the report.

C. *Report of Changed Conditions.* Each industrial user is required to notify the Superintendent of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least (90) days before the change.

1. The Superintendent may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application.

2. The Superintendent may issue a Wastewater Discharge Permit under Section 705.490 or modify an existing Wastewater Discharge Permit under Section 705.530.

3. No industrial user shall implement the planned changed conditions until and unless the Superintendent has responded to the industrial user's notice.

4. For purposes of this requirement, flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

D. *Reports of Potential Problems.*

1. In the case of any discharge, including but not limited to accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Section 705.570, it is the responsibility of the industrial user to immediately telephone

and notify the City of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

2. Within five (5) days following such discharge, the industrial user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this Article.

3. Failure to notify the City of potential problem discharges shall be deemed a separate violation of this Article.

4. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Subparagraph (1) above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

E. *Sample Collection.*

1. Except as indicated in Subparagraph (2) below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is unfeasible, the Superintendent may authorize the use of time-proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

2. Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

F. *Additional Requirements.* All baseline monitoring reports, reports on compliance with categorical standards, and periodic reports on continued compliance must contain the following:

1. *Certification statement.*

1. "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and

belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fines and imprisonment for knowing violations."

2. Signature of an authorized representative of the industrial user (as designed in 40 CFR 4033.12(1)).

ARTICLE VIII
**Discharge Limitations**

**Section 705.550. Unlawful Discharge to Natural Outlets or Areas Under City Jurisdiction.** [CC 1979 §30-111; Ord. No. 1229 Ch. VII §5, 7-17-1984; Ord. No. 92-1 §30-111, 1-7-1992]

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 waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

**Section 705.560. Discharge of Unpolluted Drainage and Waters Restricted.** [CC 1979 §30-112; Ord. No. 1229 Ch. VII §6, 7-17-1984; Ord. No. 92-1 §30-112, 1-7-1992]

A. No person shall discharge or cause to be discharged any storm water, surface water, interior or exterior foundation drains, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

B. Storm water 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 approving authority.

C. Industrial cooling water or unpolluted process waters may be discharged, upon approval by the approving authority, to a storm sewer or to a natural outlet.

**Section 705.570. General Discharge Prohibitions.** [CC 1979 §30-113; Ord. No. 1229 Ch. II §1, 7-17-1984; Ord. No. 92-1 §30-113, 1-7-1992]

A. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operations or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

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 POTW or to the operation of the POTW. 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 are a hazard to the system.

2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half (½) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

3. Any wastewater having a pH less than 6.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.

4. Any wastewater containing toxic pollutants in sufficient quantity either single or by interaction with other pollutants to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

5. Any noxious or malodorous liquids, gases or solids which either singly or by interaction with others wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

6. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act or any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, or State criteria applicable to the sludge management method being used.

7. Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

8. Any wastewater with objectionable color not removed in the treatment process, such as but not limited to dye wastes and vegetable tanning solutions.

9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty

degrees (40°) Celsius, (104° F) unless the POTW treatment plant is designed to accommodate such temperatures.

10. Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a sludgeload have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities or flow during normal operation.

11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

12. Any wastewater which causes a hazard to human life or creates a public nuisance.

13. Any wastewater discharge with a closed cap flash point of less than one hundred forty degrees Fahrenheit (140°F).

14. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.

15. Any trucked or hauled pollutants, except at discharge points designated by the Superintendent.

B. When the Superintendent determines that a user is contributing to the POTW any of the above-enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall: advise the user of the impact of the contribution on the POTW and develop effluent limitations for such user to correct interference with the POTW.

**Section 705.580. Specific Pollutant Limitations.** [CC 1979 §30-114; Ord. No. 1229 Ch. II §4, 7-17-1984; Ord. No. 92-1 §30-114, 1-7-1992; Ord. No. 96-55 §2, 11-5-1996; Ord. No. 99-35 §1, 10-5-1999]

No person shall discharge wastewater containing in excess of:

| | | **Monthly Average (mg/l)** | **Daily Maximum (mg/l)** |
|---|---|---|---|
| Arsenic | | .069 | |
| Cadmium | (T) | .090 | 0.69 |
| Copper | (T) | 1.0 | 3.38 |
| Chromium | (T) | 1.55 | 2.77 |
| Cyanide | (T) | .042 | 1.20 |
| Lead | (T) | 0.4 | 0.69 |

| | | | |
|---|---|---|---|
| Mercury | (T) | 0.007 | |
| Nickel | (T) | * | 3.98 |
| Phenols | (T) | 1.0 | |
| Silver | | .24 | .43 |
| Zinc | (T) | 1.48 | 2.61 |
| Sulfate | | ** | |
| pH | | | 6.0 to 10.0 |
| Oil and grease | | | 200 |
| TTO (total toxic organics) | | | 2.13 |

*Nickel — At no time shall the headworks of the POTW's (Shoal Creek, Crowder) exceed 1.778 lbs. per day from industrial sources.

**Sulfate — At no time shall the headworks of the POTW's combined exceed 1140 lbs. per day from industrial sources.

**Section 705.590. Dilution of Excessive Discharge.** [CC 1979 §30-115; Ord. No. 1229 Ch. II §7, 7-17-1984; Ord. No. 92-1 §30-115, 1-7-1992]

No user shall use clean water in an attempt to dilute discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal categorical pretreatment standards, or in any other pollutant-specific limitations developed by the City or State.

**Section 705.600. Status of Federal Categorical Pretreatment Standards.** [CC 1979 §30-116; Ord. No. 1229 Ch. II §2, 7-17-1984; Ord. No. 92-1 §30-116, 1-7-1992]

Upon the promulgation of the Federal categorical pretreatment standard, if more stringent than limitations imposed under this Article for sources in that subcategory, the Federal standard shall immediately supersede the limitations imposed under this Article. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR Section 403.12.

**Section 705.610. Modification of Federal Categorical Pretreatment Standards.** [CC 1979 §30-117; Ord. No. 1229 Ch. II §3, 7-17-1984; Ord. No. 92-1 §30-117, 1-7-1992]

Where the City's Wastewater Treatment System achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the approval authority for modification of specific limits in the Federal Pretreatment Standards. *"Consistent removal"* shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of Title 40 of the Code of Federal Regulations, Part 403, "General Pretreatment Regulations for

Existing and New Sources of Pollution," promulgated pursuant to the Act. The City may modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained.

**Section 705.620. State Requirements.** [CC 1979 §30-118; Ord. No. 1229 Ch. II §5, 7-17-1984; Ord. No. 92-1 §30-118, 1-7-1992]

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Article.

**Section 705.630. City's Right of Revision.** [CC 1979 §30-119; Ord. No. 1229 Ch. II §6, 7-17-1984; Ord. No. 92-1 §30-119, 1-7-1992]

The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 705.010.

**Section 705.640. Pretreatment.** [CC 1979 §30-120; Ord. No. 1229 Ch. IV §7, 7-17-1984; Ord. No. 92-1 §30-120, 1-7-1992]

A. Users shall provide necessary wastewater treatment as required to comply with this Article and shall achieve compliance with all Federal categorical pretreatment standards within the time limitations as specified by the Federal pretreatment regulations. 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 acceptable to the City under the provisions of this Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported and be acceptable to the City prior to the user's initiation of the changes.

B. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

**Section 705.650. Interceptors.** [CC 1979 §30-121; Ord. No. 1229 Ch. VII §7, 7-17-1984; Ord. No. 92-1 §30-121, 1-7-1992]

A. Grease, oil or sand interceptors shall be provided by contributors when in the opinion of the approving authority they are necessary for the proper handling of liquid waste containing grease in excessive amounts or any flammable waste, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters of dwelling units.

B. All interceptors shall be of an approved type and capacity which meets City and State Code requirements and shall be readily and easily accessible for cleaning and inspection.

C. Where installed, all grease, oil or sand interceptors shall be owned and maintained in continuously efficient operation at all times by the contributor, at his/her expense.

**Section 705.660. Monitoring Facilities.** [CC 1979 §30-122; Ord. No. 1229 Ch. IV §5, 7-17-1984; Ord. No. 92-1 §30-122, 1-7-1992]

A. The City shall require to be provided and operated at the user's own expense monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

B. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

C. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City.

**Section 705.670. Inspection and Sampling.** [CC 1979 §30-123; Ord. No. 1229 Ch. IV §6, 7-17-1984; Ord. No. 92-1 §30-123, 1-7-1992]

City personnel shall inspect the facilities of any user to ascertain whether the purpose of this Article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the personnel or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The City, approval authority and (where the NPDES State is the approval authority) the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

**Section 705.680. Accidental Discharges.** [CC 1979 §30-124; Ord. No. 1229 Ch. IV §8, 7-17-1984; Ord. No. 92-1 §30-124, 1-7-1992]

A. *Prevention.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. All existing users shall complete [should have completed] such a plan by January 1, 1985. No user who commences contribution to the POTW after the effective date of this Article shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet requirements of this Article. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

B. *Written Notice.* Within five (5) days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Article or other applicable law.

C. *Notice to Employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

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# Chapter 710

# WATER

## ARTICLE I

## Generally

**Section 710.010. Contract for Service — Generally — Application for Metered Service.** [Code 1962 §31-14; CC 1979 §30-129; Ord. No. 92-1 §30-129, 1-7-1992; Ord. No. 500-2012 §1, 5-1-2012]

Each consumer of City water shall make application for metered service in person or by telephone at the business office of the City combined waterworks and sewerage system. The Finance Director shall have authority to prescribe the form of application which may be changed from time to time without notice. The Finance Director shall have authority to approve or deny any application so long as such determination is made pursuant to the City Code, reasonable and customary utility business practices, and which further in no way discriminates for or against any applicant on the basis of age, race, disability or other characteristic which is protected by State or Federal law.

**Section 710.020. Application for Service — to Be Exclusive Method to Obtain Water Service — Transferability — Discontinuance of Service.** [Code 1962 §31-15; CC 1979 §30-130; Ord. No. 92-1 §30-130, 1-7-1992; Ord. No. 500-2012 §1, 5-1-2012]

Water service by the City combined waterworks and sewage system to all customers and users of City water shall be by application only, as provided by Section 710.010. Service granted under the application shall not be transferable to another customer or user, but may be transferred to and used in another location in the City by the customer or user by making application for such transfer in person or by telephone at the business office of the City combined waterworks and sewage system and having the new address properly recorded. The customer's rights shall terminate at the time of service discontinuance, provided however, that the customer shall remain obligated for all payments related thereto as set forth in the Code as may be amended from time to time.

**Section 710.030. Service Deposits.** [Code 1962 §§31-15, 31-16; CC 1979 §30-131; Ord. No. 540 §2, 9-4-1962; Ord. No. 1075 §1, 4-15-1980; Ord. No. 122-2002 §1, 9-26-2002; Ord. No. 500-2012 §1, 5-1-2012; Ord. No. 508-2012 §1, 8-7-2012]

A. At the time of making application for water service as provided for by Section 710.010, the applicant shall be charged a non-refundable service application fee ("Service Fee") in the amount of fifteen dollars ($15.00). The service fee shall not be charged in the instance of transfers of service from one location within the City to another as provided for in Section 710.020 or to existing customers. In addition to the service fee, prior to connection of

service, applicant shall be required to pay the balance of any account still due and payable from prior service with the City, if any. If applicant has a history of non-payment with the City, in addition to the service fee and the payment of any prior balance, a security deposit will also be required to be paid prior to connection of service as follows:

Residential user with one prior instance of non-payment

$100.00

Residential user with two or more prior instances of non-payment

$150.00

Business user (meters 2 inches and under)

$100.00

Industrial user (meters over 2 inches)

$150.00

| |
|---|
| |

B. When a user transfers service to a new address, if the deposit is less than the amount required by the ordinance at that time, the user will be required to pay an additional deposit to meet current ordinance requirements.

C. Deposits will be refunded or applied to the account after twelve (12) consecutive months of timely payment and when the customer no longer has service with the City, to the extent that the final bill is less than the unapplied deposit balance.

D. All such meter deposits shall be separately accounted for in a meter deposit liability account within the water-sewer enterprise accounting system and such amount shall be reconciled monthly between the accounting system and the utility billing system.

**Section 710.040. Consumers Outside City.** [Code 1962 §31-19; CC 1979 §30-132]

No water service connection may be made to the City Water System to serve property outside the City except upon application to the City Council.

**Section 710.050. Right of Entry of City.** [Code 1962 §31-21; CC 1979 §30-133; Ord. No. 457-2010 §1, 1-4-2011]

A. The Public Works Director and other duly authorized employees of the City of Neosho 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 Section.

B. The Public Works Director and other duly authorized employees of the City of Neosho bearing proper credentials and identification shall be permitted to enter all private properties through which the City of Neosho holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the public water system 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 710.060. Separate Service Pipe for Separate Premises — Supplying Water to Several Parties in Apartment, Etc. — Unauthorized Connections.** [Code 1962 §31-25; CC 1979 §30-134; Ord. No. 540 §1, 9-4-1962]

A. Separate premises must have separate service pipe installation, curb stops and curb boxes and be separately metered. In no case shall a consumer extend a service pipe or plumbing across a street or alley or easement or to adjacent property in order to furnish service to such adjacent property even though such adjacent property may be owned by the same party.

B. Where water is to be supplied to several parties in apartments, offices or stores all located in a single building and supplied through one service, the City will contract with only one party and he/she shall be responsible to the City for the payment of water bills.

C. No connection may be made to any service pipe at a point between the water main of the City and a meter. Any person who shall make such a connection or permit such a connection to be made or who shall receive water from the City knowing that the water received is not metered as required by this Article shall be deemed guilty of a violation of this Article, and, upon conviction therefor, shall be subject to punishment as provided in Section 100.130 of this Code.

**Section 710.070. Unlawful Taking of Water From Fire Hydrant, Etc.** [Code 1962 §31-26; CC 1979 §30-135]

It shall be unlawful for any person to tap to a City water main or turn on and take from any fire hydrant or any other source any water for any purpose, it being the purpose of this provision to reserve unto employees of the City Water Department, City Fire Department and City Street Department these privileges and duties in order that the City may maintain complete control and supervision of its water mains and firefighting facilities.

**Section 710.080. Tapping Mains, Laying Service Lines, Etc., to Be Done by City.** [Code 1962 §31-27; CC 1979 §30-136]

It shall be the duty of the City Water Department with the assistance of the City Street Department to make all taps on its water mains, to cut paving, make openings and lay service lines from the main to the property line and to furnish and set meters. They shall fill all openings and repair all streets after the service line is laid.

