

CODE OF ORDINANCES

Chapter 1

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Sec. 1-1. Title; citations.

This Code shall be known and may be cited as the "Code of Ordinances, City of Doniphan, Missouri," or simply as "the Code of Ordinances," "the Code" or "this Code."

(Code 1975, § 1-1)

Sec. 1-2. Definitions and rules of construction.

(a) In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section or ordinance, or unless inconsistent with the manifest intent of the board of aldermen, or unless the context clearly requires otherwise:

Alderman. The word "alderman" shall mean any person elected to that office, and shall include those persons who hold other offices and who are ex officio.

Board of aldermen, board. Whenever the term "board of aldermen" or the word "board" is used, unless the context requires otherwise, such term or word shall be construed to refer to the board of aldermen of the City of Doniphan.

City. The words "the city" shall mean the City of Doniphan in the State of Missouri.

Code. The term "Code" or "this Code" shall refer to the Code of Ordinances, City of Doniphan, Missouri.

Code of Ordinances. The term "Code of Ordinances" shall mean the Code of Ordinances, City of Doniphan, Missouri.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday or a legal holiday, that shall be excluded.

County. The words "the county" or "this county" shall mean Ripley County in the State of Missouri.

Delegation of authority. Whenever a provision appears in this Code requiring the head of a department of the city to do some act or make certain inspections, it may be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspections unless the term of the provision or section designates

otherwise.

Gender. When any subject matter, party or person is described or referred to by words importing the masculine, females as well as males, and associations and bodies corporate as well as individuals, shall be deemed to be included.

Intangible personal property. The term "intangible personal property" shall include all personal property except tangible personal property as defined in this section.

Joint authority. Words importing joint authority to three or more persons shall be construed as authority to a majority of such persons.

Keeper, proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

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

Oath. The word "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" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

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

Person. The word "person" shall include a corporation, company, firm, partnership, association, organization, society and any other group acting as a unit, as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine, as to partnerships or associations the word shall include the partners or members thereof, and as to corporations the word shall include the officers, agents or members thereof, who are responsible for any violation of such section.

Personal property. The term "personal property" includes money, goods, chattels, things in action and evidences of debt.

Preceding, following. The words "preceding" and "following" shall mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Public place. The term "public place" shall mean any park, cemetery, schoolyard, publically owned real estate, public street or other open space adjacent thereto.

Public way. The term "public way" shall include any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

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

Residence. The word "residence" shall be construed to mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

RSMo. The abbreviation "RSMo" shall mean the Revised Statutes of Missouri, as amended.

Seal. Whenever the word "seal" is used it shall mean the city or corporate seal.

Sidewalk. The word "sidewalk" shall mean that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

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

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

Street. The word "street" shall mean 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. The word "street" shall include any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include every other of them.

Tangible personal property. The term "tangible personal property" shall include goods, chattels and all similar personal property except intangible personal property as defined in this section.

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

Tense. Words used in the past or present tense include the future as well as the past and present.

Title of officer, etc. Whenever the title of an officer, department, board or commission is given, it shall be construed as though the words "of the City of Doniphan" were added.

Week. The word "week" shall be construed to mean seven days.

Writing, written. The words "writing" and "written" shall include printing, lithographing or any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year.

(b) All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the board of aldermen may be fully accomplished.
(Code 1975, § 1-2)

Sec. 1-3. Administrative copies to be kept by city clerk.

(a) The city clerk shall keep two copies of this Code of Ordinances. These copies shall be so preserved by the city clerk that any and all amendments to, or general ordinances affecting, such codification shall be shown by appropriate notes. The purpose of this section is to ensure the maintenance in the office of the city clerk of two master copies of the codification in which shall be shown any and all changes which have taken place since the publication thereof.

(b) In determining whether or not any ordinances passed after the effective date of this Code, or any part thereof, shall be noted in the copies of the codification so preserved by the city clerk, and in determining the form of any such note and its location, if doubt arises, the city clerk shall be guided by the advice of the city attorney or his assistants.
(Code 1975, § 1-3)

Sec. 1-4. Reprints, digests, etc.

No officer or employee of the city shall issue, mail or distribute as a publication of the city or any officer, department or branch of the city government any book, pamphlet, leaflet, card, circular or other printed matter purporting to contain excerpts or quotations from this codification or purporting to give the law on any subject to the public, either as a reprint of any ordinance or other legislative enactment, or as a digest, interpretation, resume, condensation or explanation of such without first submitting such book, pamphlet, leaflet, card, circular or other printed matter or portion of such which purports to give the law to the city clerk for examination and approval as to form and as to whether or not the law is correctly stated therein.

(Code 1975, § 1-4)

Sec. 1-5. Code of Ordinances as evidence.

Any printed copy of this Code of Ordinances containing a printed certificate of the mayor and the city clerk as to the correctness of such codification shall be received in evidence in any court for the purpose of proving the ordinances therein contained, the same and for the same purpose as the original ordinances, minutes or journals would be received.

(Code 1975, § 1-5)

Sec. 1-6. Catchlines of sections.

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

(Code 1975, § 1-6)

Sec. 1-7. Altering Code.

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 this Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(Code 1975, § 1-7)

Sec. 1-8. General penalty; continuing violations.

(a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or ordinance of the city the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or ordinance of the city shall be punished by a fine not exceeding \$500.00 or by imprisonment not exceeding 90 days, or by both such fine and imprisonment; provided, however, in any case wherein the penalty for an offense is fixed by any state law or statute, the same penalty so fixed by state law or statute shall be imposed for the punishment of such offense and no other, except that imprisonments, when made under this section, may be in the city jail instead of the county jail.

(b) Unless otherwise specified, each day any violation of any provision of this Code or of any ordinance of the city shall continue shall constitute a separate offense.

(c) In addition to the penalty provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance of the city, shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(Code 1975, § 1-8)

State Law References: Limitation on penalty, RSMo 79.470.

Sec. 1-9. Disposition of fines and costs.

All fines and costs collected for the violation of any provision of this Code shall be turned into the city treasury to the credit of the general fund.

(Code 1975, § 1-9)

Sec. 1-10. Interpretation of Code.

In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this Code imposes restrictions upon the subject matter differing from a general provision imposed by the Code, the provision imposing the greater restriction shall be deemed to be controlling.

(Code 1975, § 1-10)

Sec. 1-11. Miscellaneous actions and ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect the following:

- (1) 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 Code;
- (2) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city's indebtedness or any contract or obligation assumed by the city;
- (3) The administrative ordinances of the city, not in conflict or inconsistent with the provisions of this Code;
- (4) Any ordinance fixing salaries of officers or employees of the city;
- (5) Any appropriation ordinance;
- (6) Any right or franchise granted by the board of aldermen to any person;
- (7) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the city;
- (8) Any ordinance establishing and prescribing the street grades of any street in the city;
- (9) Any ordinance providing for local improvements or assessing taxes therefor;
- (10) Any ordinance dedicating, accepting or vacating any plat or subdivision in the city or any part thereof, or providing regulations for such plat or subdivision;
- (11) Any ordinance annexing property to the city;
- (12) Any zoning ordinance of the city;
- (13) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, stop signs, limitations on loads of vehicles or loading zones, not inconsistent with this Code;
- (14) Ordinance No. 285, enacted December 1, 1953, as amended, relating to parking meters;
- (15) Any temporary or special ordinance;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Ord. of 10-7-75, § 3)

Chapter 2

ADMINISTRATION*

* **Cross References:** Cemeteries, ch. 26; superintendent of the cemetery, § 26-31 et seq.; civil defense, ch. 30; court, ch. 34; elections, ch. 42; fire protection and prevention, ch. 50; municipal airport, ch. 66; airport board created, § 66-2; airport manager, § 66-5; parks and recreation, ch. 74; board of park commissioners, § 74-26 et seq.; planning and development, ch. 82; zoning officer, powers, § 82-3; zoning commission, § 82-31 et seq.; board of adjustment, § 82-61 et seq.; sewers, ch. 94; solid waste, ch. 98; streets and sidewalks, ch. 102; taxation, ch. 106; traffic engineer, § 114-46 et seq.; traffic violations bureau, § 114-71 et seq.; utilities, ch. 118; board of zoning adjustment, app. A, § X.

State Law References: Cities of the fourth class, RSMo 79.010 et seq.; provisions relative to all cities, RSMo 71.010 et seq.

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ARTICLE I.

IN GENERAL

Sec. 2-1. City seal.

(a) There shall be a common seal for the city and the city clerk shall be the keeper thereof.

(b) The seal of the city shall be circular in shape and of the ordinary size, and shall represent by its impression the words: "City of Doniphan, Ripley County, Missouri," and such words shall be surrounded on the outside and inside with a scroll, with the word "SEAL" in the center, with a small ornament at the top and bottom of such word.
(Code 1975, § 2-1)

Sec. 2-2. Eminent domain.

The city shall have the power to take and condemn private property for public purposes, as provided by state law.
(Code 1975, § 2-2)

State Law References: Condemnation of private property by fourth-class cities, RSMo 88.667 et seq.

Sec. 2-3. Open meetings law.

(a) Public notice of meetings of the board of aldermen or any committee thereof or of any meeting of any city board or commission or committee thereof shall be made by the city clerk. All votes and records of such meetings shall be maintained by the city clerk in accordance with the provisions of the Missouri Open Meetings Law, RSMo ch. 610.

(b) The city clerk is hereby designated as the custodian of records of all records except arrest records and criminal investigation records of the city. The city clerk shall comply with the provisions of RSMo 610.023 and 610.026 relating to the inspection and copying of such city records.

(c) The city marshal and director of the department of public safety is hereby designated as the custodian of records of all arrest records and criminal investigation records kept and maintained by the department of public safety of the city. The city marshal and director of the department of public safety shall comply with the provisions of RSMo 610.023 and 610.026 and the provisions of RSMo 610.100 through 610.120 relating to the inspection and copying of such records.

(d) Any officer of the city who is charged with violation of the Missouri Open Meetings Law, RSMo ch. 610, shall be defended in court by the city attorney unless the board of aldermen shall by ordinance direct the city attorney not to defend such officer in court; provided, that the city attorney shall not be required to defend any city officer if such a defense would result in a violation of the Code of Professional Responsibility of the Missouri Bar Association.

(e) The city clerk and the city marshal and director of the department of public safety may request the opinion of the city attorney prior to responding to a request for inspection and copying of records, provided that such referral does not violate the time constraints set by state law.

Sec. 2-4. Vacancies in city offices.

(a) If a vacancy occurs in any elective office, the mayor or the person exercising the duties of the mayor shall cause a special meeting of the board of aldermen to convene, where a successor to the vacant office shall be selected by appointment by the mayor with the advice and consent of a majority of the remaining members of the board of aldermen. If the vacancy is in the office of

mayor, nominations of a successor may be made by any member of the board of aldermen and selected with the consent of a majority of the members of the board of aldermen. The successor shall serve until the next regular municipal election.

(b) If a vacancy occurs in any office not elective, the mayor shall appoint a suitable person to discharge the duties of such office until the first regular meeting of the board of aldermen thereafter, at which time such vacancy shall be permanently filled. (Code 1975, § 2-3; Ord. No. 03-8, § 1, 7-1-03; Ord. No. 04-19, § 1, 11-2-04)

State Law References: Similar provisions, RSMo 79.280.

Secs. 2-5--2-30. Reserved.

ARTICLE II.

BOARD OF ALDERMEN*

* **State Law References:** Board of aldermen and mayor generally, RSMo 79.070 et seq.; powers and duties of mayor and board, RSMo 79.110 et seq.

Sec. 2-31. Composition.

The board of aldermen of the city shall consist of two members from each ward, to be elected in the manner provided by law. (Code 1975, § 2-15)

Sec. 2-32. Regular meetings; adjournment.

The board of aldermen shall hold its regular meetings on the first and third Tuesday nights of each month, at the hour of 5:00 p.m. Any regular meeting may be adjourned from time to time, whenever deemed necessary; and any adjourned meeting shall be, to all intents and purposes, a continuation of the regular meeting. (Code 1975, § 2-16)

Sec. 2-33. Special meetings.

Special meetings of the board of aldermen may be called at any time by the mayor, by giving oral or written notice thereof to each member of the board or by leaving at the member's residence or usual place of business a written notice thereof, and by posting notice thereof in compliance with the state open meetings law (RSMo 610.010 et seq.). (Code 1975, § 2-17)

Sec. 2-34. Attendance at meetings.

Those required to attend regular or special meetings of the board of aldermen shall be the mayor, aldermen, the city clerk, the city attorney, and the city marshal or his designated sergeant. Other city officers shall attend such meetings when requested by the mayor or board of aldermen. (Code 1975, § 2-18)

Sec. 2-35. Compelling attendance.

Any member of the board of aldermen failing to attend any regular, adjourned or special meeting, after being duly notified, without having a reasonable excuse for not so attending, may be fined by the board of aldermen in such sum as they shall determine, such fine to be deducted from his salary. If any alderman fails to attend any three consecutive meetings, his office may be declared vacant. (Code 1975, § 2-19)

Sec. 2-36. Journal of proceedings.

The board of aldermen shall cause to be kept a journal of its proceedings, and the ayes and nays shall be entered on any question at the request of any two members. The board of aldermen may prescribe and enforce such rules as it may find necessary for

the expeditious transaction of its business.
(Code 1975, § 2-20)

State Law References: Similar provisions, RSMo 79.150.

Sec. 2-37. Conduct of meetings.

All meetings of the board of aldermen shall be governed by the provisions of Robert's Rules of Order, Newly Revised.
(Code 1975, § 2-23)

Sec. 2-38. Board may compel attendance of witnesses; mayor to administer oaths.

The board of aldermen shall have power to compel the attendance of witnesses and the production of papers and records relating to any subject under consideration in which the interest of the city is involved, and shall have power to call on the proper officers of the city or of the county to execute such process. The officer making such service shall be allowed to receive therefor such fees as are allowed by law in the circuit court for similar services, to be paid by the city. The mayor or acting president of the board of aldermen shall have power to administer oaths to witnesses.

(Code 1975, § 2-21)

State Law References: Similar provisions, RSMo 79.180.

Sec. 2-39. Publication of semiannual statements.

The board of aldermen shall semiannually each year, at times to be set by the board of aldermen, make out and spread upon their records a full and detailed account and statement of the receipts and expenditures and indebtedness of the city for the half year ending with the last day of the month immediately preceding the date of such report, which account and statement shall be published in some newspaper in the city.

(Code 1975, § 2-22)

State Law References: Similar provisions, RSMo 79.160.

Sec. 2-40. No money of city to be disbursed until statement is published; penalty.

If the financial statement of the city is not published as required by section 2-39, the city treasurer shall not pay out any money of the city on any warrant or order of the board of aldermen after the end of the month in which such financial statement should have been published until such time as such financial statement is published. Any treasurer violating the provisions of this section shall be deemed guilty of an offense.

State Law References: Similar provisions, RSMo 79.165.

Secs. 2-41--2-60. Reserved.

ARTICLE III.

LEGISLATION

DIVISION 1.

GENERALLY

Sec. 2-61. Ordinances, procedure to enact.

The style of the ordinances of the city shall be: "Be it ordained by the board of aldermen of the City of Doniphan, as follows:". No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the board of aldermen shall vote for it, and the ayes and nays be entered on the journal. Every proposed ordinance shall be introduced to the board of aldermen in writing and shall be read by title or in full two times prior to passage, and both readings may occur at a single meeting of the board of aldermen. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the board of aldermen. No bill shall become an ordinance until it shall have been signed by the mayor or person exercising the duties of the mayor's office, or shall have been passed over the mayor's veto, as provided in this article.

(Code 1975, §§ 2-35, 2-36)

State Law References: Similar provisions, RSMo 79.130.

Sec. 2-62. Bills must be signed; mayor's veto.

(a) Every bill duly passed by the board of aldermen and presented to the mayor and by him approved shall become an ordinance, and every bill presented as aforesaid, but returned with the mayor's objections thereto, shall stand reconsidered. The board of aldermen shall cause the objections of the mayor to be entered at large upon the journal, and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the mayor thereto notwithstanding?" The vote on this question shall be taken by ayes and nays and the names entered upon the journal, and if two-thirds of all the members-elect shall vote in the affirmative, the city clerk shall certify the fact on the roll, and the bill thus certified shall be deposited with the proper officer, and shall become an ordinance in the same manner and with like effect as if it had received the approval of the mayor.

(b) The mayor shall have power to sign or veto any ordinance passed by the board of aldermen; provided, that should he neglect or refuse to sign any ordinance and return such ordinance with his objections, in writing, at the next regular meeting of the board of aldermen, the ordinance shall become a law without his signature.

(Code 1975, § 2-37)

State Law References: Similar provisions, RSMo 79.140.

Sec. 2-63. When ordinances effective.

Every ordinance shall take effect and be in force from and after the date of its passage and approval by the mayor, or from and after the date of its passage as provided in section 2-62, unless otherwise provided in the ordinance itself.

(Code 1975, § 2-39)

Secs. 2-64--2-75. Reserved.

DIVISION 2.

AMENDMENTS TO CODE

Sec. 2-76. Effect.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the board of aldermen to make such additions and amendments a part thereof, shall be deemed to be incorporated in this Code, so that reference to the "Code of Ordinances of the City of Doniphan, Missouri," shall be understood and intended to include such additions and amendments.

(Code 1975, § 2-46)

State Law References: How ordinances passed, RSMo 79.130.

Sec. 2-77. Manner.

All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code; 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 and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the board of aldermen.

(Code 1975, § 2-47)

Sec. 2-78. Language.

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 Doniphan, Missouri, is hereby amended to read as follows: _____ (set out new provisions in full) _____."

(Code 1975, § 2-48)

Sec. 2-79. New material.

(a) If 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 Doniphan, 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) _____."

(b) In lieu of the language set out in subsection (a), when the board of aldermen desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the board desires to incorporate into the Code, a provision in substantially the following language may be made part of such ordinance: "It is the intention of the board of aldermen, 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 Doniphan, Missouri, and the sections of this ordinance may be renumbered to accomplish such intention."
(Code 1975, § 2-49)

Sec. 2-80. Repeal.

All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article number, chapter or other number, as the case may be.
(Code 1975, § 2-50)

Sec. 2-81. Subject to general penalty.

In case of the amendment by the board of aldermen of any section of this Code for which a penalty is not provided, the general penalty as provided in section 1-8 of this Code 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.
(Code 1975, § 2-51)

Sec. 2-82. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the board of aldermen. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the board of aldermen or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter", "this article", "this division", etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.
(Code 1975, § 2-52)

Secs. 2-83--2-105. Reserved.

ARTICLE IV.

OFFICERS AND EMPLOYEES*

* **Cross References:** Superintendent of the cemetery, § 26-31 et seq.; traffic engineer, § 114-46 et seq.
State Law References: Municipal officers, RSMo 79.230 et seq.

DIVISION 1.

GENERALLY

Sec. 2-106. Appointment of officers generally.

The mayor, with the consent and approval of the majority of the members of the board of aldermen, shall have the authority to appoint a city clerk, city treasurer, city budget officer, one or more city attorneys, a public works director, and such other officers (except police officers) as he may, by this Code of Ordinances or state law, be authorized to appoint.
(Ord. No. 85-8, § 1, 7-2-85; Ord. No. 90-1, § 1, 1-2-90; Ord. No. 91-3, § 1, 2-19-91; Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-107. Qualifications generally.

All officers elected or appointed to offices under the city government shall be voters under the laws and constitution of this state and the ordinances of the city, except that appointed police officers, the city attorney, the city clerk, and other employees having only ministerial duties need not be voters of the city. No person shall be elected or appointed to any office who shall at the time be in arrears from any unpaid city taxes, or forfeiture or defalcation in office. All officers, except appointed police officers, the city attorney, the city clerk and other employees having only ministerial duties, shall be residents of the city.
(Code 1975, §§ 2-65, 2-134)

State Law References: Similar provisions, RSMo 79.250.

Sec. 2-108. Officers' oath, bond.

(a) Every officer of the city and his assistants, and every alderman, before entering upon the duties of his office, shall take and subscribe to an oath or affirmation before some court of record in the county, or the city clerk, that he possesses all the qualifications prescribed for his office by law; that he will support the Constitution of the United States and of the state, the provisions of all laws of this state affecting cities of this class, and the ordinances of the city, and faithfully demean himself while in office; which official oath or affirmation shall be filed with the city clerk. Every officer of the city, when required by law or ordinance, shall, within 15 days after his appointment or election, and before entering upon the discharge of the duties of his office, give bond to the city in such sum and with such sureties as may be designated by ordinance, conditioned upon the faithful performance of his duty, and that he will pay over all moneys belonging to the city, as provided by law, that may come into his hands.

(b) If any person elected or appointed to any office shall fail to take and subscribe the oath or affirmation required by this section, or to give bond as required by this section, his 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 to the use of such person.
(Code 1975, §§ 2-66, 2-67)

State Law References: Similar provisions, RSMo 79.260.

Sec. 2-109. Assumption of office.

All elective city officers elected at the general election held on the first Tuesday in April of each year, and the appointed city

attorney, shall enter upon the discharge of their duties at the second regular meeting of the board of aldermen in the month of April of the year in which they are elected (such meeting being the next regular meeting of the board of aldermen following the general city election). All other officers appointed by the mayor or marshal shall enter upon the discharge of their duties at the first regular meeting of the board of aldermen in the month of July of each year.

(Ord. No. 85-8, § 1, 7-2-85; Ord. No. 90-1, § 1, 1-2-90; Ord. No. 91-3, § 1, 2-19-91)

Sec. 2-110. Terms generally.

(a) The term of office of all elective officers of the city, except the city marshal, shall be for two years, beginning at the second regular meeting of the board of aldermen in the month of April of the year in which they are elected (such meeting being the next regular meeting of the board of aldermen after the general city election); the term of office of the city marshal shall be four years, commencing on the same date.

(b) The term of office of all appointed officers shall be for one year and, except for city attorneys, shall commence at the first regular meeting of the board of aldermen in the month of July in each year. Such terms shall continue until such appointed officer's successor is duly appointed and qualified.

(Ord. No. 85-8, § 1, 7-2-85; Ord. No. 90-1, § 1, 1-2-90; Ord. No. 91-3, § 1, 2-19-91)

Sec. 2-111. Vacancies in appointed offices.

Should a vacancy occur in any office filled by appointment, the mayor, or person acting as mayor, shall appoint some suitable person to fill such vacancy until the first regular meeting of the board of aldermen thereafter, when such vacancy shall be filled as required by law; provided, however, should any vacancy be caused by an appointed officer being unable to perform the duties of his office on account of sickness, absence from the city, or any other temporary disability, the mayor shall appoint some suitable person, with the consent and approval of the board of aldermen, to fill such office until such sickness, absence or temporary disability shall be removed from the regular appointed officer.

(Code 1975, § 2-70)

Sec. 2-112. Transferring effects of office.

Upon the termination of his term of office, each officer of the city shall deliver to his successor in office all monies, books, papers and other effects of his office.

(Code 1975, § 2-71)

Sec. 2-113. Duties generally.

The duties of the various officers of the city shall be as prescribed by state law, specific provisions of this Code, city ordinances and as required by the board of aldermen from time to time.

(Code 1975, § 2-72)

Sec. 2-114. Compensation of officers generally.

The compensation of the various elected and appointed officers of the city shall be determined from time to time by ordinance; provided, however, that the compensation of an elected or appointed officer shall not be increased during the term for which he was elected or appointed. Except as otherwise specifically provided by ordinance, the salary of any elected or appointed officer of the city shall constitute the entire compensation of such officer for his services and he shall receive no fees or expenses in addition thereto.

(Code 1975, § 2-73)

Sec. 2-115. Compensation of elected officers.

(a) The mayor, collector, marshal and aldermen shall be compensated for their services exclusively by the following salaries, to wit:

(1) The mayor shall receive an annual salary of \$7,200.00.

- (2) The collector shall receive an annual salary of \$17,891.64.
- (3) The city marshal shall receive an annual salary of \$31,000.00.
- (4) Aldermen shall receive the sum of \$1,200.00 per year.

(b) The foregoing salaries shall be paid in monthly or biweekly installments subject to lawful tax withholding as specified by the board of aldermen. No city contributions to the LAGERS retirement program shall be deducted from the foregoing salaries.

(c) The mayor, collector, marshal and aldermen may be reimbursed for their out-of-pocket expenses for fuel, meals and lodging incurred while traveling outside the county while on official business on behalf of the city; provided that such travel has been authorized in advance by the board of aldermen and further provided that such officers submit receipts and vouchers which are audited and approved by the board of aldermen before such reimbursement is paid by the city treasurer.
(Code 1975, § 2-74; Ord. No. 91-2, § 1, 2-19-91; Ord. No. 93-4, § 1, 4-6-93; Ord. No. 95-7, § 1, 4-4-95; Ord. No. 96-5, § 1, 6-18-96; Ord. No. 99-5, § 1, 5-4-99; Ord. No. 01-4, § 1, 5-1-01; Ord. No. 03-2, § 1, 4-15-03)

Sec. 2-116. Compensation of appointed officers and employees.