**Section 710.090. New Taps.** [Code 1962 §31-28; CC 1979 §30-137]

An applicant desiring a new tap for City water service shall make application for such service at the office of the City Collector at which time he/she shall pay an amount estimated by the Water Superintendent as the actual cost in labor and materials for making the requested tap. In the event the cost as estimated should exceed the actual cost of making such tap the City shall refund to the customer such excess amount.

**Section 710.100. City Collector to Receive All Money From Water Customers.** [Code 1962 §31-29; CC 1979 §30-138]

No person other than the City Collector or a person designated by him/her shall accept or receive money from City water customers for any purpose.

**Section 710.110. (Reserved)** [1]

ARTICLE II

## Main Extensions [2]

**Section 710.120. Extensions to Users Outside City and Users Within City.** [CC 1979 §30-148; Ord. No. 655 §2, 5-16-1967; Ord. No. 1182 §2, 5-3-1983; Ord. No. 86-13 §2, 5-6-1986]

A. Extensions of water mains of the City to all users without the corporate limits of the City and to those users within the corporate limits of the City, in instances in which the applicant asserts in his/her application, and the City Engineer or an authorized

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1. **Editor's Note — Ord. no. 500-2012 §2, adopted May 1, 2012, repealed section 710.110 "meter deposit petty cash fund" in its entirety. Former section 710.110 derived from CC 1979 §30-139; ord. no. 542 §§1 — 2, 1-8-1963; ord. no. 89-14 §§1 — 2, 6-20-1989. This section has been reserved for the city's future use.**

2. **Cross Reference — Cost recoupment for extensions of water mains, ch. 715.**

representative of the City so finds, that it is probable that after the requested extension is completed application will be made to the City for water service to property situated between the terminal of the existing main and the point at which the present applicant will tap onto the water main extension, shall be governed as follows:

1. Upon application to the City for water service, the applicant (whether one (1) or more individual persons or an association of persons or a corporation) shall obtain prior approval of the entire water main extension, from the City Engineer or other authorized representative of the City. The applicant, at his/her own cost, shall be responsible for and furnish the total installation of the water main extension. If the extension is by a subdivider, as defined in Chapter 410, the subdivider shall also provide at his/her expense all necessary and required fire hydrants and appurtenances as set out in Section 410.090 of this Code. The applicant shall obtain the approval of the City of the installing contractor prior to beginning construction. Water line extensions shall be extended to the midpoint of the last lot to be placed in service.

2. There shall be paid to the City a service charge for each tap made onto the water main extension.

**Section 710.130. Extensions of Mains.** [CC 1979 §30-149; Ord. No. 655 §3, 5-16-1967; Ord. No. 713 §1, 5-6-1969; Ord. No. 88-33 §2, 7-19-1988; Ord. No. 457-2010 §2, 1-4-2011]

A. All extensions of existing water mains under Section 710.120 of the Article shall be governed as follows:

1. Water main extensions requested for users within the corporate limits of the City shall have priority over extensions to serve property outside the corporate limits and all extensions to serve users outside the corporate limits shall be made only at the direction of the City Council.

2. Applicants must submit, at their own expense, four (4) copies of the plat of the addition, subdivision, tract or lot to be served, showing the location of the requested water main extension and the engineering plans and specifications for the requested extension. Prior to construction, alteration or extension of the water system plans must be approved by an authorized representative of the City and a permit to construct received from Missouri Department of Natural Resources.

3. All main extensions shall be a minimum pipe size of eight (8) inches in diameter. Should the City Council find it necessary for fire protection and to maintain adequate pressure, it may order installed pipe larger that eight (8) inches in diameter, with the additional cost to be borne by the applicant.

4. The size, alignment, material used in the construction of new or the replacement of the existing public water system, and the methods to be used in excavation, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the most recent edition of the Missouri Department of Natural Resources (MDNR), Public Drinking Water Program, Design Guide for Community Public Water Supplies.

5. All extensions of water mains shall be the property of the City in consideration of upkeep and maintenance by it.

6. Additional mains and extensions may be connected to main extensions installed under the provisions above, but shall not entitle the person paying for the original extension to a refund by reason of such further extension, unless such extension is part of an approved recoupment project.

7. The City may, at its election, lay or install requested main extensions with its own employees or allow such work to be performed under contract awarded to the lowest and best of three (3) acceptable bidders.

8. All extensions shall be located in the street right-of-way or easements approved where necessary without cost to the City.

**Section 710.140. Extension to Users Not in City on June 7, 1977, or at Time Request Is Made.** [CC 1979 §30-150; Ord. No. 960 §1, 6-7-1977]

A. The City may extend water mains and water service to persons not in the corporate limits of the City on June 7, 1977, or not in the corporate limits of the City at the time they request water service, if approved by City Council and if the following conditions are met:

1. The place desiring water service whether residential, development, subdivision, business or whatever, agrees in writing that any construction, development, subdividing or other activity to be done on the tract of land requesting water hookup, be done in accordance with all City codes, ordinances and regulations;

2. The applicant for water hookup be all the owners, of any interest in the property to be served, and that they agree in writing to be annexed to the City;

3. The property desiring water hookup be adjacent to the City or that the applicant submit written approval of all property owners lying between him/her and the City to be annexed to the City and that the person desiring water hookup allow any person to tap onto the waterline extension;

4. The applicant pay for the cost of laying the pipe and all other costs involved in extending the waterline; including acquisition of any and all necessary easements as may be required by the City Manager or City Attorney;

5. The waterline be laid where directed by the appropriate City Official and according to the specifications set out by the City Building Inspector or other appropriate City Officials; pursuant to the ordinances, codes and other regulations of the City;

6. The applicant pay the costs of an annexation election if a special election is deemed advisable by the City Council;

7. In addition to the normal water rate charged, the applicant and all users on the extension line will pay, each month, to the City a figure in lieu of taxes, being one twelfth (1/12) of the total amount of what the tax would be were the property in the City limits of the City, such sum to be paid with their water bill and the amount thereof determined by the City Collector.

ARTICLE III

## Meters

**Section 710.150. Generally.** [Code 1962 §31-22; CC 1979 §30-158]

It shall be the duty of the property owner or customer to have the premises so plumbed that a water meter can be set in a convenient place adjacent to the property line of the premises served so that it will be convenient for reading, inspecting and servicing. All meters set shall be and remain the property of the City and remain under its control at all times; however, by agreement between a customer and the City, the customer may purchase, at his/her sole cost, a meter of a size greater than that of meters supplied by the City and water service shall be furnished through such meter under the same regulations and conditions as though the meter were owned by the City.

**Section 710.160. Accuracy — Testing.** [Code 1962 §31-23; CC 1979 §30-159]

The correct reading of a water meter shall be deemed to be the amount of water used by a customer. Should any customer question the accuracy of the registering of his/her meter, the City will test the meter and if it be found to be more than two percent (2%) fast then an adjustment will be made. If, however, the test shows the meter is not over registering, then the customer shall pay the sum of one dollar ($1.00) for such testing. The customer or his/her representative may be present at such testing.