(a) *Appointed officers' salaries.* The following appointed officers of the city shall receive as total compensation for the performance of their duties the following annual salaries:

- (1) The city clerk shall receive an annual salary of \$23,885.84.
- (2) The city treasurer shall receive an annual salary of \$19,580.00.
- (3) The city attorneys shall each receive an annual salary of \$6,353.76 for a total of \$12,707.52.
- (4) The city director of public works shall receive an annual salary of \$31,000.00.

(b) *Employee compensation.* All other appointed officers and employees of the city shall receive such hourly wages in compensation for the performance of their duties as may be authorized by the board of aldermen in the city budget.

(c) *Compensation terms.* All officer and employee compensation shall be payable in monthly or biweekly installments as determined by the board of aldermen and shall be subject to lawful tax withholding or authorized deductions for retirement plans adopted by the board of aldermen, if any. Any city contributions to the LAGERS retirement plan shall not be deducted from the compensation levels set forth above.
(Code 1975, § 2-75; Ord. No. 91-2, § 1, 2-19-91; Ord. No. 91-7, § 1, 7-2-91; Ord. No. 93-7, § 1, 7-6-93; Ord. No. 94-7, § 1, 6-21-94; Ord. No. 95-10, § 1, 6-20-95; Ord. No. 96-6, § 1, 6-18-96; Ord. No. 97-7, § 1, 6-17-97; Ord. No. 98-4, § 1, 6-16-98; Ord. No. 99-9, § 1, 6-17-99; Ord. No. 00-8, § 1, 6-20-00; Ord. No. 01-4, § 1, 5-1-01; Ord. No. 01-7, § 1, 6-19-01; Ord. No. 02-12, § 1, 6-18-02; Ord. No. 03-6, § 1, 6-24-03; Ord. No. 04-9, § 1, 6-15-04)

Sec. 2-117. Employees--Generally.

The mayor, with the consent and approval of the majority of the members of the board of aldermen, shall have the authority to employ such city employees (except department of public safety employees) as are necessary to provide public services to the residents of the city. The marshal, with the consent and approval of the majority of the members of the board of aldermen, shall have the authority to employ such employees of the city department of public safety as are necessary to provide public services to the residents of the city.
(Code 1975, § 2-76)

Sec. 2-118. Same--Period of employment.

All nonofficer employees of the city are employees at will and are dischargeable by the board of aldermen at will, without the need for reason or cause to be given to the employee.
(Code 1975, § 2-77)

Sec. 2-119. Same--Duties.

The duties of nonofficer employees shall be specified by the city officer in charge of their department or as prescribed by city ordinance.

(Code 1975, § 2-78)

Sec. 2-120. Commercial driver's license required of certain employees.

(a) All applicants for employment for a position with the city which allows or requires the employee to operate a city-owned or -leased commercial motor vehicle (as the same is defined under RSMo chapter 302) shall, upon acceptance of employment and within five days of commencement of employment, obtain a commercial driver's license from the director of revenue of the state. All employees of the city who are allowed or required to operate city-owned or -leased commercial motor vehicles shall, on or before the first Tuesday of July in each year, provide the city clerk with a copy of their current commercial driver's license issued by the state director of revenue. A city employee who does not have a commercial driver's license shall not operate a city-owned or -leased commercial motor vehicle.

(b) Any city employee who shall violate the provisions of this section may be discharged from employment by the city. (Ord. No. 92-10, §§ 1, 2, 9-15-92; Ord. No. 96-3, § 1, 2-20-96)

Sec. 2-121. Participation in local government employees' retirement system.

(a) On behalf of the City of Doniphan, Missouri, a "political subdivision" as defined in RSMo 70.600 through 70.755, as amended, the board of aldermen hereby elects to have covered by the Missouri local government employees' retirement system all its eligible present and future general, police and fire employees and to cover such employees under benefit program L-7.

(b) The city hereby elects that 100 percent of prior employment be considered by prior service credit in computing benefits and contributions to the system, and further elects that all employees with 1,500 or more hours of annual employment, who are not excluded by state law, are to be considered eligible employees. The city attorneys shall not be considered as eligible employees, unless they are required by ordinance to work 1,500 or more hours per year.

(c) The city hereby elects to have the final average salary of its employee members determined over a 60-consecutive-month period.

(d) The city hereby elects to require four percent of gross salary and wages as contributions from covered employees.

(e) The city treasurer is hereby authorized and directed to deduct from the wages and salaries of each employee member of the retirement system the contributions, if any, required by RSMo 70.705, and to remit promptly the deductions to the retirement system, together with the employer contributions required by RSMo 70.705 and 70.730, as amended. Contributions are to be effective January 1, 1995.

(Ord. No. 92-4, § 1, 6-16-92; Ord. No. 94-8, § 1, 6-21-94)

Sec. 2-122. Disposition of fees.

Any fees allowed any officer or employee of the city by law shall be collected and turned over to the general revenue fund of the city treasury.

(Code 1975, § 2-79)

Sec. 2-123. Registerable sex offenders not to be employed in parks and recreation or public safety departments.

No person who is required by Section 211.425 RSMo or 589.400 RSMo et. seq. to register as a sex offender shall be employed by the city in the department of public safety or the parks and recreation department or allowed to participate in any city sponsored program or activity in which minor children are participants or beneficiaries of the program or activity.

(Ord. No. 02-7, § 1, 6-4-02)

Sec. 2-124. Certain persons not to be employed by department of public safety or parks and recreation department.

(a) No person who has been convicted of a felony in this state or any other state, or under federal law, and no person who has plead guilty of a felony in this state or of a crime in another state or under federal law which would be a felony in this state, shall be employed in any capacity by the department of public safety.

(b) No person who has plead guilty of a felony in this state or of a crime in another state or under federal law which would be a felony in this state, who is on probation or parole for such offense, shall be employed in any capacity by the parks and recreation department or allowed to participate in any city sponsored program or activity in which minor children are participants or beneficiaries of the program or activity, until such period of probation or parole is completed and such person is discharged from such probation or parole.
(Ord. No. 02-7, § 2, 6-4-02)

Secs. 2-125--2-135. Reserved.

DIVISION 2.

MAYOR*

* **Cross References:** Civil emergency curfew, § 70-76 et seq.

Sec. 2-136. Qualifications.

No person shall be mayor of the city unless he shall be at least 25 years of age, a citizen of the United States, and a resident of the city at the time of, and at least one year next preceding, his election.
(Code 1975, § 2-81)

State Law References: Similar provisions, RSMo 79.080.

Sec. 2-137. Term.

The mayor shall hold office for two years and until his successor is elected and qualified.
(Code 1975, § 2-82)

Sec. 2-138. Presiding officer of board; vote.

The mayor shall have a seat in and preside over the board of aldermen, but shall not vote on any question except in case of a tie. The mayor shall not preside and vote in cases when he is an interested party.
(Code 1975, § 2-83)

State Law References: Similar provisions, RSMo 79.120.

Sec. 2-139. General supervision of city.

The mayor shall exercise a general supervision over all the officers and affairs of the city, and shall take care that the ordinances of the city, state laws and provisions of this Code relating to the city are complied with and enforced.
(Code 1975, § 2-84)

State Law References: Similar provisions, RSMo 79.120.

Sec. 2-140. Signing commissions, warrants, etc.; approving bonds.

The mayor shall sign the commissions and appointments of all city officers elected or appointed in the city, and shall approve all official bonds, unless otherwise prescribed by ordinance. He shall sign all orders, drafts and warrants drawn on the city treasury for money, and cause the city clerk to attest such orders, drafts and warrants, to affix thereto the seal of the city, and to keep an accurate record thereof in a book to be provided for that purpose.
(Code 1975, § 2-85)

State Law References: Similar provisions, RSMo 79.190.

Sec. 2-141. Communications to board.

The mayor shall, from time to time, communicate to the board of aldermen such measures as may, in his opinion, tend to the improvement of city finances, the police, health, security, ornament, comfort and the general prosperity of the city.
(Code 1975, § 2-86)

State Law References: Similar provisions, RSMo 79.210.

Sec. 2-142. May cause officer to report to board.

The mayor and board of aldermen shall have power as often as he or it may deem necessary to require any officer of the city to exhibit his accounts or other papers or records, and to make report to the board of aldermen, in writing, touching any matter relating to his office.

(Code 1975, § 2-87)

State Law References: Similar provisions, RSMo 79.180.

Sec. 2-143. May remit fine, grant pardon.

The mayor shall have power to remit fines and forfeitures, and to grant reprieves and pardons for offenses arising under the ordinances of the city; but this section shall not be so construed as to authorize the mayor to remit any costs which may have accrued to any officer of the city by reason of any prosecution under the laws or ordinances thereof.

(Code 1975, § 2-89)

State Law References: Similar provisions, RSMo 79.220.

Sec. 2-144. Annual report.

The mayor shall annually report to the board of aldermen on or before July 1 of each year, which report shall contain his estimates of the necessary appropriation to meet all the wants of the current year, and the estimated receipts from licenses and other sources, and shall also report the financial condition of the city.

(Code 1975, § 2-91)

Sec. 2-145. Board to select acting president; term.

The board shall elect one of their own number who shall be styled "acting president of the board of aldermen" and who shall serve for a term of one year. The acting president of the board of aldermen, when occupying the place of the mayor, shall have the same privileges as other members of the board.

(Code 1975, § 2-92)

State Law References: Similar provisions, RSMo 79.090.

Sec. 2-146. Acting president to perform duties of mayor, when.

When any vacancy shall happen in the office of mayor by death, resignation, removal from the city, removal from office, refusal to qualify, or from any other cause whatever, the acting president of the board of aldermen shall, for the time being, perform the duties of mayor, with all the rights, privileges, powers and jurisdiction of the mayor, until such vacancy is filled or such disability is removed; or, in case of temporary absence, until the mayor's return.

(Code 1975, § 2-93)

State Law References: Similar provisions, RSMo 79.100.

Secs. 2-147--2-152. Reserved.

Editors Note: Sections 2-147--2-152, pertaining to street departments and water, sewer and sanitation departments, were originally derived from the Code of 1975, §§ 2-94--2-99. Ord. No. 93-7, § 1, adopted July 6, 1993, repealed these sections in their entirety. Reference to public works departments can be found in article IV, division 7.5 of this chapter.

Sec. 2-153. Appointments to Doniphan-Ripley County library district board of trustees.

The mayor shall appoint four persons as members of the Doniphan-Ripley County library district board of trustees pursuant to RSMo 182.291.3 (1990 Supp.). Upon the expiration of a term of office or upon the death, resignation or removal of a member of the

board of trustees of the Doniphan-Ripley County library district who was originally appointed by the mayor, the successor shall also be appointed by the mayor. The members of the board of trustees of the Doniphan-Ripley County library district shall not be considered as officers of the city and the qualifications and procedures for appointments shall be established by the board of trustees of the Doniphan-Ripley County library district as provided by state law.
(Code 1975, § 2-4)

Secs. 2-154--2-165. Reserved.

DIVISION 3.

ALDERMEN

Sec. 2-166. Qualifications.

No person shall be an alderman unless he shall be at least 21 years of age, a citizen of the United States, an inhabitant and resident of the city for one year next preceding his election, and a resident of the ward from which he is elected.
(Code 1975, § 2-100)

State Law References: Similar provisions, RSMo 79.070.

Secs. 2-167--2-175. Reserved.

DIVISION 4.

CITY ATTORNEY*

* **Cross References:** Court, ch. 34.

Sec. 2-176. Qualifications.

In addition to other qualifications for city officers, no person shall be eligible to the office of city attorney who is not a licensed attorney under the laws of this state.
(Code 1975, § 2-107)

Sec. 2-177. Legal advisor to board.

It shall be the duty of the city attorney to advise the board of aldermen, or any officer of the city, on such legal questions as may arise in relation to the business of the city.
(Code 1975, § 2-108)

Sec. 2-178. City litigation generally.

It shall be the duty of the city attorney to prosecute or defend all suits in any court of record, and all suits before the mayor or the municipal judge to which the city may be a party; and to defend all actions brought against any officer, agency or servant of the city which may arise on account of his official acts.
(Code 1975, § 2-109)

Sec. 2-179. Preparation of complaints; prosecutor.

It shall be the duty of the city attorney to prepare all charges and complaints against any party charged with a violation of any provision of law or city ordinance. He shall prosecute such violations on behalf of the city and shall make affidavits on behalf of the city in all cases when such affidavits may be necessary in procuring changes of venue or taking appeals.
(Code 1975, § 2-110)

Sec. 2-180. Substitute counsel.

If at any time the city attorney shall, from any cause, be unable to attend to any business pertaining to his office, the mayor may appoint some competent attorney to attend to such business, who shall receive for his services the same compensation as the city attorney would have received.

(Code 1975, § 2-112)

Sec. 2-181. Additional counsel.

If deemed for the best interest of the city, the mayor, with the approval of the board of aldermen, may employ special counsel to represent the city, either in the case of a vacancy in the office of the city attorney or to assist the city attorney, and to pay such special counsel reasonable compensation therefor.

(Code 1975, § 2-113)

Secs. 2-182--2-190. Reserved.

DIVISION 5.

CITY CLERK

Sec. 2-191. General enumeration of duties.

It shall be the duty of the city clerk, in addition to the duties imposed upon him by law, to:

(1) Permit no records, public papers or other documents of the city kept and preserved in his office to be taken therefrom, except by such officers of the city as may be entitled to the use thereof, and then only upon their leaving a receipt therefor.

(2) Attest all ordinances, resolutions and all signatures of the mayor, when necessary; to affix the seal of the city to all documents requiring such seal; and to sign all resolutions adopted by the board of aldermen.

(3) Prepare all commissions of officers which the mayor is required to sign, and to countersign and affix the seal of the city to such commissions.

(4) Keep a record of all commissions, officials' oaths, and bonds of officers.

(5) Provide and keep an ordinance record in which he shall record all ordinances passed by the board of aldermen and approved by the mayor or passed over the veto of the mayor.

(6) Cause all ordinances and resolutions to be published that may be required by any ordinance or order of the board of aldermen, and to examine and correct the proofs thereof.

(Code 1975, §§ 2-38, 2-120)

Sec. 2-192. Preparing tax books.

Immediately after the board of aldermen shall have fixed the rate of taxation for any given year, the city clerk shall make out appropriate and accurate tax books, and shall set out therein, in suitable columns, opposite the name of each person and the item of taxable property as returned by the assessor and board of equalization or the certified abstract furnished by the county clerk, the amount of taxes, whether general or special, due thereon; and shall charge the city collector with the full amount of taxes so levied; and he shall be diligent in reporting to the board of aldermen any failure of the city collector to report the money collections as required by ordinance. The clerk shall also charge the city collector with all licenses and other duties of all kinds to be collected.

(Code 1975, § 2-121)

Sec. 2-193. Keeping journal of board, contracts, etc.

The city clerk shall keep a regular journal in which he shall faithfully and correctly record the proceedings of each meeting of the board of aldermen. He shall carefully keep and preserve all books and papers belonging to his office, filed, indexed and arranged in convenient form, and shall safely and securely keep and preserve all deeds, securities, official bonds, contracts and other papers belonging to the city.

(Code 1975, § 2-122)

Sec. 2-194. Books of city business.

The city clerk shall keep a complete set of books in which he shall clearly show all business transactions of the city, and keep a correct account with each officer and employee thereof.

(Code 1975, § 2-123)

Sec. 2-195. Annual financial statement.

The city clerk shall balance the city ledger annually on July 1 of each year, and take therefrom a complete statement of all the business and financial transactions of the city for the year then ending, and shall present such statement to the board of aldermen at its next regular meeting thereafter. Such statement shall contain a complete and concise summary of the total receipts of the year ending, the total disbursements of such year and for what purposes, the total debts of the city and the total amounts of money then remaining in the city treasury.

(Code 1975, § 2-124)

Sec. 2-196. Reserved.

Sec. 2-197. Warrants; license registers.

(a) The city clerk shall keep in his office an accurate register of all warrants issued, which shall present in due form the number of the warrant, the name of the person in whose favor, the amount, and for what purpose issued.

(b) The city clerk shall also keep in his office a book to be known as the license register, in which he shall keep a record of all licenses issued by him showing:

- (1) The date of the commencement of such license;
- (2) The date of its expiration;
- (3) To whom issued;
- (4) For what purpose; and
- (5) The amount paid therefor.

(Code 1975, § 2-126)

Sec. 2-198. Clerk pro tem.

In the absence of the city clerk, the board of aldermen shall appoint a clerk pro tem, who shall possess the same qualifications and have and exercise all the duties and powers and receive the same compensation as the city clerk.

(Code 1975, § 2-127)

Secs. 2-199--2-210. Reserved.

DIVISION 6.

TREASURER

Sec. 2-211. Cash accounts generally.

The city treasurer shall keep the cash accounts of the city in a cash book, which must clearly show all monies received and disbursed by him belonging to the various funds of the city, the dates of receipts and disbursements, from whom received and to whom disbursed.

(Code 1975, § 2-135)

Sec. 2-212. Reserved.

Sec. 2-213. Payment of monies.

The city treasurer shall pay all monies on warrants ordered by the board of aldermen, signed by the mayor, countersigned by the city clerk, and stamped with the seal of the city.
(Code 1975, § 2-138)

Secs. 2-214--2-225. Reserved.

DIVISION 7.

CITY MARSHAL AND DIRECTOR OF PUBLIC SAFETY*

* **Cross References:** Composition of civil defense division, § 30-27; when city marshal attends sessions of court, § 34-5; fire protection and prevention, ch. 50.

Sec. 2-226. Qualifications.

No person shall be elected or appointed to the office of city marshal unless that person shall be at least 21 years of age, a citizen of the United States, and an inhabitant and resident of the city for one year next preceding his election or appointment.
(Code 1975, § 2-150)

Sec. 2-227. Authority.

The elected city marshal shall be the director of the city department of public safety. He shall supervise and direct all other officers and employees of the city employed by the police division, the fire division and the civil defense department in the performance of their duties.
(Code 1975, § 2-146)

Sec. 2-228. Attendance at meetings of board; reports.

The city marshal shall attend all regular, special and adjourned meetings of the board of aldermen and shall submit such written reports on the affairs of the department of public safety and its components as may be requested by the board of aldermen.
(Code 1975, § 2-147)

Sec. 2-229. Additional duties.

The city marshal shall have such powers and perform such duties as may be provided by this Code, state law, the Charter or ordinances of the city.
(Code 1975, § 2-148)

Sec. 2-230. Summoning assistance.

The city marshal may, whenever he deems it necessary, call to his assistance such number of persons as may be needed to aid him in making arrests, and any person who, upon being so summoned by the marshal, shall neglect or refuse to aid in making such arrests, shall be deemed guilty of an offense.
(Code 1975, § 2-149)

Sec. 2-231. Organization of department of public safety.

The department of public safety shall consist of the police division, the fire division and the civil defense division.

(Code 1975, § 2-151)

Sec. 2-232. Officers.

The city marshal shall be in charge of the entire department of public safety. He shall, with the consent and approval of the majority of the members of the board of aldermen, appoint all inferior officers and employees of the department of public safety. He may relieve any inferior officer or employee of the department of public safety from duty, but he shall not remove such officers or employees from office or employment without the approval of the majority of the members of the board of aldermen.

All police officers must be 21 years of age and of good moral character and shall be required to be legal residents of Ripley County, Missouri, within six months after the date of their initial employment by the city.
(Code 1975, § 2-156; Ord. No. 98-7, § 1, 7-27-98)

Sec. 2-233. Police division generally.

(a) *Organization.* The city police division shall be a component of the department of public safety and shall consist of such numbers of policemen as the city marshal shall appoint, with the consent of the majority of the members of the board of aldermen, not to exceed 12 in number. All members of the police division shall be considered police officers regardless of the nature of their assigned duties. The city marshal shall be the chief of police.

(b) *Deputy director.* The city marshal shall appoint one police officer as deputy director of the department of public safety to hold the equivalent police rank of sergeant. Such officer shall supervise and direct the other officers of the police division in the performance of their duties. Such officer shall perform such specific duties as may be prescribed by the city marshal.

(c) *Powers and duties of police officers.* All police officers of the city shall be under the supervision and control of the city marshal and his duly appointed deputy director. All city police officers shall have the power to serve and execute all warrants, subpoenas, writs and other process, and to make arrests in the same manner as the city marshal. They shall be conservators of the peace and shall be active and vigilant in the preservation of good order within the city.

(d) *Badge of officer.* The city marshal and all members of the police division, when on duty, shall wear some badge of office so that it may be plainly seen by the public.

(e) *Duties.* It shall be the duty of the police division to:

(1) Execute all orders and serve all notices as may be required on the city's behalf.

(2) Patrol the streets, preserve the peace and investigate violations of the ordinances of the city or the laws of the state within the city and to apprehend violators in the manner provided by law.

(3) Confine persons in the city jail as provided by law and to keep the possessions and property taken from them safe for return to such prisoners upon their release.

(4) Cooperate with and assist such other police and public safety agencies as may be allowed by mutual aid agreements approved by the board of aldermen.

(5) Perform such other duties as may be directed by ordinance or law or by the city marshal.

(Code 1975, § 2-157)

Sec. 2-234. Fire division generally.

(a) *Organization.* The fire division shall be a component of the department of public safety and shall consist of a deputy director with the rank of fire chief appointed by the director of the department of public safety with the consent of the majority of the members of the board of aldermen, and such numbers of firefighters as the director of public safety shall appoint, not to exceed 30 in number.

(b) *Deputy director.* The director of the department of public safety, with the consent of a majority of the members of the board of aldermen, shall appoint a suitable person as deputy director of the department of public safety to hold the equivalent rank of fire chief. Such officer shall supervise and direct the other officers of the fire division in the performance of their duties. Such officer shall perform the following duties:

Attend all city council meetings and submit a monthly written report to city; keep an ongoing inventory list of all equipment on each fire truck and rescue van; keep each vehicle checked for safe and proper operation; keep all fire vehicles washed, waxed and clean; get repairs done as needed on all vehicles; keep records of all training done by the fire department and make sure that the firemen get the training they need; keep records of all fire calls and extrications; enforce zoning, building, electrical, plumbing and fire protection and prevention codes; perform FEMA and SEMA inspector duties for flood plan management; perform fire inspections and any other inspections that might fall under public safety responsibility such as the performing of fireworks permit inspections; teach safety programs; take care of all reports that need to go to Jefferson City; submit requests for purchase order to the director of public safety for equipment and other items as needed; keep fire house clean; inspect fire hydrants on a regulated schedule; check static and residual water pressure on main lines to help in future extensions or loops; and perform such other specific duties as may be prescribed by the director of public safety.

Notwithstanding any other ordinances to the contrary, the deputy director shall assume all duties heretofore delegated to the zoning officer or building official under the zoning ordinances, subdivision ordinances, floodplain management ordinances, building, electrical or plumbing code ordinances of the City of Doniphan, Missouri, and the delegations of such duties by ordinance to the director of the department of public works are hereby repealed.

(Code 1975, § 2-158; Ord. No. 99-6, § 1, 5-4-99; Ord. No. 01-8, § 1, 6-19-01)

Cross References: Fire protection and prevention, ch. 50.

Sec. 2-234A. Civil defense and emergency management division generally.

(a) *Organization.* The civil defense and emergency management division shall be a component of the department of public safety and shall consist of a deputy director with the rank of emergency management director and such numbers of volunteer civil defense and emergency management workers as the director of public safety shall appoint, not to exceed 30 in number.

(b) *Deputy director.* The director of the department of public safety, with the consent of a majority of the members of the board of aldermen, shall appoint a suitable person as deputy director of the department of public safety to hold the equivalent rank of emergency management director. The deputy director of the department of public safety acting as the fire chief may also be appointed to and serve as deputy director of the department of public safety acting as emergency management director and hold both offices simultaneously. Such officer shall supervise and direct the other officers of the civil defense and emergency management division in the performance of their duties. Such officer shall perform the following duties:

Attend all city council meetings and submit a monthly written report to city; keep an ongoing inventory list of all equipment of the division; keep each emergency vehicle checked for safe and proper operation; keep all emergency vehicles washed, waxed and clean; get repairs done as needed on all emergency vehicles; keep records of all training done by the emergency management department and make sure that the emergency management personnel get the training they need; keep records of all emergencies; perform FEMA and SEMA inspector duties for flood plan management; teach emergency management programs to other city personnel; take care of all reports that need to go to Jefferson City or FEMA; submit requests for purchase orders to the director of public safety for equipment and other items as needed; develop and maintain the emergency management plans of the city; coordinate with other jurisdictions on emergency management plans and issues; and perform such other specific duties as may be prescribed by the director of public safety.

(c) *County emergency director.* If approved by the board of aldermen of the city and the Ripley County Commission, the emergency management director of the city may also hold the office of Ripley County Emergency Management Director and any compensation payable to the Ripley County Emergency management Director by Ripley County may be retained by said emergency management director in addition to his city salary.

(Ord. No. 03-1, § 1, 2-18-03)

DIVISION 7.5.

DEPARTMENT OF PUBLIC WORKS*

* **Cross References:** Registerable sex offenders not to be employed in parks and recreation or public safety departments, § 2-123; sewers, ch. 94; solid waste collection and disposal, ch. 98; utilities, ch. 118; subdivision regulations, App. B.

Sec. 2-235. Department of public works established.