**Section 710.170. Rereading.** [Code 1962 §31-24; CC 1979 §30-160]

Should a customer of City water service demand the rereading of his/her meter and it is found to have been overread, it shall be corrected and the proper bill rendered. If upon rereading it is found that the meter was correctly read, the customer may be charged the sum of one dollar ($1.00) which shall be paid to the City for such rereading.

ARTICLE IV

## Rates and Charges

**Section 710.180. Water Rates — Generally — Classification of Consumers.** [Code 1962 §31-17; CC 1979 §30-167; Ord. No. 640 §§1, 2, 7-5-1966; Ord. No. 736 §1, 3-19-1970; Ord. No. 789 §1, 5-18-1971; Ord. No. 903 §1, 6-17-1975; Ord. No. 926 §1, 6-1-1976; Ord. No. 983 §1, 1-5-1978; Ord. No. 993 §1, 4-4-1978; Ord. No. 1045 §1, 7-10-1979; Ord. No. 1086 §1, 6-27-1980; Ord. No. 1181 §1, 5-24-1983; Ord. No. 87-24 §1, 9-29-1987; Ord. No. 88-43 §1, 9-27-1988; Ord. No. 93-39 §1, 9-23-1993; Ord. No. 94-27 §I, 9-20-1994; Ord. No. 95-43 §I, 9-19-1995; Ord. No. 96-43 §I, 9-17-1996; Ord. No. 97-34 §I, 9-30-1997; Ord. No. 98-34 §I, 9-15-1998; Ord. No. 99-34 §1, 9-21-1999; Ord. No. 38-2000 §1, 9-19-2000; Ord. No. 83-2001 §1, 9-18-2001; Ord. No. 118-2002 §1, 9-26-2002; Ord. No. 150-2003 §1, 9-23-2003; Ord. No. 258-2006 §1, 9-5-2006; Ord. No. 309-2007 §1, 9-18-2007; Ord. No. 351-2008 §1, 9-16-2008; Ord. No. 457-2010 §3, 1-4-2011]

A. *Generation Of Revenue.*

1. The user charge system shall generate adequate annual revenues to pay the cost of annual operation and maintenance including replacement and cost associated with debt retirement of bonded capital associated with financing the water system which the City may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance including replacement of the water system shall be established by ordinance.

2. All funds collected from user charges shall be deposited in the water section of the Water Wastewater Enterprise Fund which is a non-lapsing fund. A separate fund will be established specifically for the replacement account.

    a. The Replacement Fund shall be designated for the purpose of ensuring replacement needs over the life of the water system. Deposits in the Replacement Fund shall be made annually for the replacement revenue in the amount of two hundred two thousand seven hundred ninety dollars ($202,790.00) as set forth in the replacement schedule (Appendix B).

3. Fiscal year-end balances in the Water Wastewater Enterprise Fund and replacement account shall be carried over to the same accounts in each subsequent fiscal year, and shall be used for no other purpose than those designated for these accounts.

B. *User Rate Structure.*

1. Each user shall pay for the services provided by the City based on use of the water system as determined by water meter(s) acceptable to the City.

2. All monthly user charges will be based on monthly water usage.

3. All water users shall be charged as of February 1, 2011:

    a. *Base rate per connection.*

| **Meter size** | **Charge per month** |
|---|---|
| 1 inch and less | $9.60 |
| 1.5 inch | $19.19 |

2 inch

$30.71

3 inch

$61.41

4 inch

$95.95

6 inch

$191.91

8 — 10 inch

$307.05

| |
|---|
| |

b. Up to and including 100,000 gallons: $3.35 per 1,000 gallons.

c. All usage over 100,000 gallons: $2.38 per 1,000 gallons.

4. All water users shall be charged as of August 1, 2011:

   a. Up to and including 100,000 gallons: $3.85 per 1,000 gallons.

   b. All usage over 100,000 gallons: $2.84 per 1,000 gallons.

5. The user rate structure is based off of the user charge budget and rate calculations (Appendix A), the replacement schedule (Appendix B) and the annuity calculations (Appendix C). The user rate structure shall be reviewed annually to insure that revenues are adequate to meet requirements set forth in Section 710.180.

**Section 710.190. Monthly Water Meter Fee.** [Code 1962 §31-18; CC 1979 §30-168; Ord. No. 119-2002 §1, 9-26-2002]

There is hereby imposed a monthly water meter fee. The minimum monthly water meter fee to be charged each consumer shall be determined by the size of meter connection through which the consumer received water as follows:

| **Size of Meter** | **Monthly Water Meter Fee** |
|---|---|
| Residential 5/8and 3/4 inch Radio Read | $1.49 |
| 1 inch Radio Read | $2.33 |
| 1 1/2 inch Radio Read | $4.24 |
| 2 inch Radio Read | $5.72 |
| **Business Turbo Meters** | |
| 1 1/2 inch | $11.59 |
| 2 inch | $13.02 |
| 3 inch | $14.41 |
| 4 inch | $20.45 |
| 6 inch | $46.57 |
| **Compound Meters** | |
| 2 inch | $26.88 |
| 4 inch | $49.17 |
| 6 inch | $67.19 |
| **Fire Line Meters** | |
| 4 inch | $97.82 |

| | |
|---|---|
| 6 inch | $135.28 |
| 8 inch | $174.33 |
| 10 inch | $254.42 |

**Section 710.200. Water Rates — Consumers Outside the City.** [Code 1962 §31-19; CC 1979 §30-169]

Consumers of City water outside the City limits shall be charged for water consumed by them at the rates provided for consumers within the City plus fifty percent (50%).

**Section 710.210. When Water Bills Due and Payable — Penalty, Discontinuance of Service and Forfeiture of Deposit Upon Non-Payment — Turn-On Charge.** [Code 1962 §31-20; CC 1979 §30-170; Ord. No. 1133 §1(B), 4-20-1982; Ord. No. 38-2000 §2, 9-19-2000; Ord. No. 83-2001 §2, 9-18-2001; Ord. No. 120-2002 §1, 9-26-2002]

A. All water bills are due and payable on or before the fifteenth (15th) day of each month following billing except when service is discontinued, in which event bills are due and payable immediately upon discontinuance of service.

B. In the event payment is not made on or before the fifteenth (15th) day of the month on which a bill becomes due and payable, a penalty in the amount of twelve percent (12%) (minimum charge one dollar twenty-five cents ($1.25)) of the water revenue overdue shall be charged to the consumer's account by the City Collector.

C. In the event payment is not made within seven (7) days following the date on which the bill becomes due and payable, service may be discontinued by the City and the deposit required by Section 710.030 shall be forfeited to the City.

D. In the event of the exercise of the right to discontinue service as herein provided, the City Collector shall give notice in writing twenty-four (24) hours prior to discontinuance of such service by ordinary mail.

E. A turn-on charge of ten dollars ($10.00) shall be paid to the City Collector before water service may be installed or restored to a consumer to whom service has been discontinued under the provisions of this Section.

ARTICLE V

**Backflow Protection**

**Section 710.220. Definitions.** [CC 1979 §30-181; Ord. No. 88-34 §2, 8-2-1988]

The following definitions shall have the meanings set out herein in the interpretation and enforcement of this Article:

AIR-GAP SEPARATION — The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the overflow level rim of the receptacle, and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel, but in no case less than one (1) inch.

AUXILIARY WATER SUPPLY — Any water source or system, other than the public water supply, that may be available in the building or premises.

BACKFLOW — The flow, other than the intended direction of flow, of any foreign liquids, gases, or substances into the distribution system of a public water supply.