The department of public works shall consist of the water and sewer division, the sanitation division, the street division and the parks and recreation division. The director of public works shall supervise and direct all other employees of the city employed by the above-mentioned divisions in the performance of their duties.
(Ord. No. 93-7, § 1, 7-6-93; Ord. No. 96-2, § 1, 2-6-96)

Sec. 2-236. Attendance at meetings of board; reports.

The director of public works shall attend all regular, special and adjourned meetings of the board of aldermen and shall submit such written reports on the affairs of the department of public works and its components as may be requested by the mayor or the board of aldermen.
(Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-237. Additional duties.

The city director of public works shall have such powers and perform such duties as may be provided by this Code, state law, the Charter or ordinances of the city.
(Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-238. Superintendence over street department.

The director of public works shall have a general superintendence, under the direction of the mayor and board of aldermen, of all the streets, alleys, sidewalks, culverts, bridges and crossings within the city and shall be the supervisor of the employees employed in the city street department. He shall cause the city street department to repair and keep clean all streets and alleys within the city and he shall regularly propose improvements to the streets, alleys, culverts and bridges within the city to the board of aldermen.
(Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-239. Custodian of street department equipment.

The director of public works shall be the lawful custodian of all the tools, implements and equipment of the street department and he shall be responsible for their loss and abuse. The director of public works shall not purchase any tools or materials not budgeted for or authorized by the board of aldermen.
(Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-240. Financial records of street department; report.

The director of public works shall keep an accurate itemized record of all monies received and expended by the street department and shall submit a monthly report of the operations of the street department to the board of aldermen.
(Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-241. Superintendence over water, sewer and sanitation departments.

The director of public works shall have a good general superintendence, under the direction of the mayor and board of aldermen, of the water, sewer and sanitation system of the city. He may, with the consent of the mayor and board of aldermen, employ assistants to delegate responsibilities which require permits or licenses issued by the state department of natural resources and he shall be the supervisor of all employees of the water, sewer and sanitation departments. He shall cause the city water, sewer and sanitation departments to operate and maintain the water supply, sewage treatment and solid waste disposal systems owned by the city in a professional manner and in compliance with all state or federal environmental laws and regulations.
(Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-242. Custodian of water, sewer and sanitation department equipment.

The director of public works shall be the lawful custodian of all the tools, implements and equipment of the water, sewer and sanitation departments and he shall be responsible for their loss or abuse. The director of public works shall not purchase any tools or materials not budgeted for or authorized by the board of aldermen.
(Ord. No. 93-7, § 1, 7-6-93)

Sec. 2-243. Financial records of water, sewer and sanitation departments; report; enforcement authority.

The director of public works shall keep an accurate itemized record of all monies received and expended by the water, sewer and sanitation departments and shall submit a monthly report of the operations of the water, sewer and sanitation departments to the mayor and board of aldermen. He shall provide the city collector with accurate records of utility services furnished to customers each month and he shall enforce the ordinances of the city relating to water, sewer and solid waste disposal, usage and utility billings.
(Ord. No. 93-7, § 1, 7-6-93)

Secs. 2-244, 2-245. Reserved.

DIVISION 8.

COLLECTOR*

* **Cross References:** Taxation, ch. 106; collector's duties as to utility charges, § 118-51.

Sec. 2-246. Receipt of tax books.

The city collector shall receive all tax books, monies, vouchers, papers and other property belonging to his office, from his predecessor in office, the mayor or other officer having custody thereof, giving duplicate receipts therefor, one of which shall be filed in the office of the city clerk.
(Code 1975, § 2-166)

Sec. 2-247. Collection of taxes, licenses, fees and utility charges; report.

- (a) The city collector shall, on behalf of the city, collect:
 - (1) All city taxes, penalties and interest thereon levied pursuant to the ordinances of the city;
 - (2) All license fees required for the issuance of licenses by the ordinances of the city;
 - (3) All permit fees required for the issuance of permits by the ordinances of the city;
 - (4) All customer charges for the use of city water, sewer and solid waste collection utility services;
 - (5) All other revenue from whatever source derived due to the city, except such funds as may be deposited with the city treasurer or wire transferred to the city's depository accounts by the state or by the federal government or agency thereof.
- (b) The city collector shall keep accurate and separate books of account pertaining to each of the sources of city revenue set out in subsection (a) in accordance with the ordinances of the city and the general accounting practices as directed by the board of aldermen, pursuant to the recommendations of the city auditor.
- (c) At the second meeting of the board of aldermen in each month, the city collector shall make a written report, under oath, to the board of aldermen, listing all revenue collected, by category, and turned over to the city treasurer.
(Code 1975, § 2-167)

Sec. 2-248. Report delinquencies.

At the first meeting of the board of aldermen in the month of April of each year, the city collector shall make out under oath,

lists of delinquent taxes remaining due and uncollected for each year, to be known as the "land delinquent list" and the "personal delinquent list", and return such lists to the board of aldermen; and upon the receipt of such lists the board of aldermen shall examine and correct the lists and cause them to be returned to the city collector, who shall proceed to collect the lists in the same manner and under the same regulations as are, or may be, provided by law for the collection of delinquent lists of real and personal taxes for state and county purposes.

(Code 1975, § 2-168)

Sec. 2-249. Turning collections over to treasurer.

The city collector shall deposit to the credit of the city treasurer into the city's MMDA each business day all monies collected by him belonging to the city, except that, during the second half of each calendar month such deposits shall be made only if the collections on hand with the city collector since the last deposit exceed \$250.00. The collector shall take a duplicate receipt for each such deposit from the treasurer or the city depository bank, which receipts shall be filed with the city clerk by the city collector at the time he shall make his monthly report to the board of aldermen of the total amount of revenue collected.

(Code 1975, § 2-169; Ord. No. 04-18, § 1, 10-19-04)

Sec. 2-250. Office hours; supervision of collections; deputy collector.

(a) The city collector shall establish and maintain regular hours of operation of his office in the city hall for the collection of revenue due to the city and shall keep his office open and accessible to the general public during normal business days for at least 35 hours each week.

(b) The city collector shall not allow any other person not a city employee to collect money due the city, nor shall any other officer or employee of the city take, accept or collect any monies due to the city, but such monies shall be taken, collected and accounted for solely by the city collector; provided, that the board of aldermen may, from time to time, authorize the collector to appoint a part-time deputy to assist the collector during peak collection periods or during illness or disability of the collector. Any deputy collector allowed and budgeted by the board of aldermen shall be appointed by the collector with the consent of the board of aldermen and shall be considered a city employee.

(Code 1975, § 2-170)

Secs. 2-251--2-260. Reserved.

DIVISION 9.

SUSPENSION, REMOVAL OF OFFICERS*

* **State Law References:** Removal of officers, RSMo 79.240.

Sec. 2-261. Elective officers.

The mayor may, with the consent of the majority of all the members of the board of aldermen, remove from office, for cause shown, any elective officer of the city, such officer being first given opportunity, together with his witnesses, to be heard before the board of aldermen sitting as a board of impeachment. Any elective officer, including the mayor, may, in like manner, for cause shown, be removed from office by two-thirds vote of all the members of the board of aldermen, independently of the mayor's approval or recommendation.

(Code 1975, § 2-197)

Sec. 2-262. Appointed officers.

The mayor may, with the consent of the majority of the members of the board of aldermen, remove from office any appointed officer of the city at will, and any such appointed officer may be so removed by a two-thirds vote of all the members of the board of aldermen, independently of the mayor's approval or recommendation.

(Code 1975, § 2-198)

Sec. 2-263. Grounds.

Among other causes, the following shall be deemed good and sufficient grounds for any such suspension or removal:

- (1) Any willful violation of any official obligation.
- (2) Culpable negligence or dereliction of duty.
- (3) Incompetency.
- (4) Willful misconduct in office.
- (5) Abuse of authority in official capacity.
- (6) Any act inconsistent with official duty or character.
- (7) While being investigated by the board of aldermen.

(Code 1975, § 2-199)

Secs. 2-264--2-275. Reserved.

DIVISION 10.

BUDGET OFFICER*

* **Cross References:** Taxation, ch. 106.

Sec. 2-276. Office created; duties generally.

There is hereby created the office of budget officer, who shall perform the duties imposed by RSMo ch. 67, and such other duties as are prescribed by this division.

(Code 1975, § 2-200)

Sec. 2-277. Appointment; term.

At the first meeting of the board of aldermen in July of each year, the mayor, with the consent of the board of aldermen, shall appoint some city officer or employee as city budget officer, who shall hold such office until the first meeting of the board of aldermen in July of the following year.

(Code 1975, § 2-201)

Sec. 2-278. Duties--Enumerated.

In addition to the duties imposed on the budget officer by RSMo ch. 67, the city budget officer shall cause all surplus funds of the city to be invested as provided in section 2-279; shall report at each meeting of the board of aldermen a comparison of the actual receipts and expenditures of each department as compared to the budgeted receipt and expenditures, and shall at the same time report on the status of monies on hand and invested; shall be available to advise and make recommendations to the mayor, board of aldermen and other city officers regarding anticipated expenditures, coding of accounts, and other financial matters; and shall have such additional duties concerning the budget and finances of the city as shall from time to time be assigned by the mayor and board of aldermen.

(Code 1975, § 2-202)

Sec. 2-279. Same--Investment of surplus monies.

The budget officer shall at all times keep the surplus monies of the city invested at the highest secured rate of return, and, in doing so, shall first determine what monies, if any, will not be needed for current expenses of the city, and for what period of time such monies will not be needed, and shall then contact each bank and savings and loan institution located in the city, and request a bid

from each of such banks or savings and loan institutions, based on the amount of monies to be lent, and the period of time of such loan, and shall then, upon receipt of such bids, cause a warrant to be drawn, and a check to be deposited with the highest bidder. If two institutions bid the same highest bid, the budget officer shall cause the monies to be lent to the earliest of the two high bidders. (Code 1975, § 2-203)

Sec. 2-280. City officers required to cooperate with budget officer.

Notwithstanding any provision of this division to the contrary, all city officers are hereby required to fully cooperate with the budget officer, and it is hereby made a part of the duties of all city officers to provide such information and to take such actions as are required by this division to allow the budget officer to carry out the provisions of this division. (Code 1975, § 2-204)

Sec. 2-281. Capital improvements program.

(a) *Capital improvements.* There is hereby established a permanent category in the annual city budget and expenditure code to be known as "capital improvements." This category shall be established in a permanent category of the city's general revenue fund and shall be given an expenditure code therein by the budget officer. In every annual budget ordinance the capital improvements category shall be budgeted in an amount equal to the revenue estimated to be received by the general revenue fund from investments.

(b) *Principal not to be invaded.* As of the effective dates established in this section, the principal amount of investment funds held under the general revenue fund shall be as follows:

Principal amount of investment funds to be held by treasurer	Effective Dates	
	From	To
\$140,000.00	July 1, 1992	June 30, 1993
160,000.00	July 1, 1993	June 30, 1994
180,000.00	July 1, 1994	June 30, 1995
200,000.00	July 1, 1995	forever

The city treasurer is hereby directed to maintain no less than the amounts shown in this section for the respective periods shown in this section invested in interest bearing accounts or instruments during the entire length of each fiscal year. This principal amount of investment funds shall not be reduced below the amounts specified during the respective periods shown in this section while this section is in effect. All interest on such principal shall be credited to the general revenue fund.

(c) *Capital improvement expenditures.* The capital improvements category shall not be used for any expenditures which can be classified by generally accepted accounting standards as being expense items. It shall only be used for expenditures which can be considered capital items. The capital improvements category shall not be used to fund any expenditures for the benefit of the water or sewer departments, which are subject to revenue bond restrictive ordinances.

(d) *Department requests.* In the month of May of each year, prior to the adoption of the regular city budget, the mayor shall require all city departments to submit a written request for the purchase or construction of capital items. The mayor shall transmit all lists to the board of aldermen at the first meeting in June. At such meeting or any adjournment thereof the board shall determine which capital items shall be funded and enter such items on its records. Thereafter, such authorization shall be considered as lawful subcategories of the capital improvements budget category upon which warrants may be drawn and paid by the city treasurer. (Code 1975, § 2-205)

Secs. 2-282--2-290. Reserved.

ARTICLE V.

FINANCES AND REVENUE*

* **Cross References:** Perpetual care cemetery fund for the Oak Ridge Cemetery, § 26-56 et seq.

Sec. 2-291. Money drawn from treasury.

No money shall be paid out of the treasury except on a warrant signed by the mayor and attested by the city clerk. No warrant shall be drawn upon the treasurer, nor shall any ordinance appropriating money be passed, unless there is an unexpended balance to the credit of the city in the fund in the treasury upon which such warrant is drawn, to meet such warrant, or a sufficient sum of unappropriated money in the fund in the treasury upon which such ordinance is drawn, to meet such ordinance.

(Code 1975, § 20-206)

State Law References: Similar provisions, RSMo 95.365.

Sec. 2-292. Appropriations.

The board of aldermen may by ordinance appropriate funds in the treasury, or which may come into the treasury, through any source of revenue for the current year for such specific purposes as may be made in this article, and warrants on the treasurer in payment of such general appropriations, or such portions thereof as the board of aldermen may from time to time desire to have paid, shall be issued by the mayor and clerk at the appropriate time.

(Code 1975, § 2-207)

Sec. 2-293. Payment of claims against city.

(a) Whenever the city shall become liable to any person in any sum of money, the payment of which is not otherwise provided by law, the claimant shall make out a detailed statement thereof, and shall then present such claim to the board of aldermen. The board of aldermen who shall carefully examine such claim, and if, in its opinion, the account is correct and should be paid, it shall allow payment therefor, and the city clerk shall endorse on such account the allowance thereof, and a warrant shall be issued by the mayor in favor of the claimant, countersigned by the clerk and stamped with the seal of the city, payable out of the city treasury.

(b) The board of aldermen may refer any claim so presented to it for payment to the committee on claims for examination and adjustment, but all such claims shall be reported back to the board of aldermen for approval and final action.

(Code 1975, § 2-208)

Sec. 2-294. When bids required on city expenditures.

The treasurer shall not pay any single warrant in excess of \$5,000.00 for the payment of goods and services unless such expenditure was authorized by the board of aldermen by acceptance of competitive bids received by telephone inquiry or in answer to published bid notice. The treasurer may demand that the mayor endorse on any warrant in an amount exceeding \$5,000.00 a statement that such expenditure was approved by the board on competitive bid. Such endorsement by the mayor shall be conclusive evidence of the truth of such approval. Violation of this section shall constitute an offense.

(Code 1975, § 2-213)

Sec. 2-295. Contracts with city officers.

(a) Except for direct salary authorized by ordinance, no elected or appointed officer of the city may receive city funds, directly in his own name or indirectly in the name of any business in which he owns an interest, in payment for goods sold or services rendered to the city in excess of \$500.00 per fiscal year unless such officer or his business has been awarded a contract by the board of aldermen as the lowest bidder pursuant to letting sealed bids after public notice of the opportunity to bid on such contract. Such public notice must be published at least one time in a newspaper of general circulation in the county.

(b) The city treasurer shall not honor any warrant payable to a city officer in violation of this section and may demand that the city clerk endorse upon any warrant payable to a city officer a statement that it does not violate this section.

(c) Violation of this section by any city officer shall constitute an offense.

(Code 1975, § 2-214)

Sec. 2-296. Bidding procedure on regular service contracts.

Whenever the board of aldermen desires to solicit public bids for the regular and periodic purchase of fuel, supplies or services by the city, it shall do so by publishing notice at least one time in a newspaper of general circulation in the county. All such

bid notices shall state that the fuel, supplies or services will be supplied at a specified cost per unit or a specified hourly labor rate over the entire term of the contract. The board of aldermen shall require that all contracts be for a term ending with the end of the city's fiscal year. Bids shall be submitted in a sealed envelope to the city clerk before the deadline specified in the published notice and all such bids shall be opened in a public session of the board of aldermen. The board of aldermen may accept or reject any bid or reject all bids; provided, that any bid submitted by a city officer or a business owned by a city officer must be the lowest bid of all bids received before such bid may be accepted by the board.
(Code 1975, § 2-215)

Secs. 2-297--2-315. Reserved.

ARTICLE VI.
EMPLOYEE BENEFITS
DIVISION 1.
GENERALLY

Sec. 2-316. Workers' compensation.

It shall be the duty of the board of aldermen to provide and maintain blanket workers' compensation insurance coverage for all officers and employees of the city.
(Code 1975, § 2-224)

Sec. 2-317. Minimum wage and hour law.

It shall be the duty of the officers of the city to comply with the provisions of the federal Fair Labor Standards Act, as amended, relating to minimum wage, overtime compensation and recordkeeping of city officers and employees.
(Code 1975, § 2-225)

Sec. 2-318. Description of work periods.

For the purpose of compliance with the federal Fair Labor Standards Act, the work period of nonexempt city employees shall be computed as follows: For all nonexempt city employees and officers, the work period shall be computed on a basis of seven contiguous calendar days per period with the commencement of the first period at 8:00 a.m. on June 30, 1985.
(Code 1975, § 2-226)

Sec. 2-319. Overtime compensation or compensatory time.

All nonexempt city employees and officers shall be paid overtime compensation for all hours worked in excess of 40 hours per work period as computed in section 2-318. Overtime compensation is defined as 1.5 times the regular hourly wage rate of the employee or officer, as defined by law. Employees of the department of public safety may elect to take compensatory time off in accordance with the provisions of the Fair Labor Standards Act.
(Code 1975, § 2-227)

Secs. 2-320--2-330. Reserved.

DIVISION 2.
SOCIAL SECURITY*

* **State Law References:** Old-age and survivors insurance, RSMo 105.300 et seq.

Sec. 2-331. Extension of benefits.

It is hereby declared to be the policy and purpose of the city to extend, at the earliest date, to all eligible employees and officials of the city who are not excluded by law or by this division, and whether employed in connection with a governmental or proprietary function of the city, the benefits of the system of federal old-age and survivors insurance as authorized by the social security act amendments of 1950, and by RSMo 105.300 et seq.
(Code 1975, § 2-231)

Sec. 2-332. Submission of plan, agreement.

The mayor and city clerk are hereby authorized and directed, on behalf of this city, to prepare, execute and submit to the state office of administration, division of accounting, as the state agency, a plan and agreement for extending the benefits authorized by this division to the eligible employees and officials of the city in the form prepared by the state agency and hereby approved and adopted by the board of aldermen, which plan and agreement are to become effective upon approval thereof by the state agency.
(Code 1975, § 2-232)

Sec. 2-333. Execution of agreements, etc.

The mayor and city clerk are hereby authorized and directed to execute agreements, and modifications and amendments thereof, with the state agency providing for the extension of benefits under this division to such employees and officials as set forth in such plan and agreement, as provided for by this division.
(Code 1975, § 2-233)

Sec. 2-334. Deduction from salaries.

There shall be deducted from the wages of all employees and officials of the city to whom the benefits of the system of federal old-age and survivors insurance are extended by virtue of the plan and agreement provided for by this division, the amount of each of such employees' and officials' contributions, as determined by the applicable state and federal laws and by such plan and agreement, the aggregate amount of such deductions to be paid into the contributions fund created by RSMo 105.300 et seq.
(Code 1975, § 2-235)

Sec. 2-335. Contributions by city.

There is hereby authorized to be appropriated from the general revenue fund of the city and there is and shall be appropriated, the sum or sums of money necessary to pay the contributions of the city which shall be due and payable by virtue of the extension of the benefits of the federal old-age and survivors insurance system to the eligible employees and officials of the city, such sum or sums of money to be paid into the contributions fund created by RSMo 105.300 et seq. The fund from which such appropriation is made will, at all times, be sufficient to pay the contributions of the city by this section directed to be paid to such contributions fund.
(Code 1975, § 2-236)

Sec. 2-336. Records and reports.

The city shall fully comply with, and shall keep such records, make such reports and provide such methods of administration of such plan and agreement as may be required by all applicable state and federal laws, rules and regulations in effect with respect to the extension of the benefits of the federal old-age and survivors insurance system to the employees and officials of this city.
(Code 1975, § 2-237)

Sec. 2-337. Administrative official.

For the purpose of administering the plan and agreement provided for in this division, the city clerk shall be the official who shall make all required reports, keep all records, and be responsible for the administration of such plan and agreement on behalf of this city, and any and all notices and communications from the state agency to this city with respect to such plan and agreement shall be addressed to the city clerk.
(Code 1975, § 2-238)

Secs. 2-338--2-345. Reserved.

ARTICLE VII.

DISCLOSURE POLICY*

* **Editors Note:** Ordinance No. 04-15, § 1, adopted August 5, 2004, repealed the former Art. VII, §§ 2-346--2-350, and enacted a new Art. VII as set out herein. The former Art. VII pertained to similar subject matter and derived from Ord. No. 95-15, §§ 1--5, 8-1-95; Ord. No. 01-12, § 1, 8-7-01.

Sec. 2-346. Declaration of policy.

The proper operation of government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the government 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.

(Ord. No. 04-15, § 1, 8-5-04)

Sec. 2-347. Conflicts of interest.

(a) All elected and appointed officials as well as employees of the city must comply with RSMo 105.454 on conflicts of interest as well as any other state law governing official conduct.

(b) Any member of the board of aldermen or of any other board or commission of the city who has a "substantial or private interest" in any measure, bill, order or ordinance proposed or pending before such board or commission must disclose that interest to the secretary or clerk of such board or commission and such disclosure shall be recorded in the appropriate journal of the board or commission. Substantial or private interest is defined as ownership by the individual, his spouse or his dependent children, whether singularly or collectively, directly or indirectly of:

(1) Ten percent or more of any business entity;

(2) An interest having a value of \$10,000.00 or more; or

(3) The receipt of a salary, gratuity or other compensation or remuneration of \$5,000.00 or more, per year from any individual, partnership, organization or association within any calendar year.

(Ord. No. 04-15, § 1, 8-5-04)

Sec. 2-348. Disclosure reports.

(a) The mayor and the city clerk and each elected officer of the city shall disclose the following information by May 1 if any such transactions occurred during the previous calendar year:

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

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

If there is no information to report as above by any elected official besides the mayor, no disclosure report need be filed by said elected official.

(b) The mayor and the city clerk also shall disclose by May 1 for the previous calendar year the following information:

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

(2) The name and address of each sole proprietorship that he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent 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 or more of any class of outstanding stock, limited partnership units or other equity interests.

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

(Ord. No. 04-15, § 1, 8-5-04)

Sec. 2-349. Filing of reports.

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

(1) Every person required to file a financial interest statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that, any member of the board of aldermen may supplement the financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement.

(2) Each person appointed to an office for which the filing of financial disclosure statements is required shall file the statement within 30 days of such appointment or employment.

(b) Financial disclosure reports giving the financial information required in section 2-348 shall be filed with the city clerk and the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

(Ord. No. 04-15, § 1, 8-5-04)

Sec. 2-350. Filing of ordinance.

A certified copy of this article shall be sent to the Missouri Ethics Commission within ten days of passage and approval.

(Ord. No. 04-15, § 1, 8-5-04)

Chapters 3--5

RESERVED

Chapter 6

ADVERTISING*

* **Cross References:** Alcoholic beverages, ch. 10; amusements, ch. 14; licenses, ch. 62; peddlers, ch. 78; sales, ch. 90; taxicabs and other vehicles for hire, ch. 110.

Sec. 6-1. Posting on property of others, consent required.

Sec. 6-2. Marking on streets, sidewalks prohibited.

Sec. 6-3. Mutilation of signs.

Sec. 6-1. Posting on property of others, consent required.

No person shall post any bills, signs, posters or advertisements on any buildings, fences, poles or any other property, whether public or private, belonging to another without the consent of the owner thereof. A violation of this section shall constitute an offense. (Code 1975, § 3-1)

Sec. 6-2. Marking on streets, sidewalks prohibited.

It shall be unlawful for any person to advertise, or attempt to advertise, by marking or painting on any of the streets or sidewalks within the city. (Code 1975, § 3-2)

Cross References: Streets and sidewalks, ch. 102.

Sec. 6-3. Mutilation of signs.

(a) Except as provided in subsections (b) and (c), it shall be unlawful for any person to tear, deface, mutilate, take down or in any manner destroy any advertisement, legal, public or private notice lawfully posted for public view within the corporate limits.

(b) The owner of the property upon which such advertisement or notice has been posted without his permission may remove the advertisement. The owner of an advertisement or his agent may remove the advertisement.

(c) A public officer or employee acting under legal authority may remove a public notice when the period of the notice has expired. (Code 1975, § 3-3)

Chapter 10

ALCOHOLIC BEVERAGES*

* **Cross References:** Advertising, ch. 6; licenses, ch. 62; offenses, ch. 70; possession of controlled substances, § 70-8; traffic, ch. 114; driving in an intoxicated condition prohibited, § 114-185.

State Law References: Liquor control law, RSMo ch. 311; municipal authority to require a liquor license, RSMo 311.220.

Article I. In General

Sec. 10-1. Definitions.

Sec. 10-2. Sale to certain persons restricted.

Sec. 10-3. Sale by minors.

Sec. 10-4. Hours of sale generally; closed place defined.

Sec. 10-5. Where sale, possession, consumption prohibited.

Sec. 10-6. Beverages sold in original package not to be consumed on premises.

Sec. 10-7. Sale in saloon illegal.

Sec. 10-8. Possession generally.

Sec. 10-9. Purchase, possession by underaged persons.

Sec. 10-10. Misrepresentation of age.

Sec. 10-11. Public drunkenness.

Secs. 10-12--10-35. Reserved.

Article II. Licenses

Sec. 10-36. State and city licenses required.

Sec. 10-37. Contents of application.

Sec. 10-38. Fees for liquor licenses.

Sec. 10-39. Fees for beer licenses.

Sec. 10-40. Authority to issue.

- Sec. 10-41. Issuance.
- Sec. 10-42. Proximity of place of sale to church, school.
- Sec. 10-43. To whom license may issue for original package sales.
- Sec. 10-44. No prorotation of fee.
- Sec. 10-45. Expiration.
- Sec. 10-46. Location restricted.
- Sec. 10-47. Display.
- Sec. 10-48. Restriction on beer license.
- Sec. 10-49. Purchase, sale by licensee restricted.
- Sec. 10-50. Transfer prohibited.
- Sec. 10-51. Revocation.
- Sec. 10-52. Refunds.
- Sec. 10-53. Default of payment of fine.
- Sec. 10-54. City marshal to keep record of complaints against licensees.
- Sec. 10-55. Relationship to state law.
- Sec. 10-56. Penalty provisions.
- Sec. 10-57. Territorial effect.

ARTICLE I.

IN GENERAL

Sec. 10-1. Definitions.

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:

Alcoholic beverage means all alcohol for beverage purposes; alcoholic, spirituous, vinous, fermented, malt or other liquors, including 3.2 percent alcohol by weight; beer or combination of liquors, a part of which is spirituous, vinous or fermented; and all preparations or mixtures for beverage purposes. This term shall include all liquor and malt beverages governed under RSMo chs. 311 and 312.

Intoxicating liquor means any alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume, except for nonintoxicating beer as defined in RSMo 312.010. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter, but subject to inspection as provided by RSMo 196.365 through 196.455.

Nonintoxicating beer means 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 by volume and not exceeding 3.2 percent by weight.

Person means any person, partnership or corporation as defined and classified under the provisions of RSMo chs. 311 and 312.

(Ord. No. 91-13, § 1, 10-15-91)

Cross References: Definitions and rules of construction generally, § 1-2.

State Law References: Intoxicating liquor defined, RSMo 311.020; nonintoxicating beer defined, RSMo 312.010.

Sec. 10-2. Sale to certain persons restricted.

No person or his employees shall sell or supply alcoholic beverages or permit alcoholic beverages to be sold or supplied to an habitual drunkard or to any person who is under or apparently under the influence of alcohol. Alcoholic beverages shall not be given, sold or otherwise supplied to any person under the age of 21 years, but this shall not apply to the supplying of alcoholic beverages under such purposes or to the administering of such alcoholic beverages to such person by a physician.

(Ord. No. 91-13, § 1, 10-15-91)

State Law References: Sale to certain persons restricted, RSMo 311.310, 312.400.

Sec. 10-3. Sale by minors.

Persons 18 years of age or older may sell or handle liquor or beer under the following conditions:

(1) Except as provided in subsections (2) and (3) of this section, no person under the age of 21 years shall sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer.

(2) In any place of business licensed in accordance with RSMo 311.200 or 312.040, where at least 50 percent of the gross sales made consists of goods, merchandise or commodities other than intoxicating liquor or nonintoxicating beer in the original package, persons at least 18 years of age may stock, arrange displays, accept payment for, and sack for carryout intoxicating liquor or nonintoxicating beer. Delivery of intoxicating liquor or nonintoxicating beer away from the licensed business premises cannot be performed by anyone under the age of 21 years.

(3) In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor or nonintoxicating beer but which does not sell intoxicating liquor or nonintoxicating beer at retail, persons at least 18 years of age may be employed and their duties may include the handling of intoxicating liquor or nonintoxicating beer for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail.

(4) Persons 18 years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or nonintoxicating beer in places of business which sell food for consumption on the premises if at least 50 percent of all sales in such places consists of food; provided that nothing in this section shall authorize persons under 21 years of age to mix or serve across the bar intoxicating beverages or nonintoxicating beer.

(Ord. No. 91-13, § 1, 10-15-91)

State Law References: Sale by minors, RSMo 311.300.

Sec. 10-4. Hours of sale generally; closed place defined.

(a) No person having a license under this chapter, nor any employee of such person, except as provided in subsections (c), (d) and (e) of this section, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor or nonintoxicating beer in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. If the person has a license to sell intoxicating liquor or nonintoxicating beer by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor or nonintoxicating beer by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor or nonintoxicating beer is dispensed; and where such licenses are held by restaurants whose business is conducted in any room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep securely locked during the hours and on the days specified in this section all refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor or nonintoxicating beer is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of an offense. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor or nonintoxicating beer during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of RSMo 311.180 to a person licensed to sell the intoxicating liquor or nonintoxicating beer at retail.

(b) Any person licensed pursuant to RSMo 311.200 shall not be permitted to sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, any intoxicating liquor or nonintoxicating beer in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday.

(c) Any person who holds a state license as a restaurant bar under the provisions of RSMo 311.097 may sell alcoholic beverages between the hours of 11:00 a.m. Sunday and midnight on Sunday by the drink at retail for consumption on the premises if the person has a city license therefor under section 10-38(10) of this chapter. Any person who holds a state license as an amusement place under the provisions of RSMo 311.098 may sell alcoholic beverages between the hours of 1:00 p.m. and midnight on Sunday by the drink at retail for consumption on the premises if the person has a city license therefor under section 10-38(10) of this chapter.

(d) When December 31 falls on a Sunday, any person having a license to sell alcoholic beverages by the drink may be open for business and sell alcoholic beverages by the drink under the provisions of his license on that day after 1:00 p.m. and until the time which would be lawful on another day of the week.

(e) Any person who holds a state license for sale on Sunday at retail of intoxicating liquors in connection with a drugstore, a cigar and tobacco store, a general merchandise store, a confectionery or delicatessen, or a store having and keeping goods valued at least \$1,000.00, exclusive of fixtures and intoxicating liquors, may be open for business on Sunday during the hours of operation allowed under state law, provided that such person has a separate city license therefore under the provisions of section 10-38(11) of this Chapter.

(Ord. No. 91-13, § 1, 10-15-91; Ord. No. 93-8, § 1, 7-20-93)

State Law References: Sales between certain hours, RSMo 311.290, 312.410.

Sec. 10-5. Where sale, possession, consumption prohibited.

It shall be unlawful within the limits of the city for any person to sell, offer for sale or give away, drink, consume, expose to view or possess any alcoholic beverage of any kind whatsoever in or upon any public street, boulevard, avenue, alley or in any public conveyance, or in any motor vehicle or any other vehicle, or in or upon any schoolgrounds or parks, or in any public buildings which are open to the public without a fee, or in any outdoor public place whatsoever; provided that peaceful transportation of such alcoholic beverage is not hereby prohibited if such alcoholic beverage is in its original package, appropriately wrapped; and further provided that this section shall not apply to any premises which is licensed by the state supervisor of liquor control for the sale of alcoholic beverages in the original package or for sale of alcoholic beverages by the drink at retail for consumption upon the premises.

(Ord. No. 91-13, § 1, 10-15-91; Ord. No. 93-8, § 4, 7-20-93)

Sec. 10-6. Beverages sold in original package not to be consumed on premises.

Alcoholic beverages may be sold at retail in the original package upon a license granted by the director of liquor control, and such alcoholic beverages so sold shall not be consumed upon the premises where sold, nor may the original package be opened on the premises of the vendor unless such vendor possesses a license from the state supervisor of liquor control for sale of alcoholic beverages by the drink at retail for consumption on the premises.

(Ord. No. 91-13, § 1, 10-15-91)

Sec. 10-7. Sale in saloon illegal.

(a) Nothing in this chapter shall be so construed as to authorize the sale of alcoholic beverages in the original package, or at retail by the drink for consumption on the premises where sold, in a place commonly known as a saloon, and no license shall be issued for the sale of alcoholic beverages at retail by the drink for consumption on the premises where sold, in a place commonly known as a saloon, nor in any building or room where there are any blinds, screens, swinging doors, booths, curtains, or any other thing in such building or room that will obstruct or obscure the interior of such room from public view, and no alcoholic beverages shall be displayed in such room above the level of the bar, and no bar or counter arrangement shall be made to display any alcoholic beverage containers above the level of the bar.

(b) It shall be unlawful for the holder of any license authorized by this chapter for the sale of alcoholic beverages at retail by the drink for consumption on the premises where sold, to keep or secrete or to allow any other person to keep or secrete in or upon the premises described in such license any alcoholic beverage other than the kind of alcoholic beverage expressly authorized to be sold by such licensee.

(Ord. No. 91-13, § 1, 10-15-91)

State Law References: Sale of liquor by drink, RSMo 311.090 et seq.; unauthorized liquors prohibited on premises licensed for sale by drink, RSMo 311.330.

Sec. 10-8. Possession generally.

No person shall possess alcoholic beverages within the city unless such alcoholic beverage has been acquired from some person holding a duly authorized license to sell such alcoholic beverage under this chapter, or unless such alcoholic beverage is had or kept with written or printed permission of the state supervisor of liquor control, and the package in which the alcoholic beverage is contained and from which it is taken for consumption has, while containing such alcoholic beverage, been labeled and sealed with the official seal prescribed under state law and the regulations made thereunder; provided, that nothing in this chapter shall be so construed as to prevent the natural fermentation of juices in the home for the exclusive use of occupants of the home and their guests.

(Ord. No. 91-13, § 1, 10-15-91)

Sec. 10-9. Purchase, possession by underaged persons.

Any person under the age of 21 years who purchases or attempts to purchase, or has in his possession, any intoxicating liquor or nonintoxicating beer shall be guilty of an offense.

(Ord. No. 91-13, § 1, 10-15-91)

State Law References: Possession by underaged persons, RSMo 311.325, 312.407.

Sec. 10-10. Misrepresentation of age.

Any person of the age of 17 years and under the age of 21 years who shall represent that he has attained the age of 21 years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, shall, upon conviction, be deemed guilty of an offense. Any person under the age of 17 years who shall represent that he has attained the age of 21 years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, may be considered a delinquent child and may be dealt with in accordance with the provisions of RSMo ch. 211.

(Ord. No. 91-13, § 1, 10-15-91)

State Law References: Misrepresentation of age, RSMo 311.320.

Sec. 10-11. Public drunkenness.

A person who appears to be incapacitated or intoxicated may be taken by a police officer to the person's residence, to any available treatment service, or to any other appropriate local facility which may, if necessary, include the city jail, for custody, for not to exceed 12 hours.

(Ord. No. 91-13, § 1, 10-15-91)

Secs. 10-12--10-35. Reserved.

ARTICLE II.

LICENSES*

* **Cross References:** Licenses, ch. 62.

State Law References: Municipal authority to license, RSMo 311.220, 312.140.

Sec. 10-36. State and city licenses required.

(a) It shall be unlawful for any person to manufacture, brew, distill, sell or distribute alcoholic beverages without first having a license from the state supervisor of liquor control authorizing such manufacture, brewing, sale or exposure for sale or distribution in compliance with the terms of RSMo chs. 311 and 312.

(b) It shall be unlawful for any person to manufacture, brew, distill, sell or distribute alcoholic beverages without first obtaining a license from the board of aldermen of the city which authorizes such manufacture, brewing, sale or exposure for sale or distribution in compliance with the terms of this chapter.

(Ord. No. 91-13, § 1(4-24), 10-15-91)

State Law References: Intoxicating liquor license required, RSMo 311.050; municipal intoxicating liquor license, RSMo 311.220; nonintoxicating beer permit required, RSMo 312.030; municipal nonintoxicating beer license, RSMo 312.140.

Sec. 10-37. Contents of application.

(a) Application for a license for the manufacture, blending or sale of alcoholic beverages under the provisions of this article shall be made in writing to the city clerk. Such application shall contain:

- (1) The name of the applicant, his age, residence, and the length of time he has resided in the state;
- (2) A particular description of the place where he intends to manufacture, blend or sell alcoholic beverages;

(3) A statement as to his former business, his former residence and whether or not he has ever been convicted of a misdemeanor or a felony;

(4) The name and location of all other businesses owned in whole or in part which possess licenses from the state supervisor of liquor control;

(5) The name and address of any lessor of the premises to be licensed; and

(6) Any other information required by order of the board of aldermen.

(b) The application for a license under this article shall be made under oath and subscribed and sworn to by the applicant. There shall be attached to such application a photocopy of:

(1) Each state, county and federal license for the sale, manufacture or distribution of alcoholic beverages possessed by such person for the premises to be licensed. If a state, county or federal license cannot be obtained to photocopy prior to the issuance of a city license, it shall be provided within 30 days after issuance of the city license or the city license shall be subject to revocation.

(2) A picture of the building on the side of the main entrance of the premises to be licensed.

(3) The applicant's state motor vehicle operator's license.

(4) The written consent of adjoining property owners if such consent is required by section 10-42.

(c) The application for a license under this article shall be made on forms to be prepared by the city clerk, and no license shall be issued until the sum prescribed by this article shall be paid to the city collector and his receipt is presented with the application for a license. An application for license renewal shall be submitted at least 30 days prior to July 1 in order to provide city officials with time for review of the application.

(Ord. No. 91-13, § 1(4-26), 10-15-91)

Sec. 10-38. Fees for liquor licenses.

Before any license shall be issued for the manufacture or sale of intoxicating liquors in the city, the applicant therefor shall pay to the city a fee as follows:

(1) For the manufacturing, brewing, distilling or blending of intoxicating liquors:

- a. Containing not more than five percent of alcohol by weight \$300.00
- b. Containing not more than 22 percent of alcohol by weight 150.00
- c. Of all kinds 300.00

(2) For selling to duly licensed wholesalers and soliciting orders for the sale by or through a duly licensed wholesaler of intoxicating liquors:

- a. Containing not more than five percent of alcohol by weight \$75.00
- b. Containing not more than 22 percent of alcohol by weight 150.00
- c. Of all kinds 375.00

(3) For the sale by a wholesaler to a person duly licensed to sell at retail intoxicating liquor:

- a. Containing not more than five percent of alcohol by weight 75.00
- b. Containing not more than 22 percent of alcohol by weight 150.00

c. Of all kinds 375.00

(4) For the manufacture of quantities not exceeding 75,000 gallons of light wines containing not more than 18 percent of alcohol by weight exclusively from grapes, berries, and other fruits and vegetables grown in the state, for each 500 gallons or fraction thereof 7.50

A manufacturer under this subsection may sell directly to the consumer at the winery in lots not exceeding five gallons, and to duly licensed wholesalers and retailers in lots of five gallons or more.

(5) For a microbrewery as defined in RSMo 311.195, for each 100 barrels 7.50

(6) For the sale at retail of intoxicating liquors in connection with a drugstore, a cigar and tobacco store, a general merchandise store, a confectionery or delicatessen, or a store having and keeping goods valued at least \$1,000.00, exclusive of fixtures and intoxicating liquors, (without a wine tasting permit authorized under RSMo 311.294) 75.00

For the sale at retail of intoxicating liquors in connection with a drugstore, a cigar and tobacco store, a general merchandise store, a confectionery or delicatessen, or a store having and keeping goods valued at least \$1,000.00, exclusive of fixtures and intoxicating liquors, (with a wine tasting permit authorized under RSMo 311.294) \$112.50

(7) For the sale of malt liquor by grocers and other merchants and dealers in the original package direct to consumers, but not for resale 22.50

This license shall also permit the sale of nonintoxicating beer in the original package direct to consumers, but not for resale.

(8) For the sale by the drink at retail for consumption on the premises of intoxicating liquor by a "resort" as defined by RSMo 311.095 including a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than \$75,000.00 per year with at least \$50,000.00 of such gross receipts from nonalcoholic sales \$450.00

This license shall include the sale of intoxicating liquor in the original package.

(9) For the sale by the drink at retail for consumption on the premises of intoxicating liquor by a charitable, fraternal, religious, service or veteran's organization which has obtained an exemption from federal income taxation as provided in RSMo 311.090 \$450.00

This license shall include the sale of intoxicating liquor in the original package.

(10) For the sale by the drink at retail for consumption on the premises of intoxicating liquor on Sunday as allowed and authorized by separate license by the state supervisor of liquor control, an additional license fee over and above the license fees established in this section in the amount of \$300.00

(11) For the sale at retail on Sunday of intoxicating liquors in connection with a drugstore, a cigar and tobacco store, a general merchandise store, a confectionery or delicatessen, or a store having and keeping goods valued at least \$1,000.00, exclusive of fixtures and intoxicating liquors, as allowed by a separate license from the state supervisor of liquor control, an additional license fee over and above the other license fees established in this section in the amount of \$300.00.

(12) For the sale in a restaurant only of malt liquor and light wines containing not in excess of 14 percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, pursuant to Section 311.090.1. RSMo (does not include sales in original package) \$352.50

(13) For the sale by the drink at retail for consumption on the premises of only malt liquor and light wines containing not in excess of 14 percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by a charitable,

fraternal, religious, service or veteran's organization which has obtained an exemption from federal income taxation as provided in RSMo 311.090.2 \$352.50

The license fees described in this section are computed at 1.5 times the license fee paid to the state director of revenue pursuant to RSMo 311.220. In the event of an increase in the license fee as a result of a change in state law, the foregoing license fees shall be automatically altered to an amount equal to 1.5 times the new state license fee.

(Ord. No. 91-13, § 1(4-27), 10-15-91; Ord. No. 93-8, § 2, 7-20-93; Ord. No. 95-23, § 1, 11-21-95; Ord. No. 99-13, § 1, 8-3-99)

State Law References: Amount of state fees, RSMo 311.180--311.298; amount charged by city regulated, RSMo 311.220.

Sec. 10-39. Fees for beer licenses.

Before any license shall be issued for the manufacture or sale of nonintoxicating beer in the city, the applicant therefor shall pay to the city a fee as follows:

- (1) For the manufacture and sale by the manufacturer of nonintoxicating beer brewed or manufactured in this state \$375.00
- (2) For the sale by any distributor or wholesaler, other than the manufacturer or brewer thereof 75.00
- (3) For the sale by grocers and other merchants and dealers in the original package direct to consumers, but not for resale 22.50
- (4) For sale to duly licensed wholesalers and soliciting orders for the sale 75.00

The license fees described in this section are computed at 1.5 times the license fee paid to the state director of revenue pursuant to RSMo 311.220. In the event of an increase in the license fee as a result of a change in state law, the foregoing license fees shall be automatically altered to an amount equal to 1.5 times the new state license fee.

(Ord. No. 91-13, § 1(4-28), 10-15-91)

State Law References: Amount of state fees, RSMo 312.100; amount charged by city regulated, RSMo 312.140.

Sec. 10-40. Authority to issue.

The authority to issue any license under the provisions of this article shall be vested solely in the board of aldermen; provided, however, that in case of a tie the mayor may, but shall not be compelled to, vote for the purpose of changing the tie.

(Ord. No. 91-13, § 1(4-29), 10-15-91)

Sec. 10-41. Issuance.

Except as provided in this section, on approval of the application by the board of aldermen and the payment of the license fee as provided in this article, the requested license shall be issued and signed like all other city licenses. No license may be issued for premises located in a residential or limited commercial zoning district even if the premises is a valid nonconforming use under the zoning law. No license may be issued for any premises in violation of any city building, electrical, plumbing or fire prevention code. No license for the sale of alcoholic beverages by the drink at retail for consumption on the premises shall be issued to any person except for premises classified as a resort under RSMo 311.095 and 311.096, or classified as a restaurant bar under RSMo 311.097, or classified as a charitable, fraternal, religious, service or veterans' organization exempt from federal income taxation under RSMo 311.090, or classified as an amusement place under RSMo 311.098.

(Ord. No. 91-13, § 1(4-30), 10-15-91)

Cross References: Buildings, ch. 22; fire protection and prevention, ch. 50; zoning, app. A.

Sec. 10-42. Proximity of place of sale to church, school.

No license shall be granted for the sale or manufacture of alcoholic beverages within 300 feet of any school or church or other building regularly used as a place of religious worship, unless:

- (1) The business for the sale or manufacture of alcoholic beverages was established in its present location before the church or school was so located; or

(2) The applicant for such license has first obtained the consent in writing of the majority of the board of directors of such school, or the consent in writing of the majority of the managing board of such church or place of worship.
(Ord. No. 91-13, § 1(4-31), 10-15-91)

State Law References: Sale prohibited near schools, churches, RSMo 311.080.

Sec. 10-43. To whom license may issue for original package sales.

No license shall be issued for the sale of alcoholic beverages in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drugstore, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery and/or delicatessen store, nor to any such person who does not have and keep in his store a stock of goods having a value according to the invoices thereof of at least \$1,000.00, exclusive of fixtures and alcoholic beverages.

(Ord. No. 91-13, § 1(4-32), 10-15-91)

State Law References: Similar provisions, RSMo 311.200.1.

Sec. 10-44. No proration of fee.

For a license issued under the provisions of this article during the license year, the person obtaining the license shall be required to pay the entire annual fee of the year for which the license shall be issued and no proration of such annual fee shall be allowed.

(Ord. No. 91-13, § 1(4-33), 10-15-91)

Sec. 10-45. Expiration.

All licenses issued under this article shall expire on July 1 following their date of issuance.

(Ord. No. 91-13, § 1(4-34), 10-15-91)

Sec. 10-46. Location restricted.

Every license issued under the provisions of this article shall particularly describe the premises in which alcoholic beverages may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of alcoholic beverages at any place other than that described therein.

(Ord. No. 91-13, § 1(4-35), 10-15-91)

Sec. 10-47. Display.

The holder of a license issued under this article shall keep such license continuously posted in a conspicuous place on the premises for which such license is granted and immediately adjacent to the license issued by the state supervisor of liquor control.

(Ord. No. 91-13, § 1(4-36), 10-15-91)

Sec. 10-48. Restriction on beer license.

It shall be unlawful for any person holding only a 3.2 percent alcohol by weight beer license to have or to keep in or upon his premises any other alcoholic beverages, of any kind or character, other than 3.2 percent alcohol by weight beer brewed or manufactured by the method, in the manner, and of the ingredients required by the laws of the state; or to sell, or offer for sale, in or upon such premises any alcoholic beverage other than 3.2 percent alcohol by weight beer.

(Ord. No. 91-13, § 1(4-37), 10-15-91)

Sec. 10-49. Purchase, sale by licensee restricted.

It shall be unlawful for any person in this city holding a license issued under this article to purchase any alcoholic beverage from any person other than the brewer, manufacturer or distiller thereof, or a regularly licensed wholesaler or distributor of alcoholic beverages. It shall also be unlawful for any licensee to sell or offer for sale any beer, malt liquor or other alcoholic beverage purchased in violation of the provisions of the laws of the state.

(Ord. No. 91-13, § 1(4-38), 10-15-91)

Sec. 10-50. Transfer prohibited.

No license issued under this article shall be transferable or assignable to another person or premises.
(Ord. No. 91-13, § 1(4-39), 10-15-91)

Sec. 10-51. Revocation.

Any license issued under this article may be revoked by the board of aldermen for the violation, by the licensee, his agents or employees, of any applicable provision of this Code of Ordinances, federal law, state law or city ordinance, rule or regulation. Prior to such revocation, however, such licensee shall be given ten days' written notice of the meeting at which the board of aldermen shall consider such revocation; and such licensee shall have the right to appear thereat, with counsel and witness in his behalf.
(Ord. No. 91-13, § 1(4-40), 10-15-91)

Sec. 10-52. Refunds.

In the case of the revocation of any license or forfeiture of any license granted and issued under the terms of this article, the city shall in no event return any part of the license fee paid for such license.
(Ord. No. 91-13, § 1(4-41), 10-15-91)

Sec. 10-53. Default of payment of fine.

Whenever any person is convicted of any offense under this chapter and a pecuniary penalty is imposed, or any order under this chapter requires payment of a sum of money by a person, the court, judge or justice, upon its conviction or order, after adjudging payment of such penalties with cost, may order and adjudge that in default of payment of such penalty forthwith, such penalty or sum of money shall be levied by execution and sale of the goods and chattels of such person.
(Ord. No. 91-13, § 1(4-42), 10-15-91)

Sec. 10-54. City marshal to keep record of complaints against licensees.

The city marshal shall keep in a separate bound record book a report of all complaints received by his department relating to the violations of this chapter or the violation of any other provisions of the Code of Ordinances or the violation of state or federal criminal laws occurring upon premises subject to a license under this chapter. The report format shall be indexed to show each licensed premises separately and each complaint in chronological order. A synopsis of the complaint, the actions by his department and the disposition of the complaint shall be noted. Each year in the first regular meeting of the board of aldermen in June the city marshal shall produce such records to the board of aldermen for their review and consideration in ruling on an application for renewal of licenses under this chapter.
(Ord. No. 91-13, § 1(4-43), 10-15-91)

Sec. 10-55. Relationship to state law.