BACKFLOW PREVENTION 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 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 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, pollutional, or plumbing hazard if introduced into a potable water supply.

ISOLATION — Protection of a facility service line by installing a cross-connection control device or air-gap separation on an individual fixture, appurtenance, or system.

POLLUTION — The presence of any foreign substance (organic, inorganic, or biological) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.

PUBLIC POTABLE WATER SYSTEM — Any publicly or privately owned water system supplying water to the general public which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the State 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.

WATER PURVEYOR — The owner, operator, or individual in responsible charge of a public water system.

**Section 710.230. Purpose — Applicability.** [CC 1979 §30-182; Ord. No. 88-34 §1, 8-2-1988]

A. The purpose of this Article is:

1. To protect the public potable water supply from contamination or pollution by containing within the consumer's internal distribution system or private water system contaminants or pollutants which could backflow through the service connection into the public potable water supply system.

2. To promote the elimination, containment, isolation, or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures, and industrial process systems.

3. To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of all potable water systems.

B. *Application.* This Article shall apply to all premises served by the public potable water system of the City.

C. *Policy.*

1. This Article will be reasonably interpreted by the Water Purveyor. It is the Water Purveyor's intent to recognize the varying degrees of hazard and to apply the principle that the degree of protection shall be commensurate with the degree of hazard.

2. The Water Purveyor shall be primarily responsible for protection of the public potable water distribution system from contamination or pollution due to backflow or contaminants or pollutants through the water service connection. The cooperation of

all consumers is required to implement and maintain the program to control cross-connections. The Water Purveyor and consumer are jointly responsible for preventing contamination of the water system.

3. If, in the judgment of the Water Purveyor or his/her 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 710.240. Prerequisite for Water Service Connection.** [CC 1979 §30-183; Ord. No. 88-34 §3, 8-2-1988]

A. *Cross-Connections.* No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public potable or consumer's water system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the Water Purveyor and as required by the laws and regulations of the State Department of Natural Resources.

B. *Auxiliary Water Supply.* 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 connections and use of such supply shall have been approved by the Water Purveyor and the State Department of Natural Resources.

C. *Plumbing Standards.* No water service connection shall be installed or maintained to any premises in which the plumbing system, facilities, and fixtures have not been constructed and installed using acceptable plumbing practices considered by the Water Purveyor as necessary for the protection of health and safety.

**Section 710.250. Investigation of Water Use Practices.** [CC 1979 §30-184; Ord. No. 88-34 §4, 8-2-1988]

A. The consumer's premises shall be open at all reasonable times to the Water Purveyor or his/her authorized representative for the conducting of surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.

B. On request by the Water Purveyor or his/her authorized representative, the consumer shall furnish information on water use practices within his/her premises.

C. 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 710.260. Protective Devices — Generally.** [CC 1979 §30-185; Ord. 88-34 §5, 8-2-88]

A. The type of protection required by this Article shall depend on the degree of hazard which exists, as follows:

1. An approved air-gap separation shall be installed where the public potable water system may be contaminated with substances that could cause a severe health hazard.

2. An approved air-gap separation or an approved reduced-pressure principle backflow prevention 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 principle 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 pollutional hazard not dangerous to health.

**Section 710.270. Protective Devices — Where Required.** [CC 1979 §30-186; Ord. No. 88-34 §6, 8-2-1988]

A. 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 Water Purveyor or the State Department of Natural Resources, actual or potential hazards to the public potable water system exist. The type and degree of protection required shall be commensurate with the degree of hazard.

B. An approved air-gap separation or reduced-pressure principle backflow prevention device shall be installed at the service connection or within any premises where, in the judgment of the Water Purveyor or the State Department of Natural Resources, the nature and extent of activities on the premises, or the materials used in connection with the activities, or materials stored on the premises, would present an immediate and dangerous hazard to health should a cross-connection occur, even though such cross-connection may not exist at the time the backflow prevention device is required to be installed. This includes but is not limited to the following situations:

1. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is acceptable to the Water Purveyor and the State 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. Premises where materials of a toxic or hazardous nature are handled such that, if backsiphonage or backpressure should occur, a serious health hazard may result.

C. The following types of facilities fall into one or more of the categories of premises where an approved air-gap separation or reduced-pressure principle backflow prevention device is required by the Water Purveyor and the State Department of Natural Resources to protect the public water supply and such device must be installed at these facilities unless all hazardous or potentially hazardous conditions have been eliminated or corrected by other methods to the satisfaction of the Water Purveyor and the State 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, compounding 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 works.
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. Waterfront facilities and industries.

**Section 710.280. Protective Devices — Standards — Existing Devices.** [CC 1979 §30-187; Ord. No. 88-34 §7, 8-2-1988]

A. Any backflow prevention device required by this Article shall be of a model or construction approved by the Water Purveyor and the State 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 reduced-pressure principle backflow prevention device shall be approved by the Water Purveyor and shall appear on the current list of approved backflow prevention devices established by the State Department of Natural Resources.

B. Existing backflow prevention devices approved by the Water Purveyor at the time of installation and properly maintained shall, except for inspection and maintenance requirements, be excluded from the requirements of this Article, so long as the Water Purveyor is assured that they will satisfactorily protect the water system. Whenever the existing device is moved from its present location, or requires more than minimum maintenance, or when the Water Purveyor finds that the maintenance constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this Article.

**Section 710.290. Protective Devices — Installation.** [CC 1979 §30-188; Ord. No. 88-34 §8, 8-2-1988]

A. Backflow prevention devices required by this Article shall be installed at a location and in a manner approved by the Water Purveyor and shall be installed at the expense of the water consumer.

B. Backflow prevention 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.

C. 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 710.300. Protective Devices — Inspection — Maintenance.** [CC 1979 §30-189; Ord. No. 88-34 §9, 8-2-1988]

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 principle 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 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. This shall include a comprehensive listing that includes a record of all tests, inspections, and repairs. Records of inspections, tests, repairs, and overhauls shall be sent to the Water Purveyor at the time of inspection, test, repair, and/or overhaul.

E. Backflow prevention devices shall not be bypassed, made inoperative, removed, or otherwise made ineffective without specific authorization by the Water Purveyor.

**Section 710.310. Violation — Discontinuance of Service.** [CC 1979 §30-190; Ord. No. 88-34 §10, 8-2-1988]

A. The Water Purveyor shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by this Article is not installed, tested, and maintained in a manner acceptable to the Water Purveyor, or if it is found that the backflow prevention 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 Water Purveyor.

# Chapter 715

## RECOUPMENT FOR EXTENSION OF WATER AND SEWER MAINS

Cross References — Installation of water and sewer systems in subdivisions, §410.090; sewer mains, §705.290 et seq.; water main extensions, §710.120 et seq.

### ARTICLE I
### Generally

**Section 715.010. Definitions — Water Main Extensions.** [CC 1979 §30-201; Ord. No. 88-31 Art. I §1, 7-5-1988]

The following words or terms, as used in this Article, shall be defined and construed as follows as this Article pertains to water line [main] extensions:

APPLICANT — Includes any person, firm, corporation, Government subdivision, or other association of persons who shall make application for the City to extend any water main, and also any person, firm, corporation or other association of persons who shall make application to the City to tap any main or extension thereto and become a user.