The provisions of this chapter are designed to supplement the provisions of RSMo chs. 311 and 312. In the event of a conflict between the provisions of this chapter and the provisions of RSMo chs. 311 and 312, the provisions of state law shall prevail. The definitions, regulations and procedures set forth by the state supervisor of liquor control shall be utilized in the construction and interpretation of this chapter.
(Ord. No. 91-13, § 1(4-44), 10-15-91)

Sec. 10-56. Penalty provisions.

(a) Any person who shall violate the provisions of section 10-36 shall, upon his first conviction, be sentenced to pay a fine of \$500.00. Each day a violation shall continue shall constitute a separate offense. A second or subsequent conviction shall result in a fine of \$500.00 and/or imprisonment in the city jail for not more than 90 days.

(b) Any person who shall violate section 10-2, 10-9 or 10-10 shall, upon the first conviction, be sentenced to pay a fine of not less than \$100.00 and not more than \$500.00 or be sentenced to imprisonment in the city jail for not more than 90 days, or both.

(c) Any person who shall violate any provision of this chapter for which a specific penalty has not been provided shall, upon conviction, be sentenced to pay a fine of not more than \$500.00 or sentenced to imprisonment in the city jail for not more than 90 days, or both such fine and imprisonment.
(Ord. No. 91-13, § 1(4-45), 10-15-91)

Sec. 10-57. Territorial effect.

The provisions of chapter 10 of this Code, shall apply only within the limits of the city.
(Ord. No. 93-8, § 3, 7-20-93)

Chapters 11--13

RESERVED

Chapter 14

AMUSEMENTS*

* **Cross References:** Advertising, ch. 6; licenses, ch. 62; parks and recreation, ch. 74; zoning, app. A.
State Law References: Power to license, tax and regulate certain businesses and occupations, RSMo 94.270.

Article I. In General

Sec. 14-1. Bond or insurance for amusement rides.
Secs. 14-2--14-25. Reserved.

Article II. Billiard Halls, Poolrooms, Dancehalls, Arcades and Other Amusement Houses

Sec. 14-26. Definitions.
Sec. 14-27. Sunday operation restricted.
Sec. 14-28. Nighttime operation.
Sec. 14-29. Permitting minors to play pool prohibited.

ARTICLE I.

IN GENERAL

Sec. 14-1. Bond or insurance for amusement rides.

No person shall conduct, operate, manage or sponsor any Ferris wheel, merry-go-round or other amusement ride operated for hire or for the purpose of promoting or advertising any trade or business, without first filing with the city clerk a certificate of liability insurance in the amount of at least \$250,000.00, indemnifying the public against damages sustained by reason of the operation of such ride. Such bond or certificate of insurance shall be subject to the approval of the city attorney. This section shall apply to all persons, whether or not a license is required by any other provision of this Code or city ordinance.
(Code 1975, § 5-1)

Secs. 14-2--14-25. Reserved.

ARTICLE II.

BILLIARD HALLS, POOLROOMS, DANCEHALLS, ARCADES AND OTHER AMUSEMENT HOUSES*

* **State Law References:** Pool tables, RSMo ch. 318.

Sec. 14-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arcade means any place of business at which more than four electronic or mechanical arcade or pinball machines are open to the public to play upon.

Billiard hall means any place of business having two or more pool or billiard tables which are open to the public to play upon.

Dancehall means any place of business which charges an admission fee or is part of an arcade and at which dancing is allowed with live or recorded music provided by the management.

Poolroom means any place of business having one pool or billiard table which is open to the public to play upon.
(Code 1975, § 5-13)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 14-27. Sunday operation restricted.

It shall be unlawful to operate a billiard hall or dancehall on Sunday except between the hours of 12:30 p.m. and 6:00 p.m. It shall be unlawful to operate a poolroom or an arcade on Sunday except between the hours of 8:00 a.m. and 11:00 p.m.
(Code 1975, § 5-14)

Sec. 14-28. Nighttime operation.

It shall be unlawful to operate a billiard hall, dancehall, poolroom or arcade between the hours of 12:00 midnight and 6:00 a.m.
(Code 1975, § 5-15)

Sec. 14-29. Permitting minors to play pool prohibited.

It shall be unlawful for any person who operates a billiard hall to suffer or permit any person under the age of 18 years to play pool or billiards without the presence or written permission of the parent or guardian of such minor.
(Code 1975, § 5-16)

Cross References: Curfew for minors, § 70-9.

Chapters 15--17

RESERVED

Chapter 18

ANIMALS AND FOWL*

* **Cross References:** Health and sanitation, ch. 54; licenses, ch. 62; misuse of airport property and facilities, § 66-15; traffic, ch. 114; obedience to traffic officers, § 114-6; zoning, app. A.

State Law References: Regulation of animals, RSMo 79.400; killing or immunizing dog exposed to rabies, RSMo 322.030; animal abuse, RSMo 578.012.

Article I. In General

Sec. 18-1. Animals at large prohibited.

Sec. 18-2. Fowl at large prohibited.

Secs. 18-3--18-25. Reserved.

Article II. Dogs

- Sec. 18-26. Running at large prohibited, rabies immunization required.**
- Sec. 18-27. Impoundment.**
- Sec. 18-28. City dog pound.**
- Sec. 18-29. Notification of owner of dog's impoundment.**
- Sec. 18-30. Redemption of impounded dog by owner.**
- Sec. 18-31. Redemption of impounded dog by person other than owner.**
- Sec. 18-32. Redemption of impounded dog after quarantine; issuance of quarantine order by mayor.**
- Sec. 18-33. Disposition of unredeemed dogs.**

ARTICLE I.

IN GENERAL

Sec. 18-1. Animals at large prohibited.

It shall be unlawful for the owner or any person having under his charge any animal of the species of horse, mule, ass, cattle, swine, sheep or goat to permit such animal to run at large in the city.

(Code 1975, § 6-1)

Sec. 18-2. Fowl at large prohibited.

It shall be unlawful for any person owning, raising or controlling any hens, pullets, roosters, turkey hens, gobblers, ducks, drakes, pigeons, geese or any other poultry or fowl whatsoever to allow or permit such fowl to run or fly at large in the city.

(Code 1975, § 6-2)

Secs. 18-3--18-25. Reserved.

ARTICLE II.

DOGS

Sec. 18-26. Running at large prohibited, rabies immunization required.

No person shall allow or permit any dog under such person's ownership or control to run at large within the city at any time. No person shall allow or permit any dog under such person's ownership or control to run on any public property, street or other right-of-way, or upon the property of another, while in their presence, without securing said dog with a leash which is held by a person over the age of 14 years, or which is affixed to a secure fixed point, in such a manner as to restrain the movement of said dog to the length of said leash. Any unleashed dog in the presence of the person claiming ownership or control found upon public property, streets or rights-of-way, or upon the property of another, may be impounded by city officers as provided by city ordinance in the same manner as dogs found running at large. No person shall keep any dog within the city unless such dog shall have been immunized against rabies by a duly licensed veterinarian.

(Code 1975, § 6-31; Ord. No. 01-17, § 1, 11-6-01)

Sec. 18-27. Impoundment.

(a) Any dog found running at large within the city, and any dog found anywhere within the city which does not have a collar, or which has a collar but does not have a tag showing that such dog has been immunized against rabies, shall be seized and impounded by the city marshal, city police, public works officer or by any other person designated by the mayor. Such dog shall be impounded in the city pound, or at any other place designated by the director of the department of public works.

(b) Any city officer or employee designated as an animal control officer, as specified in subsection (a), shall have the power and authority to go over, across and onto unenclosed private property within the city in pursuit of dogs without collars or tags or dogs running at large for the purpose of seizing and impounding such dogs.

(Code 1975, § 6-32; Ord. No. 99-7, § 1, 5-4-99)

Sec. 18-28. City dog pound.

It shall be the duty of the director of the department of public works to establish and maintain a city dog pound, the expense of such dog pound to be paid by the city.
(Code 1975, § 6-33; Ord. No. 99-7, § 1, 5-4-99)

Sec. 18-29. Notification of owner of dog's impoundment.

If any dog is impounded under the provisions of this article, the city marshal shall cause the owner of such dog to be notified thereof, if the owner is known. If the owner is not known, the public works director shall post a notice in writing at the city police station, including on such notice the day and hour the dog was taken up and an accurate description of the dog.
(Code 1975, § 6-34; Ord. No. 99-7, § 1, 5-4-99)

Sec. 18-30. Redemption of impounded dog by owner.

(a) At any time within 72 hours after the impounding of any dog, unless there exists a quarantine, the owner of such dog may recover the dog by paying to the treasurer the following fees:

- (1) First redemption \$ 25.00
- (2) Second redemption 50.00
- (3) Third and later redemptions 100.00

(b) If the dog impounded under this article is not wearing a collar with proof of current immunization against rabies attached thereto, the owner shall not be entitled to possession of his dog until he first provides proof of such immunization to the public works director or, if the dog was not immunized before being taken up, the owner shall have the dog immunized at the city pound before recovering the dog.
(Code 1975, § 6-35; Ord. No. 99-7, § 1, 5-4-99)

Sec. 18-31. Redemption of impounded dog by person other than owner.

If the owner of any dog impounded under this article fails to redeem his dog within 72 hours (or within ten days in the event of quarantine), any other person may redeem such dog and be the lawful owner of such dog thereafter, provided that such person pays the fees and provides the immunization required by this article.
(Code 1975, § 6-36; Ord. No. 99-7, § 1, 5-4-99)

Sec. 18-32. Redemption of impounded dog after quarantine; issuance of quarantine order by mayor.

Whenever rabies becomes prevalent in the city, the mayor shall, according to the necessity of the case, issue a quarantine order, in accordance with RSMo 322.040. During the time any such quarantine order is in effect, any dog taken up shall be impounded for not less than ten days. In such event no dog may be recovered by the owner, or by any other person, unless the ten-day period has passed and the animal does not then exhibit symptoms of rabies. No dog shall be destroyed before the end of the ten-day period if such quarantine order is in effect.
(Code 1975, § 6-37; Ord. No. 99-7, § 1, 5-4-99)

Sec. 18-33. Disposition of unredeemed dogs.

All dogs not redeemed by their owner or by some other person as provided by this article within seven days after being taken up (or such longer period as provided by this article in the event of a quarantine) shall be killed by some humane means and the carcass buried.
(Code 1975, § 6-38; Ord. No. 99-7, § 1, 5-4-99)

Chapters 19--21

RESERVED

Chapter 22

BUILDINGS*

* **Cross References:** Issuance of alcoholic beverage licenses, § 10-41; electricity, ch. 46; fire protection and prevention, ch. 50; licenses, ch. 62; planning and development, ch. 82; zoning officer, powers, § 82-3; plumbing, ch. 86; sewers, ch. 94; streets and sidewalks, ch. 102; house numbering, § 102-96 et seq.; taxation, ch. 106; utilities, ch. 118; zoning, app. A; floodplain management, app. C.

State Law References: Authority to adopt certain technical codes by reference, RSMo 67.280.

Article I. In General

Sec. 22-1. Fire limits established.

Sec. 22-2. Registration fees for vacant and unsafe structures.

Secs. 22-3--22-25. Reserved.

Article II. Building Code

Sec. 22-26. Code adopted.

Sec. 22-27. Modifications.

Sec. 22-28. Enforcement.

Sec. 22-29. Penalty provisions.

Secs. 22-30--22-50. Reserved.

Article III. Removal of Unsafe Structures

Sec. 22-51. Certain structures deemed public nuisances.

Sec. 22-52. Building commissioner.

Sec. 22-53. Enforcement.

Sec. 22-54. Declaration of nuisance and remedial order.

Sec. 22-55. Failure to abate nuisance; hearing.

Sec. 22-56. Effect of order; abatement of nuisance by city; special tax bill.

Sec. 22-57. Violation; penalty.

Sec. 22-58. Insurance proceeds.

Secs. 22-59--22-74. Reserved.

Article IV. Property Maintenance Code

Sec. 22-75. Code adopted.

Sec. 22-76. Modifications.

Sec. 22-77. Enforcement.

Sec. 22-78. Penalty provisions.

ARTICLE I.

IN GENERAL

Sec. 22-1. Fire limits established.

The fire limits of the city are hereby established as follows:

Beginning at the center of the intersection of Plum and Jackson Streets; thence west to the centerline of Grand Street; thence south to the centerline of Spring Street; thence west to the centerline of Lafayette Street; thence south to the centerline of Water Street; thence west to the west city limits; thence south and east along the west and south city limit lines to the centerline of Jackson Street; thence north to the point of beginning.

(Code 1975, § 7-1)

Sec. 22-2. Registration fees for vacant and unsafe structures.

(a) Pursuant to Section 67.399 RSMo, there is hereby established a semiannual registration fee of \$200.00 which shall be charged to the owner of any parcel of residential property improved by a residential structure, or commercial property improved by a structure containing multiple dwelling units, that is vacant, and has been vacant for at least six months, and has been cited by the building official of the city for violations of applicable building and housing codes established by the city and set forth in the Code of Ordinances.

(b) The director of public works, acting as the building official of the city, is hereby designated as the municipal officer to investigate any property that may be subject to the registration fee. The building official shall report his findings and recommendations, and shall determine whether any such property shall be subject to the registration fee. Within five business days after the building official has determined that a parcel of property is subject to the registration fee, the city clerk shall notify by mail the owners of property on which the registration fee has been levied at their last known address according to the records of the city and the county. The property owner shall have the right to appeal the decision of the building official to the Municipal Division of the Circuit Court of Ripley County, Missouri within 30 days of such notification. Absent the existence of any valid appeal or request for reconsideration pursuant to subsection (c) of this section, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the decision of the building official.

(c) Within 30 days after the building official's notification of the property owner, the property owner may complete any improvements to the property that may be necessary to revoke the levy of the registration fee, and then may request a reinspection of the property and a reconsideration of the levy of the registration fee by the building official. If the building official revokes the registration fee, no such assessment shall be made and the matter shall be considered closed. If the building official affirms the assessment of the registration fee, the property owner shall have the right to appeal the reconsideration decision of the building official to the Municipal Division of the Circuit Court of Ripley County, Missouri within 30 days after such decision. Absent the existence of any valid appeal to the municipal court or other court of competent jurisdiction, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the reconsideration decision of the building official.

(d) The registration fee shall be \$200.00 for each period of six months from the date of commencement of said registration charge and shall be added by the city collector to the annual property tax bill of the owner of the property assessed said registration fee. It shall be the duty of the owner of said property to pay said fees as billed by the city collector in full on or before December 31st of each year said registration fees are assessed. Delinquent payments shall result in the same penalty, and pay the same rate of interest, as delinquent property taxes. Any registration fees which are delinquent for a period of one year shall become a lien on the property and shall be subject to foreclosure proceedings in the same manner as delinquent real property taxes. The owner of the property against which the assessment was originally made shall be able to redeem the property only by presenting evidence that the violations of the applicable building and housing codes cited by the building official have been cured and presenting payment of all registration fees and penalties. Upon bona fide sale of the property to an unrelated party said lien shall be considered released and the delinquent registration fee forgiven.
(Ord. No. 99-4, § 3, 3-16-99)

Secs. 22-3--22-25. Reserved.

ARTICLE II.

BUILDING CODE*

* **Editors Note:** Ordinance No. 02-11, § 1, adopted June 18, 2002, repealed article II, §§ 22-26--22-30 and enacted a new article II, §§ 22-26--22-29. Formerly, such article pertained to similar provisions and derived from §§ 7-32--7-36 of the 1975 Code.

Cross References: Electrical inspections, § 46-30.

Sec. 22-26. Code adopted.

That a certain document, three copies of which are on file in the office of the City Clerk of the City of Doniphan, Missouri, being marked and designated as the International Building Code, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Doniphan, Missouri for regulating, controlling and governing building and structures as herein provided in the City of Doniphan, Missouri; and each and all of the regulations, provisions, conditions and terms of such International Building Code, 2000 edition, published by the International Code Council, on file in the office of the City of Doniphan, Missouri are hereby referred to, adopted and made a part hereof as if fully set out in this article.

(Ord. No. 02-11, § 1, 6-18-02)

Sec. 22-27. Modifications.

(a) The provisions of the International Building Code adopted by this article are hereby amended, modified or deleted as follows:

i) The board of adjustment established under the authority of the city's zoning ordinance shall be the appellate body to which appeals from the decisions of the property maintenance official are taken. The practice and procedures in appeal cases shall be governed by sections 82-61 through 82-74 of the Code of Ordinances of the city, except that, where the International Building Code is applicable and not in direct conflict with the foregoing local ordinances, the International Building Code Procedure may be followed.

ii) Sections 101.2, 101.4.2, 101.4.3, and 101.4.7 are deleted.

iii) Section 108.2 Insert Fee Schedule as follows:

For each inspection site regardless of number of visits: \$5.00 for the first 500 square feet in area of building for which permit is requested and \$1.00 for each additional 100 square feet in area of said building.

For each appeal of decision to the board of adjustment, \$100.00.

(Ord. No. 02-11, § 1, 6-18-02)

Sec. 22-28. Enforcement.

The deputy director of the department of public safety in charge of the fire department (otherwise known as the fire chief) shall be the official charged with enforcement of the International Building Code.

(Ord. No. 02-11, § 1, 6-18-02)

Sec. 22-29. Penalty provisions.

Any person who shall violate any of the provisions of the code adopted in this article or who shall fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of adjustment or by a court of competent jurisdiction, within the time fixed therein, shall severally for each and every violation and noncompliance respectively, be guilty of an offense, punishable by imprisonment in the city jail for a term of not more than 90 days or by a fine not to exceed \$500.00, or both such imprisonment and fine, as provided in section 1-8 of this Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of the penalty set out in this section shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. No. 02-11, § 1, 6-18-02)

Secs. 22-30--22-50. Reserved.

ARTICLE III.

REMOVAL OF UNSAFE STRUCTURES*

* **Cross References:** Fire protection and prevention, ch. 50; zoning, app. A.

Sec. 22-51. Certain structures deemed public nuisances.

All buildings or manmade structures within the limits of the city which are:

- (1) In violation of the building code, electrical code, plumbing code, housing code, fire prevention code or other code of the city and which pose an immediate danger to the health, safety and welfare of any person;
- (2) Structurally unsound and subject to collapse;
- (3) Abandoned and not boarded up to prevent entry by children or minors;
- (4) Damaged by fire, storm, vandalism or casualty and which are unfit for normal use or occupancy under the provisions of the city building code;
- (5) In violation of the city fire prevention code; or
- (6) In violation of the city zoning ordinance;

shall be deemed and considered to be public nuisances which are detrimental to the health, safety or welfare of the residents of the city. All such structures or buildings shall be repaired, removed or demolished, as the case may be, pursuant to the provisions of this article and the provisions of RSMo 67.400--67.450 (1978), as amended.
(Code 1975, § 7-50)

Sec. 22-52. Building commissioner.

The city officer in charge of the enforcement of the technical codes of the city shall also be in charge of enforcement of this article and when so acting shall be referred to as the building commissioner.
(Code 1975, § 7-51)

Sec. 22-53. Enforcement.

Whenever the building commissioner shall receive a complaint about, or independently discover, a building or manmade structure which is a public nuisance as defined in section 22-51, he shall investigate the matter. If the building or structure does not appear to constitute a public nuisance he shall take no further action. If, however, the building commissioner finds that the building or structure meets the definition of a public nuisance, he shall cite the owners with a declaration of nuisance and remedial order.
(Code 1975, § 7-52)

Sec. 22-54. Declaration of nuisance and remedial order.

A declaration of nuisance and remedial order shall be substantially in the form attached to Ordinance No. 84-13 as an exhibit. It shall define the nuisance and contain a legal description of the real estate and be signed by the building commissioner. It shall describe the repair, removal or demolition work required to abate the public nuisance and shall give the owners 20 days in which to commence such work and a reasonable time thereafter in which to complete such work. The building commissioner shall cause the declaration of nuisance and remedial order to be served upon the owner, occupant, lessee, mortgagee, agent and all other persons who claim any interest in the real estate, as determined by the deed records of the county. Service of the declaration of nuisance and remedial order shall be by personal service or certified mail service or service by publication. The service of such notice shall be governed by the rules or such service of process as may be authorized by the courts of this state in regular civil actions, and all affidavits, receipts and returns shall be filed with the city clerk.
(Code 1975, § 7-53; Ord. No. 99-4, § 1, 3-16-99)

Editors Note: The declaration of nuisance and remedial order form is available for public inspection in the offices of the city.

Sec. 22-55. Failure to abate nuisance; hearing.

(a) Upon the failure to commence remedial work within 20 days after service of the declaration of nuisance and remedial order, or upon the failure to complete remedial work requested to fully abate the nuisance within the reasonable time specified in the declaration of nuisance and remedial order, the building commissioner shall call a full and adequate hearing on the matter before the board of adjustment, first giving all interested parties at least ten days prior written notice of such hearing. Such notice shall be given by certified mail, restricted delivery, return receipt requested or by publication of notice. The certified mail receipt, return receipt or affidavit of publication shall be filed with the city clerk.

(b) The board or adjustment shall convene the hearing under this section at the time and place specified in the notice to interested parties and the hearing may be adjourned from day to day without further written notice. The board of adjustment shall provide for the services of a certified court reporter to take down all testimony at the hearing and transcribe such testimony. The city shall be represented by its building commissioner and its city attorney. Any other interested party may be present and represented by counsel and all interested parties shall be given the opportunity to present evidence and be heard. The chairman of the board or adjustment shall conduct and control the hearing in a fair and reasonable manner and shall make all rulings on evidentiary matters in accordance with the normal rules of evidence.

(c) At the conclusion of the hearing under this section, if the evidence supports a finding that the building or manmade structure is a nuisance or detrimental to the health, safety and welfare of the residents of the city, the board of adjustment, by majority vote of its members, shall make specific findings of fact, based upon competent and substantial evidence, which show the building or manmade structure to be a nuisance and detrimental to the health, safety and welfare of the residents of the city. Such affirmative findings of fact shall include an order of the board of adjustment to abate the nuisance by repair, demolition or removal of the offending building or manmade structure. If the evidence presented does not support a finding that the building or manmade structure is a nuisance and detrimental to the health, safety and welfare of the residents of the city as defined in section 22-51, the board of adjustment shall, by majority vote, so state and order the proceedings terminated.

(d) Any interested party may appeal from the final decision of the board of adjustment to the county circuit court pursuant to RSMo Chapter 536. Such appeal shall be filed in writing with the Circuit Court of Ripley County, Missouri, and notice of such appeal shall be given to the city clerk in writing within the number of days after the filing of the decision of the board of adjustment with the city clerk as is set forth in Chapter 536, RSMo, or within ten days, whichever is greater.

(e) The board of adjustment shall cause a transcript of the hearing and an original copy of its findings of fact and order, signed by the requisite members, to be filed with the city clerk within a reasonable time after the hearing. The city clerk shall immediately send a copy of the findings of fact to all parties or their attorneys of record. The board of adjustment shall also certify to the city clerk the costs incurred by the city in providing notices and transcription of the hearing.
(Code 1975, § 7-54; Ord. No. 99-4, § 2, 3-16-99)

Sec. 22-56. Effect of order; abatement of nuisance by city; special tax bill.

(a) The order of the board of adjustment to abate the nuisance, as provided by this article, shall be complied with by the owners or interested parties within 20 days after the appeal period has expired.

(b) If the owners or interested parties fail to abate the nuisance as ordered by the board of adjustment within the required period of time, the building commissioner may cause the nuisance to be abated on behalf of the city. The building commissioner may use city employees or contract on behalf of the city with outside contractors to abate the nuisance, provided that all outside contracts shall first be approved by the board of aldermen. The building commissioner, his employees, agents, contractors, subcontractors and their agents and employees may enter upon the real estate where the nuisance exists for the purpose of abating such nuisance.

(c) The cost of whatever repair, demolition or removal is required to abate a nuisance under this article shall be certified by the building commissioner to the city clerk once the nuisance has been abated. The city clerk shall deliver a list of all costs and expenses incurred by the city or its officers in the process of abating the nuisance to the board of aldermen of the city in the form of a special tax bill against the real estate in question. When approved by ordinance of the board of aldermen, the special tax bill shall constitute a lien on the real estate from and after the filing thereof with the city collector. The city collector shall collect such special tax bill in the manner provided by law. If the owner of the real estate requests it, the city collector shall allow such bill to be paid in annual installments, with legal interest, over a period of not more than ten years.
(Code 1975, § 7-55)

Sec. 22-57. Violation; penalty.

Any owner of real estate who purposely fails or refuses to comply with the order of the board of adjustment to abate a nuisance within 30 days after such order is filed with the city clerk shall be deemed guilty of an offense and shall be punished as specified in section 1-8.
(Code 1975, § 7-56)

Sec. 22-58. Insurance proceeds.

(a) If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, and if the covered claim payment is in excess of 50 percent of the face value of the policy covering a building or other structure, then the following procedure shall apply:

(1) The insurer shall withhold from the covered claim payment ten percent of the covered claim payment, and shall pay that amount 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 section. If a special tax bill or assessment is issued by the city for the expenses of demolition of such building as a dangerous building, the monies held by the city shall be applied toward payment of the special tax bill or assessment. If there is any excess, it shall be paid by the city to the insured or as the terms of the policy, including any endorsements thereto, provide.

(2) The city shall release the proceeds and any interest which has accrued on such proceeds received under subsection (a)(1) to the insured or as the terms of the policy and endorsements thereto provide within 30 days after receipt of such insurance monies, unless the city has instituted legal proceedings under the provisions of this article. If the city has proceeded under the provisions of this article, all monies in excess of that necessary to comply with the provisions of this article for the removal of the building or structure, less salvage value, shall be paid to the insured.

(3) The city may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the city shall issue a certificate within 30 days after receipt of proof to permit covered claim payment to the insured without deduction. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this subsection.

(b) No provision of this section shall be construed to make the city a party to any insurance contract.
(Code 1975, § 7-57)

Secs. 22-59--22-74. Reserved.

ARTICLE IV.

PROPERTY MAINTENANCE CODE

Sec. 22-75. Code adopted.

That a certain document, three copies of which are on file in the office of the City Clerk of the City of Doniphan, Missouri, being marked and designated as the International Property Maintenance Code, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Doniphan, Missouri for regulating, controlling and governing building and structures as herein provided in the City of Doniphan, Missouri; and each and all of the regulations, provisions, conditions and terms of such International Property Maintenance Code, 2000 edition, published by the International Code Council, on file in the office of the City of Doniphan, Missouri are hereby referred to, adopted and made a part hereof as if fully set out in this article.

(Ord. No. 01-19, § 1, 11-6-01)

Sec. 22-76. Modifications.

(a) The provisions of the International Property Maintenance Code adopted by this article are hereby amended, modified or deleted as follows:

i) The board of adjustment established under the authority of the city's zoning ordinance shall be the appellate body to which appeals from the decisions of the property maintenance official are taken. The practice and procedures in appeal cases shall be governed by sections 82-61 through 82-74 of the Code of Ordinances of the city, except that, where the International Property Maintenance Code is applicable and not in direct conflict with the foregoing local ordinances, the property maintenance code procedure may be followed.

ii) Section 101.1, Insert "City of Doniphan, Missouri"

iii) Section 103.6, Insert Fee Schedule as follows:

For each inspection site regardless of number of visits \$10.00

For each appeal of decision to the board of adjustment 100.00

iv) Section 303.14, Insert "March 1 through December 1 of each year"

v) Section 602.3, Insert "October 1 through the following May 1 of each year"

vi) Section 602.4, Insert "October 1 through the following May 1 of each year"

(Ord. No. 01-19, § 1, 11-6-01)

Sec. 22-77. Enforcement.

The deputy director of the department of public safety in charge of the fire department (otherwise known as the fire chief) shall be the official charged with enforcement of the International Property Maintenance Code.

(Ord. No. 01-19, § 1, 11-6-01)

Sec. 22-78. Penalty provisions.

Any person who shall violate any of the provisions of the code adopted in this article or who shall fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of adjustment or by a court of competent jurisdiction, within the time fixed therein, shall severally for each and every violation and noncompliance respectively, be guilty of an offense, punishable by imprisonment in the city jail for a term of not more than 90 days or by a fine not to exceed \$500.00, or both such imprisonment and fine, as provided in section 1-8 of this Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of the penalty set out in this section shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. No. 01-19, § 1, 11-6-01)

Chapters 23--25

RESERVED

Chapter 26

CEMETERIES*

* **Cross References:** Administration, ch. 2; health and sanitation, ch. 54; licenses, ch. 62; traffic, ch. 114; zoning, app. A; floodplain management, app. C.

Article I. In General

Sec. 26-1. Definitions.

Sec. 26-2. Name.

Sec. 26-3. Offenses.

Sec. 26-4. Lot prices.

Secs. 26-5--26-30. Reserved.

Article II. Superintendent

Sec. 26-31. Office created.

Sec. 26-32. Scope of duties.

Sec. 26-33. Supervision of grave digging.
Sec. 26-34. Liability for expenses.
Secs. 26-35--26-55. Reserved.

Article III. Perpetual Care Cemetery Fund for Oak Ridge Cemetery

Sec. 26-56. Established.
Sec. 26-57. Prohibited expenditures; penalty for violation.

ARTICLE I.

IN GENERAL

Sec. 26-1. Definitions.

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:

Cemetery or city cemetery means the Oak Ridge Cemetery.

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 26-2. Name.

The cemetery now owned by the city, including all contiguous additions that may be made to such cemetery, shall be known and designated by the name of "Oak Ridge Cemetery."
(Code 1975, § 8-1)

Sec. 26-3. Offenses.

All the provisions of this Code and city ordinances concerning the commission of offenses within the corporate limits of the city shall also extend to the commission of such offenses within the cemetery.
(Code 1975, § 8-2)

Sec. 26-4. Lot prices.

The prices and terms for lots within the city cemetery shall be as set and established by the mayor and board of aldermen from time to time and on file in the office of the city clerk.
(Code 1975, § 8-3)

Secs. 26-5--26-30. Reserved.

ARTICLE II.

SUPERINTENDENT*

* **Cross References:** Administration, ch. 2; officers and employees, § 2-106 et seq.

Sec. 26-31. Office created.

The office of superintendent of the cemetery is hereby created, providing that such office shall neither be an elective office, nor an appointive office unless later provided for by the board of aldermen, but the superintendent of the cemetery shall be employed from time to time by the mayor and board of aldermen for such length of time as they shall see fit, and for such compensation as shall from time to time be designated by the mayor and board of aldermen.
(Code 1975, § 8-15)

Sec. 26-32. Scope of duties.

The care, custody, maintenance, upkeep and control of the cemetery shall be under the complete supervision of the superintendent of the cemetery, subject to the orders of the mayor and board of aldermen.
(Code 1975, § 8-16)

Sec. 26-33. Supervision of grave digging.

It is hereby declared to be unlawful for any person to dig, or cause to be dug or excavated, any grave in the cemetery unless such digging or excavation is under the direct supervision of the superintendent of the cemetery.
(Code 1975, § 8-17)

Sec. 26-34. Liability for expenses.

Under no circumstances shall the city be liable for any expense to the superintendent or any other person for the digging of any grave or any excavation in the cemetery.
(Code 1975, § 8-18)

Secs. 26-35--26-55. Reserved.

ARTICLE III.

PERPETUAL CARE CEMETERY FUND FOR OAK RIDGE CEMETERY*

* **Cross References:** Finances and revenue, § 2-291 et seq.

Sec. 26-56. Established.

(a) There is hereby established a perpetual care cemetery fund for the Oak Ridge Cemetery as a permanent and regular city fund. The city may deposit therein all or a portion of the income derived from the sale of lots in the cemetery. The city and its officers shall deposit in the perpetual care cemetery fund for the Oak Ridge Cemetery all private donations, gifts or bequests given to the city for the purpose of providing care and maintenance of the cemetery; provided, that the city shall not accept any donations, gifts or bequests which are limited to providing care and maintenance only of a particular lot or series of lots in the cemetery. Such monies and funds so placed in the perpetual care cemetery fund for the cemetery shall be invested from time to time in bonds of the United States government or of the state, or may be placed in an interest-bearing account in any bank or savings and loan association which is authorized to do business in this state, so long as the funds so deposited are protected by federal deposit insurance. The income therefrom shall be expended by order of the board of aldermen for the preservation, care, upkeep and adornment of the cemetery and for no other purpose whatsoever. The principal of such perpetual care cemetery fund for the cemetery shall not be encroached upon for any purpose whatsoever or transferred out therefrom except for the purpose of investment as provided in this section. Any income not expended during the city's fiscal year shall be retained and added to principal in the perpetual care cemetery fund for the cemetery.

(b) The city treasurer shall be responsible for the proper investment and accounting for the perpetual care cemetery fund for the Oak Ridge Cemetery.
(Code 1975, § 8-20)

Sec. 26-57. Prohibited expenditures; penalty for violation.

Any city officer who shall intentionally expend the principal of the perpetual care cemetery fund for the Oak Ridge Cemetery as established in section 26-56 or who shall intentionally expend the income from such fund for any purpose other than the preservation, care, upkeep and adornment of the cemetery shall be guilty of an offense.
(Code 1975, § 8-21)

Chapters 27--29

RESERVED

Chapter 30

CIVIL DEFENSE*

* **Cross References:** Administration, ch. 2; fire protection and prevention, ch. 50; health and sanitation, ch. 54; traffic, ch. 114.
State Law References: Civil defense, RSMo ch. 44.

Article I. In General

Sec. 30-1. Emergency operations plan.
Secs. 30-2--30-25. Reserved.

Article II. Local Organization

Sec. 30-26. Created, purpose.
Sec. 30-27. Composition.
Sec. 30-28. Functions.
Sec. 30-29. Appointment of coordinator.
Sec. 30-30. Responsibilities of coordinator.
Sec. 30-31. Personnel.
Sec. 30-32. Mutual aid agreements.
Sec. 30-33. Use of services, equipment, etc.
Sec. 30-34. State may accept federal goods and services on behalf of itself and its subdivisions.
Sec. 30-35. Emergencies--Authority of coordinator.
Sec. 30-36. Same--Waiver of formalities.
Sec. 30-37. Oath.
Sec. 30-38. Office space.

ARTICLE I.

IN GENERAL

Sec. 30-1. Emergency operations plan.

The emergency operations plan for the city is hereby approved and incorporated in this chapter by reference. Copies of such plan are on file in the office of the city clerk.
(Code 1975, § 9-1)

Secs. 30-2--30-25. Reserved.

ARTICLE II.

LOCAL ORGANIZATION

Sec. 30-26. Created, purpose.

There is hereby created the local municipal organization for the preparation and the carrying out of all the emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by enemy attack, in accordance with RSMo ch. 44.
(Code 1975, § 9-16)

Sec. 30-27. Composition.

The civil defense division shall be a component of the department of public safety and shall consist of the civil defense coordinator and such members as may be appointed by such coordinator.
(Code 1975, § 9-17)

Cross References: City marshal and director of public safety, § 2-226 et seq.

Sec. 30-28. Functions.

The local civil defense organization shall perform such civil defense functions within the municipality as shall be prescribed in and by the state civil defense plan and program, prepared by the governor, and such orders, rules, and regulations as may be promulgated by the governor, and in addition shall perform such duties outside the corporate limits as may be required pursuant to any mutual aid agreement with any other public or private agency within or without the state entered into as provided by RSMo 44.090 or the state disaster plan and program.
(Code 1975, § 9-18)

State Law References: Mutual aid agreements, RSMo 44.090.

Sec. 30-29. Appointment of coordinator.

The director of public safety shall, with the consent of the majority of the members of the board of aldermen, appoint a deputy director of the department of public safety with the equivalent civil defense rank of civil defense coordinator. Whenever the ordinances of the city or the laws of the state refer to the civil defense coordinator they shall be construed to refer to the deputy director of public safety appointed to such office by the director of public safety.
(Code 1975, § 9-19)

Sec. 30-30. Responsibilities of coordinator.

The civil defense coordinator shall have such responsibilities for the organization, administration and operation of the civil defense division as may be delegated to him from time to time by the director of public safety or the board of aldermen. The civil defense coordinator shall periodically update the emergency operations plan for the city, as approved by the board of aldermen.
(Code 1975, § 9-20)

Sec. 30-31. Personnel.

The civil defense coordinator may appoint, without compensation, any personnel needed by the local civil defense organization for the proper function of its duties, and may remove such personnel.
(Code 1975, § 9-21)

Sec. 30-32. Mutual aid agreements.

(a) The executive officer of any political subdivision, 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 aid. Such arrangements or agreements shall be consistent with the state disaster plan and program. In time of emergency it shall be the duty of each local organization for civil defense to render assistance in accordance with the provisions of such mutual aid arrangements or agreements.

(b) The civil defense coordinator may assist in negotiation of reciprocal mutual aid agreements between his 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.
(Code 1975, § 9-23)

State Law References: Similar provisions, RSMo 44.090.

Sec. 30-33. Use of services, equipment, etc.

In carrying out the emergency powers under the provisions of this article, the governor and the executive officers or governing bodies of the political subdivisions of the state are directed to use the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of the political subdivisions, 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 state emergency management agency upon request.
(Code 1975, § 9-24)

Sec. 30-34. State may accept federal goods and services on behalf of itself and its subdivisions.

Whenever the federal government or 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 civil defense, the state, acting through the adjutant general, or the political subdivision, through its executive officer with the consent of the governor, may accept the offer and may receive such services, equipment, supplies, materials or funds on behalf of the state or the political subdivision subject to the terms of the offer.

(Code 1975, § 9-25)

State Law References: Similar provisions, RSMo 44.028.

Sec. 30-35. Emergencies--Authority of coordinator.

In the event of an emergency, as defined in RSMo ch. 44, the coordinator of the local civil defense organization 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 or 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 board of aldermen meets at such time, the civil defense coordinator shall act subject to the directions and restrictions imposed by the board of aldermen.

(Code 1975, § 9-26)

Sec. 30-36. Same--Waiver of formalities.

In the event of enemy attack, the mayor or the board of aldermen may waive the provisions of statutes requiring advertisement for bids for the performance of public work or entering into contracts.

(Code 1975, § 9-27)

State Law References: Similar provisions, RSMo 44.080.

Sec. 30-37. Oath.

Each person who is appointed to serve in the organization for civil defense shall, before entering upon his 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 (name of disaster or emergency organization), 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."

The oath shall be filed with the civil defense coordinator.

(Code 1975, § 9-28)

State Law References: Similar provisions, RSMo 44.115.

Sec. 30-38. Office space.

The mayor is authorized to designate space in any municipally owned or leased building for the local civil defense organization as its office.

(Code 1975, § 9-29)

Chapters 31--33

RESERVED

Chapter 34

COURT*

* **Cross References:** Administration, ch. 2; city attorney, § 2-176 et seq.; traffic violations bureau, § 114-71 et seq.
State Law References: Courts in fourth-class cities, RSMo 98.500.

Sec. 34-1. Jurisdiction.

Sec. 34-2. Penalties.

Sec. 34-3. City attorney to prosecute violations.

Sec. 34-4. Traffic violations bureau; court costs.

Sec. 34-5. Bailiff.

Sec. 34-6. Procedure.

Sec. 34-7. Ordinances; supplements.

Sec. 34-8. City probation officer.

Sec. 34-9. Jail board costs.

Sec. 34-10. Service costs.

Sec. 34-11. Police training fund costs.

Sec. 34-1. Jurisdiction.

All violations of the ordinances of the city shall be tried before an associate circuit judge or circuit judge of the county circuit court, in accordance with the procedures established under RSMo ch. 479 (1978).
(Code 1975, § 10-1)

Sec. 34-2. Penalties.

The judge before whom is tried any alleged violation of an ordinance of the city shall be vested with the power and authority to inflict upon any person convicted of such violation such fine or imprisonment as may be necessary, not to exceed the provisions established in section 1-8 or in other penalty provisions of this Code.
(Code 1975, § 10-2)

Sec. 34-3. City attorney to prosecute violations.

The city attorney shall prosecute violations of the ordinances of the city in the division of the associate circuit judge assigned by statute or court rule to hear violations of the ordinances of the city.
(Code 1975, § 10-3)

Sec. 34-4. Traffic violations bureau; court costs.

Pursuant to RSMo 479.050 (1978), it is requested that the circuit court provide by circuit court rule for the establishment of a traffic violations bureau to be operated by the regular division clerk available to the associate circuit judge assigned to hear ordinance violations. If a traffic violations bureau is established by the court, the clerk shall collect costs of \$10.00 in addition to any fines imposed.
(Code 1975, § 10-4)

Sec. 34-5. Bailiff.

The city marshal or his designated representative shall be the bailiff of the judge hearing violations of the ordinances of the city, and shall attend each session of court as requested by the judge.
(Code 1975, § 10-5)

Cross References: City marshal, § 2-226 et seq.

Sec. 34-6. Procedure.

The practice and procedure of RSMo ch. 479 (1978) and the provisions of the supreme court rules or the local rules of the circuit court shall be applicable to all cases involving violations of the ordinances of the city.
(Code 1975, § 10-6)

Sec. 34-7. Ordinances; supplements.

The city clerk shall deliver to the judge hearing violations of the ordinances of the city or to the division clerk assisting such judge a certified copy of all of the existing ordinances of the city which may be prosecuted before such judge. The city clerk shall supplement such copies with certified copies of all future ordinances adopted by the board of aldermen within ten days after passage and approval.

(Code 1975, § 10-7)

Sec. 34-8. City probation officer.

The city marshal, by and with the consent of the board of aldermen, may appoint a city police officer to perform additional duties as a probation officer for the municipal division of the county circuit court in all cases brought by the city in such court in which defendants are placed upon supervised probation by the court. Any police officer appointed as city probation officer shall have the additional duty to supervise the probation of any defendant in a city case placed upon supervised probation by the court in such manner as may be directed by the court. The city marshal may remove any city probation officer at will.

(Code 1975, § 10-8)

Sec. 34-9. Jail board costs.

In addition to all other costs chargeable by state law or city ordinance against a defendant found guilty by the judge of the municipal division of the circuit court, the sum of \$21.00 shall be assessed against all such defendants for each day they are incarcerated in the city jail to defer the cost of jail board. All jail board costs collected under sections 34-9 and 34-10 shall be paid over to the city treasurer at least monthly for credit to the general revenue fund of the city.

(Code 1975, § 10-9)

Sec. 34-10. Service costs.

In addition to other costs charged by state law or city ordinance, the municipal division of the county circuit court shall assess the sum of \$2.00 for each warrant and \$5.00 for each summons which is returned by city officers showing service of process within the limits of the city, against all defendants found guilty of violating any city ordinance. All such costs collected by the court shall be paid over to the city treasurer at least monthly to be credited to the general revenue fund of the city.

(Code 1975, § 10-10)

Sec. 34-11. Police training fund costs.

In addition to other costs charged by state law or city ordinance, the municipal division clerk of the Circuit Court of Ripley County, Missouri, shall assess the sum of \$3.00 against all defendants, except where the offense is a nonmoving traffic violation or where the charges against a defendant are dismissed, as authorized by RSMo 590.140 (1996 Supp.) for the purpose of providing for police officer training. Two dollars of each such cost assessment shall be transmitted monthly to the city treasurer for deposit into the police training fund. No funds deposited into such police training fund shall be used for any purpose other than the training and education of city police officers as directed by law. One dollar of each such cost assessment shall be transmitted monthly to the Treasurer of the State of Missouri for credit to the Peace Officer Standards and Training Commission Fund as authorized by state law c/o Budget Director, Department of Public Safety, P.O. Box 749 Jefferson City, MO 65102.

(Ord. No. 93-11, § 1, 9-21-93; Ord. No. 96-13, § 1, 11-5-96)

Chapters 35--41

RESERVED

Chapter 42

ELECTIONS*

* **Cross References:** Administration, ch. 2.

State Law References: Election of officers, RSMo 79.030; conduct of elections generally, RSMo ch. 115; municipal elections, RSMo ch. 122.

- Sec. 42-1. Adoption of state law.**
- Sec. 42-2. Election of officers generally.**
- Sec. 42-3. Election of aldermen.**
- Sec. 42-4. Declarations of candidacy.**
- Sec. 42-5. Filing deadlines.**
- Sec. 42-6. City clerk's duties.**
- Sec. 42-7. Wards.**
- Sec. 42-8. Election authority.**
- Sec. 42-9. Results of elections.**
- Sec. 42-10. Sections 42-4--42-6 not to affect qualifications, write-in ballots.**

Sec. 42-1. Adoption of state law.

Except as otherwise provided in this chapter, the general election laws of the state, insofar as such laws are applicable, shall apply to and govern all elections held within the city.

(Code 1975, § 11-1; Ord. No. 92-13, § 1, 12-1-92)

State Law References: Suffrage and elections, RSMo ch. 115 et seq.

Sec. 42-2. Election of officers generally.

(a) There shall be elected by the qualified voters of the city, on the first Tuesday in April of every odd numbered year, a mayor and a city collector, who shall hold their office, when duly qualified, for the term of two years or until their successors are elected and qualified.

(b) There shall be elected by the qualified voters of the city, on the first Tuesday in April, 1993, and every four years thereafter, a city marshal, who shall hold office, when duly qualified, for a term of four years or until a successor is elected and qualified.

(Code 1975, § 11-2)

State Law References: Elective officers, terms, RSMo 79.050.

Sec. 42-3. Election of aldermen.

There shall be elected by the qualified voters of the city, on the first Tuesday in April of every year, one alderman in each ward of the city, who shall hold his office when duly qualified for a term of two years or until his successor is elected and qualified.

(Code 1975, § 11-3)

Sec. 42-4. Declarations of candidacy.

Each candidate for an elective city office shall file a declaration of candidacy with the city clerk. Such declaration shall be in writing and shall state the office sought. If there is a vacancy in the office of two aldermen from the same ward, the declaration shall further show the number of years from the term of office that the candidate is seeking. The declaration shall further state the name, address and voting precinct of the candidate and shall be signed by the candidate with the candidate's normal signature attested by the city clerk.

(Code 1975, § 11-4; Ord. No. 92-13, § 3, 12-1-92)

Sec. 42-5. Filing deadlines.

No declaration of candidacy for a city office at an election shall be accepted by the city clerk before 8:00 a.m. on the 13th Tuesday prior to that election. The city clerk shall accept no further declarations of candidacy or ballot propositions after 5:00 p.m. of the ninth Tuesday prior to the election which is hereby established as the filing deadline.

(Code 1975, § 11-4; Ord. No. 92-13, § 4, 12-1-92)

Sec. 42-6. City clerk's duties.

The city clerk shall publish a notice at least one time in a local newspaper at least 14 weeks prior to every city election which

states the period in which declarations of candidacy for the election will be accepted by the city clerk. Failure to publish such notice shall not, however, invalidate any election. In accordance with state law the city clerk shall prepare a sample ballot listing all of the candidates and propositions to be voted on at the city election in question. The city clerk shall cause each candidate's name to appear on such ballot in the same order in which declarations of candidacy for each office were filed in the office of the city clerk. If two or more candidates for the same city office appear and file their declaration of candidacy at the same time, the city clerk shall determine the order of placement on the ballot by lot. Such lottery shall be conducted during a public session of the next meeting of the board of aldermen and the results thereof shall be included in the minutes of such meeting. A copy of the sample ballot shall be forwarded to the election authority as required by state law.
(Code 1975, §§ 11-4, 11-5; Ord. No. 92-13, § 5, 12-1-92)

Sec. 42-7. Wards.

(a) The city shall be and is hereby divided into two wards, as follows:

(1) *Ward 1.* All that part of the city that lies west of a line described as follows shall comprise and be known as Ward 1: Commence at a point on the south city limits where the same intersects the centerline of Missouri Highway 142; thence northerly with the centerline of Missouri Highway 142 to the centerline of Jackson Street; thence northerly with the centerline of Jackson Street to the centerline of Spring Street; thence westerly with the centerline of Spring Street to the centerline of Walnut Street; thence northerly to the centerline of the alley in block 2 of Cox's Addition; thence easterly with the centerline of such alley to the centerline of Jackson Street; thence northerly with the centerline of Jackson Street to the centerline of Summit Street; thence easterly with the centerline of Summit Street to the centerline of Elm Street; thence northerly with the centerline of Elm Street, and with a north extension of the centerline of Elm Street to the north city limits.

(2) *Ward 2.* All that part of the city lying east of the line described in subsection (a)(1) shall comprise and be known as Ward 2.

(b) Two aldermen shall be elected from each ward by the qualified voters thereof; one alderman from each ward shall be elected in years ending with an even number, and one alderman from each ward shall be elected in years ending with an odd number.
(Code 1975, § 11-7)

Sec. 42-8. Election authority.

The clerk of the county commission shall be the election authority and shall have exclusive jurisdiction over the conduct of all city elections in accordance with state law. The city clerk shall transmit all declarations of candidacy and other documentation required by state law to the election authority at the time specified by state election law. The election authority shall have exclusive jurisdiction in the conduct of the election.
(Code 1975, § 11-8; Ord. No. 92-13, § 2, 12-1-92)

Sec. 42-9. Results of elections.

Upon receipt by the city clerk of the certified results of the election from the election authority, the city clerk shall cause a copy thereof to be filed with the minutes of the next regular meeting of the board of aldermen.
(Code 1975, § 11-8; Ord. No. 92-13, § 6, 12-1-92)

Sec. 42-10. Sections 42-4--42-6 not to affect qualifications, write-in ballots.

The provisions of sections 42-4--42-6 shall not in any way impair or limit the qualifications of persons seeking city office as they are established by state law, nor shall they in any way affect the rights of voters to write in candidates of their choice.
(Code 1975, § 11-6)

Chapters 43--45

RESERVED

Chapter 46

ELECTRICITY*

* **Cross References:** Buildings, ch. 22; fire protection and prevention, ch. 50; licenses, ch. 62; planning and development, ch. 82; plumbing, ch. 86; utilities, ch. 118; subdivisions, app. B.

Article I. In General

Secs. 46-1--46-25. Reserved.

Article II. Electrical Code

Sec. 46-26. Adopted.

Sec. 46-27. Enforcement.

Sec. 46-28. Board of adjustment and appeals.

Sec. 46-29. Permits required.

Sec. 46-30. Inspections.

Sec. 46-31. Electrical standards in addition to N.E.C. specifications.

Sec. 46-32. Penalty provisions.

ARTICLE I.