SERVICE LINE — Only that portion of pipe between the meter and the user's building or other use that is used for delivery of water.

SINGLE USER EXTENSION — The extension to any existing water main for the use of a single user and to which no other taps or service lines are to be connected.

TAP — Shall include only the coupler by which the service line shall be attached to the water main.

USER — Includes any person, firm, corporation or other association of persons receiving water from and through the City Water System for personal, domestic or industrial use.

WATER MAIN OR MAIN — To include all pipes of whatever construction heretofore or hereafter constructed and through which the City shall furnish water to the taps and service lines of users, but shall not include taps and service lines.

**Section 715.020. Definitions — Sewer Main Extensions.** [CC 1979 §30-202; Ord. No. 88-31 Art. II §1, 7-5-1988]

The following words or terms, as used in this Article, shall be defined and construed as follows as this Article pertains to sewer main extensions:

APPLICANT — Includes any person, firm, corporation or other association of persons who shall make application for the City to extend any sewer main, and also any person,

firm, corporation or other association of persons who shall make application to the City to tap any main or extension thereto and become a user.

SERVICE LINE — Only that portion of pipe between the tap and the point of discharge of the sewage.

SEWER MAIN OR MAIN — To include all pipes of whatever construction heretofore or hereafter constructed and through which the City shall receive sewage from users.

SINGLE USER EXTENSION — The extension to any existing sewer main for the use of a single user and to which no other service lines are to be connected.

TAP — Shall include only the coupler by which the service line shall be attached to the sewer main.

USER — Includes any person, firm, corporation or other association of persons discharging sewage through the City Sewer System for personal, domestic or industrial use from any property owned by any user.

**Section 715.030. Applicability.** [CC 1979 §30-203; Ord. No. 88-31 Art. II §2, 7-5-1988]

The provisions of this Article shall be considered a part of all contracts between any applicant or user and the City providing for the extension of water mains and sewer mains. Regardless of whether or not the City repeals or amends this Article, the City will be bound to administer the recoupment provisions and procedures stated herein for any projects which have been approved by the City Council as set out in Section 715.100, Subsections (D and F).

**Section 715.040. Connection of Service Lines.** [CC 1979 §30-204; Ord. No. 88-31 Art. VII §1, 7-5-1988]

No service lines shall be connected to any water or sewer line extension until the water or sewer line extension shall be totally completed and accepted by the City.

**Section 715.050. Deadline for Completion of Extension.** [CC 1979 §30-205; Ord. No. 88-31 Art. VII §2, 7-5-1988]

In the event that the applicant, if he/she elected to do the work himself, has not totally completed the extension within two (2) years of the City Council's granting the application, then the City Council reserves the right to withdraw the City from participation in the project. For good cause, the City Council can extend the two-year deadline without affecting the right to withdraw the City from participation.

**Section 715.060. Use of Federal or State Funds.** [CC 1979 §30-206; Ord. No. 88-31 Art. VII §3, 7-5-1988]

The City will use a good faith effort to secure Federal or State Funds to extend water or sewer lines whenever such funds are available. In the event such funding is available, then such funds shall reduce, dollar for dollar, the recoupable expense of the project.

**Section 715.070. Compliance With Other Regulations.** [CC 1979 §30-207; Ord. No. 88-31 Art. VII §4, 7-5-1988]

All construction of sewer or water main extensions shall be done in compliance with all City ordinances, City Building Codes and in compliance with all State and Federal laws.

**Section 715.080. Additional Cost for Larger Mains.** [CC 1979 §30-208; Ord. No. 88-31 Art. VII §5, 7-5-1988]

If the City, in reviewing the plans and specifications, decides that a larger main than that specified in the plans and specifications is desirable, then the City can require the larger main but will be responsible for the increased cost. This increased cost paid by the City shall be part of the recoupable cost of the project and the City shall receive, pro rata, any money received under this Article from subsequent users, in addition to the ten percent (10%) administrative fee set out in Subsection 715.120(D).

**Section 715.090. Easements.** [CC 1979 §30-209; Ord. No. 88-31 Art. IV §§1, 2, 7-5-1988]

A. All easements necessary to complete any water or sewer main extension shall be fifteen (15) feet in width, be in favor of the City and be obtained prior to making application to the City for recoupment of the extension. All water mains and sewer mains shall be the property of the City but service lines shall be the property of the individual property owners where located.

B. The cost of obtaining and recording all necessary easements shall be borne by the applicant for the water or sewer line extension under this Article but shall, for purposes of recoupment, be added to the total cost of the project and shall be subject to recoupment.

## ARTICLE II
## **Administration**

**Section 715.100. Application for Cost Recoupment — Approval.** [CC 1979 §30-216; Ord. No. 88-31 Art. III §§1 — 7, 7-5-1988; Ord. No. 98-21 §1, 7-7-1998]

A. *Application Not Mandatory.* No person desiring to extend a water main or a sewer main shall be obligated to make application under this recoupment Article. Any person can extend a water main or a sewer main by complying with the applicable Building Codes and paying the entire cost of such extension without the possibility of recoupment provided by this Article.

B. *Portion Subject to Recoupment — Manner of Application.* That portion of a water or sewer main extension which shall be subject to recoupment goes from the existing water or sewer main to the property line of the applicant. Any portion of a water or sewer main extension that is within the applicant's property is not subject to recoupment. Any applicant desiring to extend any existing water main or sewer main and desiring the benefits and obligations of this recoupment Article shall make written application therefor to the Director of Public Works. Such application shall require the approval of the City Council. Such application shall state the name and address of the applicant and the use of such water or sewer extension to be

served through such extension. Said application shall be accompanied by a plat of the addition, subdivision or lot to be served, the plans and specifications for such extensions along with the bid specifications, contract documents, and project cost estimates prepared by a Missouri registered professional engineer, which plans shall have been approved by the State Board of Health, when required, and a filing fee of two hundred dollars ($200.00) which is to be non-refundable. All costs incurred in making the application shall be borne by the applicant and are not subject to recoupment.

C. *Estimate of Costs.* Upon receipt of such application and initial deposit, the Director of Public Works shall notify the City Manager, stating the location and extent of the proposed extension. The Director of Public Works shall forthwith review the estimate of the cost of the proposed extension submitted by the applicant and submit his/her written report, of the same to the City Manager. The Director of Public Works shall thereupon notify the applicant, stating the amount of the Director of Public Works' estimate.

D. *Bidding.* Prior to issuing any contract the applicant will issue a bid call using the normal bidding procedure, three (3) written sealed bids preferable. The applicant shall be allowed to bid on the job. Whether or not the applicant bids, the applicant may perform the work called for at the low bid price by notifying the Director of Public Works of the same within three (3) days of the bid openings.

E. *Payment of Costs.* In the event that the applicant is not the low bidder and the applicant does not elect to perform the work as set out above, the applicant shall, within fourteen (14) days of the bid opening, notify the City and furnish the City a signed contract with the low bidder. In the event the applicant shall fail to enter into the contract as stated above, the application shall be denied. Applicant will be fully responsible to pay all costs associated with the project.

F. *Approval, Contract.* If the Council shall find that the proposed extension is not contrary to the public interest, it shall by ordinance direct that the application be granted. Such ordinance shall further state the manner in which the construction of the proposed water or sewer main extension is to be done, and approve a contract between the City, a private contractor approved by City and the applicant, for the construction of such extension.

G. *Bond, Warranty.* The City Council reserves the right to impose a performance bond requirement or seek the security of a satisfactory financial instrument before giving final approval to a recoupment project. In addition, the successful bidder, or applicant if he/she opts to do the work, shall warrant the work done against defects in materials or workmanship for a period of one year after acceptance by City.

**Section 715.110. (Reserved)** [1]

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[1]. **Editor's Note — Ord. no. 98-21 §2, enacted July 7, 1998, repealed section 715.110 without any provisions for replacement. Former said section derived from CC 1979 §30-217 and ord. no. 88-31 Art. V, 7-5-1988. We have left the section reserved for the city's future use.**

**Section 715.120. Recoupment Procedure — Charges.** [CC 1979 §30-218; Ord. No. 88-31 Art. VI §§1 — 6, 7-5-1988; Ord. No. 98-21 §3, 7-7-1998]

A. *Pro Rata Utility Fund.* The City shall keep a ledger account of all funds on deposit in the Pro Rata Utility Fund, showing the amount paid into the Fund as a result of each water or sewer main extension, and the applicant making such payment, and all payments made therefrom.

B. *Tap-On Fee.* No person, firm or entity may make a service tap on or connect to a water or sewer main extension made under the provisions of this Article for fifteen (15) years after final approval of the project by the City, until after first making payment to the City to the Pro Rata Utility Fund a tap-on fee of five cents ($0.05) per square foot of the property to be served or five hundred dollars ($500.00) per connection, whichever is greater.

C. *Main Connection Fee.* No person, firm or entity shall connect a water or sewer main to a water or sewer main extension made under provisions of this Article for fifteen (15) years after final approval of the project by the City, until after first making payment to the City to the Pro Rata Utility Fund in an amount equal to twenty-five percent (25%) of the recoupable cost of such project, to the point of connection.

D. *Reimbursement to Applicant.* Ninety percent (90%) of the money paid to the City under Subsection (B) above shall be returned to the applicant within forty-five (45) days of such payment, and ten percent (10%) retained by the City as administrative rates, until fifteen (15) years from acceptance of the project by the City, providing that more than fifty percent (50%) of the construction cost of the sewer or water line has been paid. If less than fifty percent (50%) of the cost of the sewer or water line extension construction cost has been paid within fifteen (15) years from the date of acceptance by the City then the fifteen-year period for the tap-on fee provided for in Subsection (B) shall be extended for another five-year period and thereafter terminate. No applicant shall receive more than ninety percent (90%) of the total construction cost, which shall not include surveying or engineering costs, by way of recoupment.

E. *Limitation on Charges.* In the event any charge provided for in Subsection (B) or (C) of this Section cause the money paid into the Pro Rata Utility Fund to exceed one hundred percent (100%) of the cost of such project, then said charge shall only be that amount which is necessary to make the money paid into the Fund equal to one hundred percent (100%) of the cost of the project.

F. *Charge Additional.* The charges provided for in this Article shall be in addition to all other charges of the City for hooking on to water and sewer lines.

**Section 715.130. City Construction of Mains.** [Ord. No. 98-20 §1, 7-7-1998]

The City may elect to install water or sewer mains, and place such mains under recoupment. A plat must first be approved by the City Public Works Department, the State of Missouri, and the Neosho City Council. The estimated cost of the main must be

approved by the Utilities Superintendent or Director of Public Works, and the Neosho City Council. A service connection fee will be charged based on cost and number of connections available to each line extension. This fee may be paid in full prior to connection at cost, or in equal monthly payments for a period of ten (10) years. The monthly payment schedule will include a five percent (5%) annual fee and will be billed on the water bill for each service location making connection. A contract stating the terms of connection must be completed prior to connection. Connection fees will be subject to all service disconnect ordinances of the City of Neosho. Fees will be collected for a maximum period of twenty (20) years or until the original cost has been reimbursed. A record of all fees paid into the City under such recoupment will be maintained by the City. Any main extension connecting to City recoupment lines will be charged a twenty-five percent (25%) reimbursement fee based on cost from the point of origin of the City extension to the point of connection.

## Chapter CR

## CROSS REFERENCE

**Section CR.010. Cross Reference Table.**

| Ordinance Number | Disposition/ Date of Adoption | Section of Ordinance | Section of This Code |
|---|---|---|---|
| 397 | Superseded/85-12 | | |
| 540 | 9-4-1962 | 1 | 710.060 |
| | | 2 | 710.030 |
| 542 | 1-8-1963 | 1, 2 | 710.110 |
| 556 | 8-20-1963 | 1 | 110.350 |
| | | 2 | 105.140 |
| 564 | 1-21-1964 | 1, 2 | 110.090 |
| 573 | Superseded/87-13 | | |
| 580 | 9-1-1964 | 1— 6 | 120.070 |
| 590 | 10-6-1964 | 1 | 235.010 |
| 591 | 10-6-1964 | 1 | 100.100, 235.020 |
| 600 | Superseded | | |
| 620 | Superseded/85-16 | | |
| 640 | 7-5-1966 | 1, 2 | 710.180 |
| 647 | Superseded/85-12 | | |
| 655 | 5-16-1967 | 2— 3 | 710.120— 710.130 |
| 660 | 7-5-1967 | 2 | 610.120, 610.140 |
| 662 | Superseded | | |
| 665 | Superseded/1147 | | |
| 684 | Superseded/1147 | | |
| 696 | Superseded/87- | | |

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| | 13 | | |
| 697 | 11-20-1968 | 1 | 500.010 |
| 713 | 5-6-1969 | 1 | 710.130 |
| 724 | 7-15-1969 | 1 | 505.010 |
| 736 | 3-19-1970 | 1 | 710.180 |
| 754 | Superseded/87-13 | | |
| 760 | Superseded/1147 | | |
| 761 | 1-5-1971 | 1 | 600.040 |
| 762 | Superseded | | |
| 767 | 1-5-1971 | 1 | 215.390 |
| 769 | Superseded | | |
| 771 | 1-5-1971 | 1 | 600.070 |
| 774 | 1-5-1971 | 1 | 110.270 |
| 781 | 3-16-1971 | 1 | 145.060 |
| 788 | Superseded/87-13 | | |
| 789 | 5-18-1971 | 1 | 710.180 |
| 790 | Superseded/1147 | | |
| 791 | Superseded/1147 | | |
| 793 | Superseded/87-13 | | |
| 796 | 7-20-1971 | 1 | 600.290 |
| | | 2 | 600.310 |
| 827 | 10-17-1972 | 2— 13 | Ch. 410 |
| 836 | 3-6-1973 | 2 | 200.010 |
| 847 | 2-17-1973 | 1 | 110.180 |
| 848 | Superseded | | |
| 857 | Superseded | | |
| 858 | Superseded/95-28 | | |
| 860 | 1-22-1974 | II | 105.020 |
| 865 | 4-2-1974 | 1(29-19)—(29-22) | 625.150— 625.180 |