IN GENERAL

Secs. 46-1--46-25. Reserved.

ARTICLE II.

ELECTRICAL CODE*

* **State Law References:** Authority to adopt certain technical codes by reference, RSMo 67.280.

Sec. 46-26. Adopted.

The National Electrical Code published by the National Fire Protection Association, and in particular the 1993 Edition thereof, three copies of which are on file in the office of the city clerk, is adopted and incorporated in this article by reference, as fully as if set forth at length in this article and shall be controlling within the limits of the city except as in this article modified, amended or deleted.

(Code 1975, § 12-16; Ord. No. 93-13, § 1, 10-5-93)

Sec. 46-27. Enforcement.

The city zoning officer created by the zoning ordinance shall be the building official charged with enforcement of the National Electrical Code and this article. He shall keep all records required by such code and conduct all inspections required thereunder or appoint a deputy to conduct such inspections.

(Code 1975, § 12-17)

Sec. 46-28. Board of adjustment and appeals.

The board of adjustment established under the authority of the zoning ordinance shall be the appellate body to which appeals from the decisions of the building official are taken. The practice and procedures in appeal cases shall be governed by sections 82-61 through 82-74 of this Code.

(Code 1975, § 12-18)

Sec. 46-29. Permits required.

No person shall install new conductors or modify existing conductors without first obtaining a building permit from the building official. Applications for a building permit shall be made in writing to the building official on the same type of form and

include the same permit fee as used to apply for a building permit under the provisions of the building code of the city. All permits not granted by the building official within five business days of filing shall be deemed denied for the purposes of taking an appeal to the board of adjustment. No permit shall be required in advance for any electrical work performed personally by the owner or occupant of any residential property unless such work adds new circuits or is on the service entrance or circuit box. All such owner or occupant work shall, however, comply in all other respects with the provisions of this article.

(Code 1975, § 12-19)

Sec. 46-30. Inspections.

The building official shall inspect or cause to be inspected by a qualified person all work performed under all permits issued pursuant to the electrical code. Such inspection shall be conducted in conjunction with any inspection required under the building code or plumbing code of the city but shall be completed prior to any permanent electrical connection to the utility system.

(Code 1975, § 12-20)

Cross References: Building code, § 22-26 et seq.; plumbing, ch. 86.

Sec. 46-31. Electrical standards in addition to N.E.C. specifications.

In addition to the minimum standards required by the National Electrical Code (N.E.C.) wiring specifications, the following specific requirements (and reminders) shall apply to all electrical work installed in the city:

(1) All wire for 110 or more volt circuits shall be copper and shall be at least 12/2 in size with uninsulated ground. (The uninsulated ground wire shall not be used as a current conductor under any circumstances.) All fittings shall be compatible with copper wire.

(2) All receptacle (convenience) outlets shall be of the grounding type.

(3) All service entrances shall be grounded with a separate, appropriately sized grounding electrode.

(4) Service entrances for single-family dwellings shall be at least three wire, 230 volt, 100 ampacity in size, shall have a main disconnect of matching size, and shall provide for at least 12 branch circuits. (Larger service entrances shall be installed where required by anticipated loads.) Each circuit shall be protected by a circuit breaker (a double breaker in the case of 230-volt circuits). Circuit breakers shall be no larger than the maximum size appropriate to the size of wire in the circuit. Fused type service entrances are prohibited.

(5) All outside (exterior) and all bathroom outlets shall be protected by ground fault circuit interrupters.

(6) Separate circuits and breakers of appropriate ampacity shall be provided for each range (or cooking top or oven), electric water heater, water pump, sump pump, furnace, air conditioner, washer, electric dryer, disposal, dishwasher and similar fixed equipment. The single outlet on such circuit shall be on or within six feet of the appliance.

(7) Changes or extensions of existing electrical services shall comply with specifications for new work. If the change or extension will result in an increase of 50 percent or more in the number of circuits or in the ampacity of the service, the existing installation shall be inspected, and if it does not meet the minimum standards for new work, it shall be modernized in accordance with N.E.C. wiring specifications before the change or extension is completed.

(8) Such of the foregoing specific provisions as are more restrictive than the minimum standards required by the N.E.C. wiring specifications shall govern. In installing electrical work in the city, electricians shall apply the provisions specified in this section or N.E.C. wiring specifications, whichever is the most restrictive. (In applying N.E.C. wiring specifications, the ordinarily permissive word "should", therein, shall be interpreted to mean the mandatory word "shall", except that the zoning officer may authorize interpreting "should" as permissive in specific circumstances.) The policy of applying the most restrictive standard is intentionally adopted in order to ensure that the greatest possible care is taken to provide for the safety, welfare and property of the inhabitants of the city and of its visitors and guests.

(Code 1975, § 12-21)

Sec. 46-32. Penalty provisions.

Any person who shall violate any of the provisions of the code adopted in this article or who shall fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of adjustment or by a court of competent jurisdiction, within the time fixed in this article, shall severally for each and every violation and noncompliance respectively, be guilty of an offense, punishable as provided in section 1-8 of this Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of the penalty set out in this section shall not be held to prevent the enforced removal of prohibited conditions.
(Code 1975, § 12-22) **Chapters 47--49**

RESERVED

Chapter 50

FIRE PROTECTION AND PREVENTION*

* **Cross References:** Administration, ch. 2; city marshal and director of public safety, § 2-226 et seq.; fire division of the department of public safety, § 2-234; issuance of alcoholic beverage licenses, § 10-41; buildings, ch. 22; removal of unsafe structures, § 22-51 et seq.; civil defense, ch. 30; electricity, ch. 46; health and sanitation, ch. 54; sale of fireworks, § 70-127; parks and recreation, ch. 74; solid waste, ch. 98; utilities, ch. 118.

Article I. In General

Sec. 50-1. False fire alarms.
Secs. 50-2--50-25. Reserved.

Article II. Fire Prevention Code

Sec. 50-26. Code adopted.
Sec. 50-27. Modifications.
Sec. 50-28. Enforcement.
Sec. 50-29. Penalty provisions.
Sec. 50-30. Fire district established.

ARTICLE I.

IN GENERAL

Sec. 50-1. False fire alarms.

Any person who shall intentionally give or make, or cause to be given or made, any false alarm of fire in the city shall be deemed guilty of an offense.
(Code 1975, § 13-1)

Secs. 50-2--50-25. Reserved.

ARTICLE II.

FIRE PREVENTION CODE

Sec. 50-26. Code adopted.

That a certain document, three copies of which are on file in the office of the City Clerk of the City of Doniphan, Missouri, being marked and designated as the International Fire Code, excluding the appendix chapters, as published by the International Code Council, be and is hereby adopted as the code of the City of Doniphan, Missouri for 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 life or property in the occupancy of buildings and premises in the City of Doniphan, Missouri and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such International Fire Code, 2000 edition, published by the International Code Council, on file in the office of the City of Doniphan, Missouri are hereby referred to, adopted and made a part hereof as if fully set out in this article. (Code 1975, § 13-40; Ord. No. 01-16, § 1, 9-19-01)

Sec. 50-27. Modifications.

(a) The provisions of the International Fire Code adopted by this article are hereby amended, modified or deleted as follows:

The Board of Adjustment established under the authority of the city's zoning ordinance shall be the appellate body to which appeals from the decisions of the fire official are taken. The practice and procedures in appeal cases shall be governed by sections 82-61 through 82-74 of the Code of Ordinances of the City, except that, where the International Fire Code is applicable and not in direct conflict with the foregoing local ordinances, the fire code procedure may be followed.

(b) Notwithstanding any other provisions of the International Fire Code relating to liquified petroleum gases, no person shall utilize liquified petroleum gas for heating of residential buildings, apartments or living quarters within the limits of the city.

(c) Notwithstanding any other provisions of the International Fire Code relating to liquified petroleum gases, the fire official may, by written order, require that any fixed liquified petroleum gas container of over 1,000 gallons water capacity be equipped with an emergency water application system.

(d) The owner of any fixed liquified petroleum gas containers of over 1,000 gallons water capacity, at one location, shall submit a detailed emergency procedure manual to the fire official which describes how to seal with potential emergency conditions arising from leakage, fire or explosion. Such emergency procedure manual shall include, but not necessarily be limited to, the following:

- (1) Location and access to emergency valves, shutoff valves and water supply.
- (2) Description of any emergency water application system on the premises.
- (3) Evacuation of nearby buildings.
- (4) Notification of public authorities.
- (5) Shutoff of nearby electric and gas utilities.
- (6) First aid.
- (7) Duties of employees.
- (8) Periodic emergency drills.

No such owner shall store any liquified petroleum gas in such container until the emergency procedures manual has been approved in writing by the fire official.

(e) Notwithstanding any other provisions of the International Fire Code, the owner of every residential structure which is leased or rented to a person or persons other than the owner and which contains more than two separately rented dwelling units shall install a smoke alarm in each dwelling unit. Such smoke alarms shall be the type using 120-volt 60-cycle AC electric outlets and not battery powered smoke alarms. The provisions of this subsection shall apply to existing residential structures as well as new construction.

(f) Notwithstanding any provision of the International Fire Code, the provisions of such code relating to the installation, operation and maintenance of aboveground fuel storage tanks shall not be applicable to the operations of any department or agency of city government or its officers, agents and employees while in the performance of their duties.

(Code 1975, § 13-41; Ord. No. 01-16, § 1, 9-19-01)

Sec. 50-28. Enforcement.

The deputy director of the department of public safety in charge of the fire department (otherwise known as the fire chief) shall be the fire official charged with enforcement of the International Fire Code.

(Code 1975, § 13-42; Ord. No. 01-16, § 1, 9-19-01)

Sec. 50-29. Penalty provisions.

Any person who shall violate any of the provisions of the code adopted in this article or who shall fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of adjustment or by a court of competent jurisdiction, within the time fixed therein, shall severally for each and every violation and noncompliance respectively, be guilty of an offense, punishable as provided in section 1-8 of this Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of the penalty set out in this section shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1975, § 13-44; Ord. No. 01-16, § 1, 9-19-01)

Sec. 50-30. Fire district established.

That the limits referred to in certain sections of the 2000 International Fire Code are hereby established as follows:

ZONE 1

Beginning at the center of the intersection of Apricot and Elm Streets, thence South on Elm Street to the centerline of Summit Street, then East along Summit Street to the centerline of Ball Park Road, thence North along Ball Park Road to the centerline of Apricot Street, thence West along Apricot Street to the centerline of Elm Street and the point of beginning.

ZONE 2

Beginning at the intersection of the centerline of Highway Street and the Eastern limits of the City and run thence Westerly along Highway Street to the centerline of Jackson Street; run thence South along Jackson Street to the centerline of Crescent Street; run thence West along Crescent Street to the centerline of Grand Street; run thence South along Grand Street to the centerline of Page Street; run thence West to the Western limits of the City; run thence Northerly and Easterly along and with the limits of the City back to the point of beginning.

ZONE 3

Beginning at the center of the intersection of U. S. Highway No. 160 and Jefferson Street and run thence East along and with the Southern limits of the City to the centerline of Albert Street; run thence North to the centerline of East Washington Street; run thence East to the centerline of Mound Street; run thence North to the centerline of East Pine Street; run thence West to the centerline of Park Avenue; run thence Northerly to the centerline of Plum Street; run thence West to the centerline of Kegler Street; run thence South to the centerline of Spring Street; run thence West to the centerline of Vine Street; run thence North to the centerline of Cherry Street; run thence West to the centerline of Maple Street; run thence North to the centerline of Young Street; run thence West to the centerline of Lafayette Street; run thence South to the centerline of Water Street; run thence West to the centerline of Willow Street; run thence South to the centerline of Lee Street; run thence due West to the centerline of U. S. Highway No. 160; run thence South to the center of Jefferson Street and the point of beginning.

Section 3204.3.1.1 (limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited):

ZONE 1

Beginning at the center of the intersection of Apricot and Elm Streets, thence South on Elm Street to the centerline of Summit Street, then East along Summit Street to the centerline of Ball Park Road, thence North along Ball Park Road to the centerline of Apricot Street, thence West along Apricot Street to the centerline of Elm Street and the point of beginning.

ZONE 2

Beginning at the intersection of the centerline of Highway Street and the Eastern limits of the City and run thence Westerly along Highway Street to the centerline of Jackson Street; run thence South along Jackson Street to the centerline of Crescent Street; run thence West along Crescent Street to the centerline of Grand Street; run thence South along Grand Street to the centerline of Page Street; run thence West to the Western limits of the City; run thence Northerly and Easterly along and with the limits of the City back to the point of beginning.

ZONE 3

Beginning at the center of the intersection of U. S. Highway No. 160 and Jefferson Street and run thence East along and with the Southern limits of the City to the centerline of Albert Street; run thence North to the centerline of East Washington Street; run thence East to the centerline of Mound Street; run thence North to the centerline of East Pine Street; run thence West to the centerline of Park Avenue; run thence Northerly to the centerline of Plum Street; run thence West to the centerline of Kegler Street; run thence South to the centerline of Spring Street; run thence West to the centerline of Vine Street; run thence North to the centerline of Cherry Street; run thence West to the centerline of Maple Street; run thence North to the centerline of Young Street; run thence West to the centerline of Lafayette Street; run thence South to the centerline of Water Street; run thence West to the centerline of Willow Street; run thence South to the centerline of Lee Street; run thence due West to the centerline of U. S. Highway No. 160; run thence South to the center of Jefferson Street and the point of beginning.

Section 3404.2.9.5.2 (limits in which the storage of Class I and Class II liquids in aboveground tanks is prohibited):

ZONE 1

Beginning at the center of the intersection of Apricot and Elm Streets, thence South on Elm Street to the centerline of Summit Street, then East along Summit Street to the centerline of Ball Park Road, thence North along Ball Park Road to the centerline of Apricot Street, thence West along Apricot Street to the centerline of Elm Street and the point of beginning.

ZONE 2

Beginning at the intersection of the centerline of Highway Street and the Eastern limits of the City and run thence Westerly along Highway Street to the centerline of Jackson Street; run thence South along Jackson Street to the centerline of Crescent Street; run thence West along Crescent Street to the centerline of Grand Street; run thence South along Grand Street to the centerline of Page Street; run thence West to the Western limits of the City; run thence Northerly and Easterly along and with the limits of the City back to the point of beginning.

ZONE 3

Beginning at the center of the intersection of U. S. Highway No. 160 and Jefferson Street and run thence East along and with the Southern limits of the City to the centerline of Albert Street; run thence North to the centerline of East Washington Street; run thence East to the centerline of Mound Street; run thence North to the centerline of East Pine Street; run thence West to the centerline of Park Avenue; run thence Northerly to the centerline of Plum Street; run thence West to the centerline of Kegler Street; run thence South to the centerline of Spring Street; run thence West to the centerline of Vine Street; run thence North to the centerline of Cherry Street; run thence West to the centerline of Maple Street; run thence North to the centerline of Young Street; run thence West to the centerline of Lafayette Street; run thence South to the centerline of Water Street; run thence West to the centerline of Willow Street; run thence South to the centerline of Lee Street; run thence due West to the centerline of U. S. Highway No. 160; run thence South to the center of Jefferson Street and the point of beginning.

Section 3406.2.4.4 (limits in which the storage of Class I and Class II liquids in aboveground tanks is prohibited):

ZONE 1

Beginning at the center of the intersection of Apricot and Elm Streets, thence South on Elm Street to the centerline of Summit Street, then East along Summit Street to the centerline of Ball Park Road, thence North along Ball Park Road to the centerline of Apricot Street, thence West along Apricot Street to the centerline of Elm Street and the point of beginning.

ZONE 2

Beginning at the intersection of the centerline of Highway Street and the Eastern limits of the City and run thence Westerly along Highway Street to the centerline of Jackson Street; run thence South along Jackson Street to the centerline of Crescent Street; run thence West along Crescent Street to the centerline of Grand Street; run thence South along Grand Street to the centerline of Page Street; run thence West to the Western limits of the City; run thence Northerly and Easterly along and with the limits of the City back to the point of beginning.

ZONE 3

Beginning at the center of the intersection of U. S. Highway No. 160 and Jefferson Street and run thence East along and with the Southern limits of the City to the centerline of Albert Street; run thence North to the centerline of East Washington Street; run thence East to the centerline of Mound Street; run thence North to the centerline of East Pine Street; run thence West to the centerline of Park Avenue; run thence Northerly to the centerline of Plum Street; run thence West to the centerline of Kegler Street; run thence South to the centerline of Spring Street; run thence West to the centerline of Vine Street; run thence North to the centerline of Cherry Street; run thence West to the centerline of Maple Street; run thence North to the centerline of Young Street; run thence West to the centerline of Lafayette Street; run thence South to the centerline of Water Street; run thence West to the centerline of Willow Street; run thence South to the centerline of Lee Street; run thence due West to the centerline of U. S. Highway No. 160; run thence South to the center of Jefferson Street and the point of beginning.

Section 3804.2 (limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas):

ZONE 1

Beginning at the center of the intersection of Apricot and Elm Streets, thence South on Elm Street to the centerline of Summit Street, then East along Summit Street to the centerline of Ball Park Road, thence North along Ball Park Road to the centerline of Apricot Street, thence West along Apricot Street to the centerline of Elm Street and the point of beginning.

ZONE 2

Beginning at the intersection of the centerline of Highway Street and the Eastern limits of the City and run thence Westerly along Highway Street to the centerline of Jackson Street; run thence South along Jackson Street to the centerline of Crescent Street; run thence West along Crescent Street to the centerline of Grand Street; run thence South along Grand Street to the centerline of Page Street; run thence West to the Western limits of the City; run thence Northerly and Easterly along and with the limits of the City back to the point of beginning.

ZONE 3

Beginning at the center of the intersection of U. S. Highway No. 160 and Jefferson Street and run thence East along and with the Southern limits of the City to the centerline of Albert Street; run thence North to the centerline of East Washington Street; run thence East to the centerline of Mound Street; run thence North to the centerline of East Pine Street; run thence West to the centerline of Park Avenue; run thence Northerly to the centerline of Plum Street; run thence West to the centerline of Kegler Street; run thence South to the centerline of Spring Street; run thence West to the centerline of Vine Street; run thence North to the centerline of Cherry Street; run thence West to the centerline of Maple Street; run thence North to the centerline of Young Street; run thence West to the centerline of Lafayette Street; run thence South to the centerline of Water Street; run thence West to the centerline of Willow Street; run thence South to the centerline of Lee Street; run thence due West to the centerline of U. S. Highway No. 160; run thence South to the center of Jefferson Street and the point of beginning.

provided, however, that the foregoing limits shall not apply to any existing uses of regulated materials established prior to the adoption of the fire code which preceded the adoption of this ordinance unless said use is proposed to be or is enlarged or substantially altered. The question of whether or not a use is enlarged or substantially altered from a previous existing use shall be made by the fire official,

subject to appeal to the board of adjustment.
(Code 1975, § 13-43; Ord. No. 01-16, § 1, 9-19-01; Ord. No. 02-2, § 1, 3-5-02)

Chapters 51--53

RESERVED

Chapter 54

HEALTH AND SANITATION*

* **Cross References:** Animals and fowl, ch. 18; cemeteries, ch. 26; civil defense, ch. 30; fire protection and prevention, ch. 50; peddlers, ch. 78; plumbing, ch. 86; sewers, ch. 94; solid waste, ch. 98; utilities, ch. 118; subdivisions, app. B.

State Law References: Public health generally, RSMo 71.680 et seq.; health and welfare generally, RSMo ch. 96; Penalty for failure to remove nuisance, 67.398 RSMo.

Article I. In General

Secs. 54-1--54-25. Reserved.

Article II. Offensive Conditions

- Sec. 54-26. Nuisances prohibited.**
- Sec. 54-27. Enumeration.**
- Sec. 54-28. Enforcement.**
- Sec. 54-29. Complaints.**
- Sec. 54-30. Notice to abate.**
- Sec. 54-31. Failure to comply with notice to abate nuisance.**
- Sec. 54-32. Abatement by city.**
- Sec. 54-33. Inspection, right of entry.**

ARTICLE I.

IN GENERAL

Secs. 54-1--54-25. Reserved.

ARTICLE II.

OFFENSIVE CONDITIONS*

* **Editors Note:** Ord. No. 98-2, § 1, adopted May 19, 1998, repealed in its entirety article II and enacted a new article II to read as herein set out. Former article II pertained to similar subject matter. See the Code Comparative Table.

State Law References: Expense of suppression of nuisances paid, RSMo 71.780; abatement of nuisances in fourth class cities, RSMo 79.370, 79.380; Penalty for failure to remove nuisance, 67.398 RSMo.

Sec. 54-26. Nuisances prohibited.

No person shall permit, cause, keep, maintain or do any nuisance or contribute to any nuisance, as defined by the laws of this state, provisions of this Code or the ordinances of the city, or cause or permit to be committed, caused, kept, maintained or done or contribute to the committing, causing, keeping or maintaining any such nuisance within the corporate limits of the city or within one mile of the corporate limits of the city.

(Ord. No. 98-2, § 1, 5-19-98)

Sec. 54-27. Enumeration.

The following are hereby declared, defined and deemed to be nuisances for the purposes of this article; provided, however, that the following shall not be deemed to be exclusive:

- (1) All substances which emit or cause foul, obnoxious, unhealthful or disagreeable odor or effluvia, in the neighborhood where they exist.
- (2) All carcasses of animals remaining exposed for 12 hours after death.
- (3) Any growth of uncultivated weeds, vines, non-ornamental grass or non-ornamental bushes to a greater height than seven inches; provided that this shall not apply to planted and cultivated flowers, ornamental shrubbery or other landscaping or cultivated crops. Fallen trees or fallen tree limbs of more than six inches in diameter shall be considered a nuisance if not removed from the premises within 30 days of falling.
- (4) All slop, foul or dirty water, sewage, filth, solid or liquid waste, trash, refuse, rubbish, or offal discharged in or upon any private lot, street, avenue, sidewalk, alley, park, public square or public enclosure, or allowed to accumulate there, or in a pond or pool, except for such waste in approved containers allowed under the city solid waste ordinances.
- (5) The keeping or allowing to remain on any premises any trees, shrubs or other vegetation infected with fungus or other diseases that will or might spread to other noninfected trees, shrubs or other vegetation.
- (6) All pavements, sidewalks, curbstones, awnings or awning posts permitted to be out of repair.
- (7) All business or professional signs so hung or placed as to interfere in any manner with the passage of pedestrians upon any sidewalk, or hung or suspended over any sidewalk at such a height or in any such manner that they may come in contact with the person or apparel of any pedestrian passing along such sidewalk.
- (8) All goods, boxes, barrels, or other articles, commodities or materials, permitted to remain on the sidewalk or in any gutter.
- (9) Any stable, stall, shed, pen, yard or appurtenance in which any horse, cow, hog, or other animal has been, or shall be kept, in the city, which shall become unclean, filthy and offensive, or that offensive odors or smells arise therefrom, to the injury or annoyance of the public or any inhabitant of the neighborhood.
- (10) Any green or unsalted hides kept at any place in the city, the odor from which shall be offensive.
- (11) All shade or ornamental trees upon, or in front, or adjoining any property, the limbs or branches of which hang so as to interfere with motor vehicles passing along any street or pedestrians passing along any sidewalk.
- (12) Any butcher shop, soap factory, tannery, packing house, brewery or distillery, or other premises of any character within the limits of this city, which shall be kept so as to cause an offensive smell, or which shall be detrimental to the health of the citizens.
- (13) Any lumber not piled or stacked at least 12 inches above the ground, and any building demolition debris, concrete debris, rocks, bricks, tin, steel, or other construction or building materials not incorporated into a permitted structure left on any lot zoned for residential use for a period in excess of 60 days.
- (14) On real estate zoned for residential use, any car or truck which is not currently licensed for operation on the highways of the state or any car or truck which is not fully operational, or any car part or truck part, including tires, unless such cars or trucks, or parts thereof, are inside of a garage building.
- (15) Any flammable material which violates the fire protection code.
(Ord. No. 98-2, § 1, 5-19-98; Ord. No. 04-2, § 1, 3-2-04)

Sec. 54-28. Enforcement.

The code enforcement officer of the department of public safety, shall have general supervision over the public health and

shall see that the laws and ordinances in relation thereto are observed and enforced, and for that purpose he is authorized and empowered to authorize and require any employee or law enforcement officer to enter into and examine premises as provided in this article and ascertain the condition thereof so far as the health may be affected by it and to declare and abate nuisances as in this article or by law or ordinance provide.

(Ord. No. 98-2, § 1, 5-19-98; Ord. No. 02-20, § 1, 10-1-02)

Sec. 54-29. Complaints.

It shall be the duty of the code enforcement officer of the department of public safety to make a complaint of any and all nuisances coming to his knowledge, and to strictly enforce the provisions of this article.

(Ord. No. 98-2, § 1, 5-19-98; Ord. No. 02-20, § 1, 10-1-02)

Sec. 54-30. Notice to abate.

Whenever the code enforcement officer of the department of public safety shall ascertain or have knowledge that a nuisance exists in or upon any house, building, lot or premises within the city or within one-half mile of the corporate limits of the city, he shall, in writing, by personal service, notify the owner or person occupying or having possession and control of such house, building, lot or premises to abate or remove such nuisance within a time to be specified in such notice which shall not be more than seven days after receipt of the notice by the owner; provided, however, that when the owner of the property is a nonresident of the city and no person occupies, possesses or controls such building, lot or premises, notice may be served on such owner by certified U. S. mail, return receipt requested, deliverable to addressee only.