| | | | |
|---|---|---|---|
| | | 1(29-23) | 625.200 |
| | | 1(29-24) | 625.190 |
| | | 1(29-25) | 625.210 |
| | | 1(29-26— 29-29) | 625.220 |
| | | 1(29-30) | 625.230 |
| 876 | Superseded/1229 | | |
| 880 | 10-3-1974 | I— III | 230.100— 230.120 |
| 882 | 10-3-1974 | I— II | 215.200— 215.210 |
| 884 | 11-5-1974 | 1 | 110.170 |
| 885 | 11-5-1974 | 1 | 120.120— 120.130, 120.210, 120.230, 120.260 |
| 890 | Repealed/1019 | | |
| 892 | 4-1-1975 | 1(5-1— 5-2) | 210.010— 210.020 |
| | | 1(5-7— 5-10) | 210.050— 210.080 |
| | | 1(5-11— 5-17) | 210.120— 210.180 |
| | | 1(5-18— 5-19) | 210.100— 210.110 |
| | | 1(5-20) | 210.190 |
| | | 1(5-22— 5-32) | 210.200— 210.300 |
| 902 | 6-17-1975 | 1— 4 | 535.020 |
| 903 | 6-17-1975 | 1 | 710.180 |
| 904 | Superseded/1002 | | |
| 907 | 9-16-1975 | 1 | 105.120 |
| 909 | Superseded/1229 | | |
| 916 | Superseded/1229 | | |
| 921 | 5-18-1976 | 2 | 505.010, 510.010, 515.010 |
| | | 2(a) | 500.020 |
| 926 | 6-1-1976 | 1 | 710.180 |
| 927 | Superseded/1229 | | |
| 930 | 6-18-1976 | 2 | 500.070 |

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|---|---|---|---|
| 931 | 6-18-1976 | 2, 3 | 500.050 |
| 935 | Superseded | | |
| 936 | 10-5-1976 | 1— 2 | 610.040— 610.050 |
| | | 3 | 610.100— 610.140 |
| | | 4 | 610.020 |
| | | 5 | 610.030 |
| | | 6 | 610.080 |
| 938 | 10-21-1976 | 1— 4 | 535.020 |
| 942 | 12-7-1976 | 1 | 600.100 |
| | | 2 | 600.290 |
| 947 | 2-1-1977 | 2 | 500.080 |
| 948 | 3-15-1977 | II | 205.110 |
| | | III | 205.050 |
| | | IV | 205.140 |
| | | V— VIII | 205.060— 205.090 |
| 949 | 2-1-1977 | 1, 2 | 105.030 |
| 960 | 6-7-1977 | 1 | 710.140 |
| 962 | 7-5-1977 | 1 | 215.540 |
| 965 | 7-19-1977 | 1 | 600.110 |
| 967 | 8-2-1977 | 1— 2 | 210.150— 210.160 |
| 973 | 10-4-1977 | 1 | 100.130, 100.150, 110.310, 135.030, 135.050, 135.110— 135.120, 135.140— 135.150, 135.180— 135.200, 135.230, 135.280, 135.330, 135.360, 135.390, 145.010, 210.090, 215.060, 215.140— 215.150, 215.190, 215.230, 215.280— 215.300, 215.430, 215.640, 230.100— 230.120, 300.020, 305.005, 310.040, 320.030, 325.060, 335.100, 340.050— 340.060, 340.080, 340.110, 340.140, 340.170— 340.210, 340.240— 340.340, 345.100— 345.110, 355.005, 355.050, 355.100, 360.010, 365.030, 365.040, 365.110, 375.060, 380.010— 380.050, 385.010— 385.030, 385.060— 385.120, 385.140, 390.010— 390.050, 395.010— 395.090, 600.050, 610.010 |

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|---|---|---|---|
| 977 | 12-6-1977 | 1— 9 | 225.010— 225.070 |
| 983 | 1-5-1978 | 1 | 710.180 |
| 988 | Superseded | | |
| 989 | 3-7-1978 | 1— 3 | 120.290 |
| 993 | 4-4-1978 | 1 | 710.180 |
| 998 | Superseded | | |
| 1001 | Superseded/1229 | | |
| 1002 | Super/91-6, 91-19 | | |
| 1008 | Superseded | | |
| 1009 | 8-15-1978 | 1 | 365.110 |
| 1014 | Superseded | | |
| 1015 | Repealed/1147 | | |
| 1017 | 10-17-1978 | 1 | 600.250 |
| | | 2 | 600.290 |
| 1023 | 2-6-1979 | 2 | 135.010— 135.020, 135.040, 135.060— 135.100, 135.130, 135.160, 135.210— 135.220, 135.240, 135.260— 135.270, 135.290, 135.310— 135.320, 135.340— 135.350, 135.370— 135.380, 135.400— 135.450 |
| 1030 | 4-17-1979 | 1— 2 | 410.070 |
| | | 3 | 410.090 |
| 1031 | 4-17-1979 | 1— 10 | Adopting Ord. |
| 1034 | Superseded/1229 | | |
| 1045 | 7-10-1979 | 1 | 710.180 |
| 1046 | Superseded/1229 | | |
| 1047 | Superseded/91-6 | | |
| 1049 | 8-7-1979 | 1— 2 | 140.010 |
| 1052 | 11-6-1979 | 1— 2 | 310.045 |
| 1054 | 11-6-1979 | 1 | 120.030 |
| | | 2— 3 | 120.240 |
| 1062 | 12-4-1979 | 2 | 110.480— 110.550 |
| 1075 | 4-15-1980 | 1 | 710.030 |
| 1077 | Superseded/85- | | |

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|---|---|---|---|
| | 12 | | |
| 1078 | Superseded/85-12 | | |
| 1085 | 6-3-1980 | na | 215.400— 215.410 |
| 1086 | 6-27-1980 | 1 | 710.180 |
| 1088 | 6-27-1980 | na | 635.010 |
| | | Art. I—XIII | 635.020— 635.140 |
| | | Art. XV | 635.150 |
| 1095 | 11-4-1980 | na | 300.020 |
| 1096 | 11-4-1980 | 1— 3 | 120.290 |
| 1097 | 11-4-1980 | 1(6-173) | 375.060 |
| 1108 | Repealed/88-20 | | |
| 1109 | Superseded/85-12 | | |
| 1110 | Superseded/85-12 | | |
| 1115 | Superseded/1147 | | |
| 1121 | Superseded/92-1 | | |
| 1123 | 11-3-1981 | na | 410.040 |
| 1124 | 11-17-1981 | 1, 3 | 110.100 |
| 1127 | 1-5-1982 | 2 | 135.290 |
| 1129 | 1-5-1982 | 2 | 110.450 |
| 1133 | 4-20-1982 | 1 | 710.210 |
| 1134 | Superseded/1147 | | |
| 1136 | Superseded | | |
| 1142 | 6-15-1982 | 1, 2 | 535.020 |
| 1147 | 7-20-1982 | 2 | 115.010— 115.130, App A to Ch. 115 |
| 1153 | Superseded/85-12 | | |
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N.G.A. — Not generally applicable.

Superseded — Superseded means rendered obsolete by a later ordinance without being specifically repealed; if there is no ordinance number noted after the word superseded, the ordinance was rendered obsolete by provisions agreed upon at the editorial conference and implemented by the adopting ordinance of this Code.

Repealed — Specifically repealed by a later ordinance.

na — Not applicable.

STATUTE REFERENCE TABLE

The following tables are a cross reference listing in numerical order of the Sections of the Code and the State Statutes that correspond to that Section or are referenced in that Section. In order to facilitate the use of this cross reference the order is reversed in the second table with the State Statute Section numbers placed in numerical order and the corresponding Code Sections listed opposite them.

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