(Ord. No. 98-2, § 1, 5-19-98; Ord. No. 02-20, § 1, 10-1-02)

Sec. 54-31. Failure to comply with notice to abate nuisance.

Any person who shall be notified to abate a specified nuisance who shall fail, neglect or refuse to obey and comply with the provisions of such notice within the time therein specified shall be deemed guilty of an offense. For the first offense relating to a specific nuisance, the defendant shall be fined \$50.00. For the second and subsequent offenses relating to a specific nuisance, the defendant shall be sentenced to pay a fine of not more than \$500.00, or sentenced to imprisonment for a period of not more than 90 days, or by a sentence of both such fine and imprisonment. The code enforcement officer of the department of public safety shall give a citation of violation to any person who shall violate the provisions of this section, which said citation of violation shall be served upon the defendant in person or by regular U.S. mail. For a violation denominated as a first offense, the defendant may avoid filing of formal charges in the Doniphan Municipal Division of the Circuit Court by paying the \$50.00 fine at the city hall to the city clerk or city collector within ten days of the date of the notice was served. If the \$50.00 fine is not paid within said ten-day period, the code enforcement officer of the department of public safety shall forward the citation of violation to the city attorney for filing in the Doniphan Municipal Division of the Circuit Court. For a violation denominated as a second or subsequent offense, the code enforcement officer of the department of public safety shall forward the citation of violation to the city attorney for filing with the Doniphan Municipal Division of the Circuit Court immediately after service upon the defendant.

(Ord. No. 98-2, § 1, 5-19-98; Ord. No. 02-20, § 1, 10-1-02; Ord. No. 04-14, § 1, 7-20-04)

Sec. 54-32. Abatement by city.

If the owner or person occupying or having possession and control of any premises upon which a nuisance exists in violation of this article does not abate such nuisance within the time stated in the notice to abate such nuisance, city officials and employees may enter upon such premises and abate the nuisance. The costs and expenses of such abatement by the city shall, when certified in writing by the city clerk, like taxes, be a first lien on the property affected thereby until paid, and shall be added to the annual real estate tax bill on the property or assessed as a special tax bill, at the option of the city collector. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall also be deemed a personal debt against the owner until paid.

(Ord. No. 98-2, § 1, 5-19-98)

Sec. 54-33. Inspection, right of entry.

The code enforcement officer of the department of public safety or any police officer of the city may enter any structure or portion thereof, or any lot or place, for the purpose of inspection of conditions affecting the health and sanitation of the city and the inhabitants thereof, upon securing permission or consent from the owner or occupant thereof. If the code enforcement officer of the

department of public safety or any police officer of the city shall believe that any unhealthful or insanitary condition or other enumerated nuisances shall exist upon any private premises within the city and the owner or occupant thereof shall refuse permission to enter thereupon for the purposes of inspection, then the code enforcement officer of the department of public safety or police officer of the city shall state in writing the facts upon which such belief is based and the exact nature and scope of the proposed inspection and present such facts to the board of aldermen for its consideration. If concurred in by the board of aldermen, then a search warrant permitting investigation of the specific matter shall be requested from a court of competent jurisdiction and the investigation and inspection shall be carried out under the direction of the code enforcement officer of the department of public safety or city marshal pursuant to said search warrant.

(Ord. No. 98-2, § 1, 5-19-98; Ord. No. 02-20, § 1, 10-1-02) **Chapters 55--60**

RESERVED

Chapter 61

LAW ENFORCEMENT

Article I. In General

Secs. 61-1--61-25. Reserved.

Article II. Police Department

Sec. 61-26. Police training requirements; certification.

ARTICLE I.

IN GENERAL

Secs. 61-1--61-25. Reserved.

ARTICLE II.

POLICE DEPARTMENT

Sec. 61-26. Police training requirements; certification.

All newly hired peace officers shall be required to have no less than 470 hours of training and certification by the department of public safety prior to their employment by the city.

(Ord. No. 93-12, 10-5-93; Ord. No. 97-8, § 1, 6-17-97)

State Law References: Basic training requirements, RSMo 590.105(1); employment requirements of peace officers, RSMo 590.105(4).

Chapter 62

LICENSES*

* **Cross References:** Advertising, ch. 6; alcoholic beverages, ch. 10; alcoholic beverage licenses, § 10-36 et seq.; amusements, ch. 14; animals and fowl, ch. 18; buildings, ch. 22; cemeteries, ch. 26; electricity, ch. 46; peddler's permit, § 78-31 et seq.; plumbing, ch. 86; sales, ch. 90; solid waste collection permits, § 98-91 et seq.; taxation, ch. 106; taxicabs and other vehicles for hire, ch. 110; zoning, app. A.

State Law References: License taxation in fourth class cities, RSMo 94.230 et seq.

Sec. 62-1. Required.

Sec. 62-2. Application for license.

Sec. 62-3. Fee imposed.

Sec. 62-4. Disposition of receipts.

Sec. 62-5. Issuance of business license.

Sec. 62-6. Location restricted.

Sec. 62-7. Duration.

Sec. 62-8. Display.

Sec. 62-9. Transfer.

Sec. 62-10. Suspension; revocation.

Sec. 62-1. Required.

No person shall engage in any occupation, business or calling defined in RSMo 94.270 unless he obtains a license for such occupation, business or calling as provided in this article.

(Code 1975, § 16-1)

Sec. 62-2. Application for license.

Any person desiring to enter into or carry on any business, trade or calling listed in RSMo 94.270 within the city shall first make application to the city clerk for a license to do so, giving such information in writing as may be requested by the city clerk relative to the applicant's proposed activities.

(Code 1975, § 16-2)

Sec. 62-3. Fee imposed.

Before any license shall be issued under this chapter, the applicant therefor shall pay a fee as determined by the board of aldermen from time to time and on file in the office of the city clerk.

(Code 1975, § 16-3)

Sec. 62-4. Disposition of receipts.

All monies derived from the collection of licenses and license taxes under the provisions of this chapter shall be paid into the general revenue fund of the city.

(Code 1975, § 16-4)

Sec. 62-5. Issuance of business license.

Any license applied for under the provisions of this chapter shall be issued only upon compliance by the applicant therefor with all applicable provisions of this Code, state law or city ordinances, rules and regulations. No license shall be issued to any applicant:

(1) Until a Missouri Sales Tax License Number or Exemption Certificate issued by the Missouri Director of Revenue for said business is submitted by the applicant to the city clerk; and

(2) Until the applicant provides proof of insurance coverage or a certificate of self insurance providing coverage of the applicant's employees under the provisions of the Workmen's Compensation Laws of the State of Missouri, or until the applicant certifies in writing that the applicant is or will be exempt from the requirements of RSMo Ch. 287, and describing the reason for such exemption.

(Code 1975, § 16-5; Ord. No. 93-14, § 1, 10-5-93)

Sec. 62-6. Location restricted.

No license granted under the provisions of this chapter shall authorize the holder thereof to transact business under such license at more than one place in the city at the same time.

(Code 1975, § 16-6)

Sec. 62-7. Duration.

Every license issued under this chapter shall be valid for one year following the issuance thereof.

(Code 1975, § 16-7)

Sec. 62-8. Display.

Every license issued under this chapter shall be displayed by the licensee in a conspicuous place in his place of business, readily visible to his customers. If the licensee has no fixed place of business, he shall carry his license at all times when he is engaged in his business within the city.

(Code 1975, § 16-8)

Sec. 62-9. Transfer.

No license issued under the provisions of this chapter or any other provision of this Code or city ordinance shall be transferable or assignable.

(Code 1975, § 16-9)

Sec. 62-10. Suspension; revocation.

Any license issued under the provisions of this chapter may be suspended or revoked by the board of aldermen for the violation by the licensee of any provision of this Code, state law or city ordinance, rule or regulation.

(Code 1975, § 16-10)

Chapters 63--65

RESERVED

Chapter 66

MUNICIPAL AIRPORT*

* **Editors Note:** Ord. No. 01-20, § 1, adopted Dec. 4, 2001, repealed §§ 66-1--66-15 in their entirety. Further, said ordinance provided for the inclusion of 66-1--66-11 to read as herein set out. Formerly, said repealed sections pertained to similar subject matter. See the Code Comparative Table.

Cross References: Administration, ch. 2; traffic, ch. 114.

Sec. 66-1. Established; name.

Sec. 66-2. Airport manager; budget.

Sec. 66-3. Airport fund.

Sec. 66-4. Rules and regulations.

Sec. 66-5. Permit--Required for commercial use of airport.

Sec. 66-6. Reserved.

Sec. 66-7. Permit--Insurance.

Sec. 66-8. Same--Fees.

Sec. 66-9. Other fees and charges.

Sec. 66-10. When fees payable; revocation of permit; disposition of fees.

Sec. 66-11. Penalty for misuse of airport property and facilities, violation of rules and regulations.

Sec. 66-1. Established; name.

The city shall establish, control and manage a municipal airport subject to the applicable statutes, rules and regulations of the state and the United States of America. The name of the airport shall be the Doniphan Municipal Airport.

(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-2. Airport manager; budget.

(a) The mayor, with the approval of the board of aldermen, shall from time to time appoint an airport manager. The airport manager so selected shall have control and management of the facilities of the Doniphan Municipal Airport and all property belonging to or comprising such airport, and shall maintain and operate the runways, buildings and grounds in an efficient and businesslike manner. The airport facilities shall be operated and maintained in accordance with applicable rules and regulations of the Federal Aviation Administration and any agreements in effect with the Federal Aviation Administration as the representative of the United States of America.

(b) In May of each year the manager shall adopt a budget for the airport fund and transmit such budget to the budget officer of the city for inclusion in the annual city budget ordinance. The annual budget shall be drawn so that the first priority shall be the payment of general liability insurance coverage for the airport and its operations as assessed by the city clerk.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-3. Airport fund.

The airport manager shall cause all money, revenue, rents and profits derived from the Doniphan Municipal Airport and the operation thereof to be deposited in the airport fund under the control of the city treasurer. The airport fund shall be used only for airport and aviation purposes. It shall be the duty of the airport manager to keep books of account showing accurate entries of the receipts and expenditures of the airport fund in such manner as to enable such records to be understood and investigated, and to preserve in the city's files the approved vouchers for all its expenditures. The airport manager shall provide the board of aldermen with an annual report showing money received by the airport fund, the source from whom received and a detailed itemized statement of all money expended, to whom paid and for what purposes.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-4. Rules and regulations.

The airport manager may prepare rules and regulations for the operation of the municipal airport, which rules and regulations shall be submitted to the board of aldermen for adoption by resolution of the board of aldermen. Copies of such rules and regulations shall be kept on file with the city clerk and open for public inspection.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-5. Permit--Required for commercial use of airport.

Every person operating aircraft from the Doniphan Municipal Airport for hire or for profit or who shall engage in any commercial pursuit thereon, and all government agencies using the airport as a permanent base of operations, shall first procure a permit from the airport manager based upon application therefor duly made out by any such person upon blanks furnished by the airport manager. The permittee must also obtain any and all permits required by the technical codes of the city for the type or types of uses intended by the permittee.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-6. Reserved.

Sec. 66-7. Permit--Insurance.

Any commercial permittee under this chapter shall, upon request of the airport manager, file with the airport manager a copy of liability insurance covering such operator and his aircraft. Such liability shall cover public liability and property damage in amounts determined to be sufficient by the airport manager.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-8. Same--Fees.

The airport manager may establish, by rule or regulation, an annual permit fee for every commercial or governmental permit issued by the city, provided that such permit fees shall be uniform in application with respect to similar classifications of commercial users. Such permit fees shall be in addition to other fees and charges established by the airport manager.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-9. Other fees and charges.

The airport manager may, by rule or regulation, establish and charge such other fees in addition to the permit fees authorized by section 66-11, for noncommercial use of the airport's facilities as the manager deems appropriate.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-10. When fees payable; revocation of permit; disposition of fees.

All fees to be charged under this chapter shall be paid in advance by the applicant and collected by the airport manager and, upon failure or refusal to pay any such fee or fees, or upon refusal or failure to comply with the rules and regulations and orders of the airport manager duly approved by the board of aldermen or for violations of this chapter, the use of the airport to such person may be denied. The airport manager shall reserve the right to cancel or revoke any permits so issued to any user of the airport for cause. All fees paid under this chapter shall be transmitted to the city treasurer for deposit in the airport fund.
(Ord. No. 01-20, § 1, 12-4-01)

Sec. 66-11. Penalty for misuse of airport property and facilities, violation of rules and regulations.

Any person who shall, without the permission of the airport manager:

- (1) Operate or drive any motor vehicle (other than an airplane), farm implement, machinery, animal team or livestock upon, across, over or along the runways or taxiways located upon the Doniphan Municipal Airport property;
- (2) Place any object or leave any object, other than airplanes, upon the runways or taxiways located upon the Doniphan Municipal Airport property;
- (3) Stand, sit or lie down upon the runways or taxiways located upon the Doniphan Municipal Airport property;
- (4) Intentionally mark, damage, deface, vandalize or destroy any runway, taxiway, building, fence, light fixture or structure operated at the Doniphan Municipal Airport;
- (5) Operate aircraft for commercial purposes without a valid permit issued by the airport board;
- (6) Knowingly violate any rule or regulation relating to the use of airport property promulgated by the airport manager and approved by resolution of the board of alderman; or
- (7) Store or dispense aviation fuel without the express permission of the airport manager,

shall be guilty of an offense and, upon conviction, may be punished as provided in section 1-8.
(Ord. No. 01-20, § 1, 12-4-01) **Chapters 67--69**

RESERVED

Chapter 70

OFFENSES*

* **Cross References:** Alcoholic beverages, ch. 10.

Article I. In General

- Sec. 70-1. Impersonating officers.**
- Sec. 70-2. Obstructing process and resisting officer.**
- Sec. 70-3. Refusing to assist officer.**
- Sec. 70-4. Assault of law enforcement officer.**
- Sec. 70-5. Refusal to perform duties.**
- Sec. 70-6. Escape.**
- Sec. 70-7. False alarms generally.**
- Sec. 70-8. Possession of controlled substances.**
- Sec. 70-8.5. Possession of drug paraphernalia.**
- Sec. 70-9. Curfew for minors.**
- Sec. 70-10. False reports.**
- Secs. 70-11--70-30. Reserved.**

Article II. Offenses Pertaining to Property

Sec. 70-31. Eavesdropping.
Sec. 70-32. Vandalism.
Sec. 70-33. Stealing.
Sec. 70-34. Throwing missiles.
Sec. 70-35. Conspiracy in preventing bids on public contracts.
Sec. 70-36. Trespass.
Sec. 70-37. Vehicular trespass.
Secs. 70-38--70-60. Reserved.

Article III. Offenses Against Public Peace

Division 1. Generally

Sec. 70-61. Assault.
Sec. 70-62. Affrays.
Sec. 70-63. Peace disturbance.
Sec. 70-64. Disturbing meetings.
Sec. 70-65. Unlawful assembly.
Sec. 70-66. Rioting.
Sec. 70-67. Excessive noise from motor vehicle speakers prohibited.
Secs. 70-68--70-75. Reserved.

Division 2. Civil Emergency Curfew

Sec. 70-76. Definitions.
Sec. 70-77. Declaration.
Sec. 70-78. Imposition of curfew.
Sec. 70-79. Restriction of activities.
Secs. 70-80--70-100. Reserved.

Article IV. Offenses Against Public Morals and Decency

Sec. 70-101. Indecent exposure.
Sec. 70-102. Obstructing entrance to buildings.
Secs. 70-103--70-125. Reserved.

Article V. Offenses Against Public Health and Safety

Division 1. Generally

Sec. 70-126. Concealed weapons.
Sec. 70-127. Sale of fireworks.
Sec. 70-128. Discharge of firearms, fireworks prohibited; exception by permit for certain explosives.
Sec. 70-129. Abandonment of airtight or semi-irtight containers.
Secs. 70-130--70-140. Reserved.

Division 2. Distributing Tobacco Products or Rolling Papers to Minors

Sec. 70-141. Distribution of tobacco products to minors prohibited.
Sec. 70-142. Sign to be displayed.
Sec. 70-143. Evidence of age to be required.
Sec. 70-144. Employee liability.
Sec. 70-145. One violation each day.
Sec. 70-146. Possession of tobacco by minors.
Secs. 70-147--70-155. Reserved.

Division 3. Smoking

Sec. 70-156. Definitions.
Sec. 70-157. Prohibited acts.
Sec. 70-158. Duties of person having control of public place.
Sec. 70-159. Designated smoking area.

ARTICLE I.

IN GENERAL

Sec. 70-1. Impersonating officers.

Any person who shall, in this city, without the authority, exercise or attempt to exercise the functions of, or hold himself out to any other person as, an officer of this city or as any law enforcement officer shall be deemed guilty of an offense.

(Code 1975, § 17-1)

State Law References: Similar provisions, RSMo 575.120.

Sec. 70-2. Obstructing process and resisting officer.

When any person shall knowingly and willfully obstruct, resist or oppose any officer of the city in the service or execution of, or in the attempt to serve or execute, any writ, warrant or process, original or judicial, or in the discharge of any other duty in any case, every person so offending shall on conviction be adjudged guilty of an offense.

(Code 1975, § 17-2)

State Law References: Resisting or interfering with arrest, RSMo 575.150; interfering with legal process, RSMo 575.160.

Sec. 70-3. Refusing to assist officer.

Whoever shall refuse or neglect to give aid or assistance to any officer of this city, while such officer is in the discharge of his official duties, after being called upon by such officer for aid or assistance, shall be deemed guilty of an offense.

(Code 1975, § 17-3)

Sec. 70-4. Assault of law enforcement officer.

A person commits the offense of assault of a law enforcement officer if:

- (1) He attempts to cause or recklessly causes physical injury to a law enforcement officer;
- (2) With criminal negligence he causes physical injury to a law enforcement officer by means of a deadly weapon;
- (3) He purposely places a law enforcement officer in apprehension of immediate physical injury;
- (4) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to a law enforcement officer; or

(5) He knowingly causes or attempts to cause physical contact with a law enforcement officer without the consent of the law enforcement officer.

(Code 1975, § 17-4)

State Law References: Assault of law enforcement officer, RSMo 565.081 et seq.

Sec. 70-5. Refusal to perform duties.

Any officer or employee of this city who shall neglect or willfully refuse to discharge any of the duties imposed upon him by the provisions of this Code, any ordinance of this city or any statute of the state shall be deemed guilty of an offense and may be fined not more than \$500.00.

(Code 1975, § 17-5)

Sec. 70-6. Escape.

Any person lawfully detained or imprisoned in the city prison, or held in legal custody of an officer of the city, who shall escape or break from such prison or from such officer shall be deemed guilty of an offense.

(Code 1975, § 17-6)

State Law References: Escape, RSMo 575.195 et seq.; aiding or permitting escape, RSMo 575.230 et seq.

Sec. 70-7. False alarms generally.

It shall be unlawful for any person to intentionally or willfully make or give any alarm or call for aid or help to the police or to any other emergency aid or rescue service, knowing such alarm or call for aid or help to be false or unnecessary.
(Code 1975, § 17-7)

State Law References: False reports, RSMo 575.080.

Sec. 70-8. Possession of controlled substances.

No person shall have in his possession, or upon or about his person, within the corporate limits of the city, any marijuana, hashish, amphetamines, barbiturates, or other controlled substances as defined by RSMo ch. 195.
(Code 1975, § 17-8)

Cross References: Alcoholic beverages, ch. 10.

Sec. 70-8.5. Possession of drug paraphernalia.

No person shall have in his possession, or upon or about his person, within the corporate limits of the city, any rolling papers, pipes, syringes or other instruments or paraphernalia with the intention to use the same for the purpose of ingestion of marijuana, hashish, amphetamines, barbiturates, narcotics or other controlled substances as defined by RSMo ch. 195, in violation of RSMo ch. 195.

(Ord. No. 94-15, § 1, 11-1-94)

Sec. 70-9. Curfew for minors.

(a) *Curfew imposed on certain minors.* It shall be unlawful for any minor under the age of 16 years to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, docks, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, between the hours of 10:00 p.m. and 5:00 a.m. on any day; provided, however, that the provisions of this section shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor.

(b) *Violators delivered to parents or juvenile officer.* Any police officer finding a child violating the provisions of this section shall take such child into custody and deliver him immediately into the custody of his parents, guardian or other adult person having lawful custody of such child and thereafter file a report of such violation to the juvenile officer of the county for further proceedings according to law. If the parents, guardian or adult person having lawful custody of such child cannot be located, the police officer shall deliver such child to the juvenile officer of the county.

(Code 1975, § 17-10; Ord. No. 02-3, § 1, 5-21-02)

Cross References: Permitting minors to play pool, § 14-29.

Sec. 70-10. False reports.

(a) A person commits the offense of making a false report if he 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.

(Ord. No. 96-12, § 1, 10-15-96)

Secs. 70-11--70-30. Reserved.

ARTICLE II.

OFFENSES PERTAINING TO PROPERTY*

* **State Law References:** Robbery, arson, burglary and related offenses, RSMo ch. 569; stealing and related offenses, RSMo ch. 570.

Sec. 70-31. Eavesdropping.

It shall be unlawful for any person within the city, without the permission of the owner thereof, to enter any dwelling house of another or to listen at, prowl about, peep through or look through any door or window thereof for the purpose of hearing or seeing what is happening within such dwelling house.

(Code 1975, § 17-19)

State Law References: Trespass, RSMo 569.140 et seq.

Sec. 70-32. Vandalism.

No person shall commit any act of vandalism by intentionally defacing, marring, discoloring or damaging any property of others, public or private, real or personal, in the city.

(Code 1975, § 17-20)

State Law References: Property damage, RSMo 569.100 et seq.

Sec. 70-33. Stealing.

(a) A person commits the offense of stealing if he appropriates the property or services of another with the purpose to deprive him thereof, either without his 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) That he failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse.

(2) That he 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) That he left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services.

(4) That he surreptitiously removed or attempted to remove his baggage from a hotel, inn or boardinghouse.

(Code 1975, § 17-21)

State Law References: Stealing, RSMo 570.030 et seq.

Sec. 70-34. Throwing missiles.

Every person who shall willfully and maliciously throw any stone, stick or other thing into or at any building, lot, property or vehicle belonging to another shall be deemed guilty of an offense.

(Code 1975, § 17-22)

Sec. 70-35. Conspiracy in preventing bids on public contracts.

Any person who shall conspire or enter into any form of collusion or combination with any other person for the purpose of restricting bids or limiting the number of bidders on any contract in which the city is an interested party, shall be deemed guilty of an offense.

(Code 1975, § 17-24)

State Law References: Restraint of trade, RSMo 416.031.

Sec. 70-36. Trespass.

(a) A person commits the offense of trespass in the first degree if he 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 in the first degree 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.

(c) A person commits the offense of trespass in the second degree if he enters unlawfully upon the real property of another. This is an offense of absolute liability.

(Code 1975, § 17-25)

State Law References: Trespass, RSMo 569.140 et seq.

Sec. 70-37. Vehicular trespass.

(a) *Definitions.* As used in this section, the following words and phrases shall have the following meanings:

Motor vehicle means any motor-driven vehicle which is required to be licensed by the state for operation on the public highways of the state.

Parking lot means any area of privately owned real estate in the city used by the owner for public parking of motor vehicles during normal business hours.

Posted notice means a sign of at least four square feet in area conspicuously posted with the following written notice printed thereon in substantially the following form:

NO PARKING OR STANDING ON THIS PARKING LOT
BETWEEN _____ P.M. AND _____ A.M.

Violators Will Be Ticketed, City Ordinance No. 17-26

The times when parking and standing are prohibited shall be inserted by the owner of the real estate on such notice.

(b) *Parking or standing prohibited.* No person shall stand or park a motor vehicle on a parking lot during such periods of the day as standing or parking may be prohibited by the owner of such parking lot. No person shall be convicted of violating this section unless the owner of such parking lot provides posted notice of the periods in which standing and parking are prohibited.

(c) *Penalty provision.* Any person convicted of a violation of this section shall be sentenced to pay a fine of \$5.00. (Code 1975, § 17-26)

Secs. 70-38--70-60. Reserved.

ARTICLE III.

OFFENSES AGAINST PUBLIC PEACE*

* **State Law References:** Offenses against public order, RSMo ch. 574.

DIVISION 1.

GENERALLY

Sec. 70-61. Assault.

A person commits the offense of assault if:

- (1) He attempts to cause or recklessly causes physical injury to another person;
- (2) With criminal negligence he causes physical injury to another person by means of a deadly weapon;
- (3) He purposely places another person in apprehension of immediate physical injury;
- (4) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or
- (5) He knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

(Code 1975, § 17-37)

State Law References: Assault, RSMo 565.050 et seq.; assault of a law enforcement officer, RSMo 565.081 et seq.

Sec. 70-62. Affrays.

If any two 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 towards each other in any angry or quarrelsome manner or do each other any willful mischief; or if any person shall assault another and strike him in any public place to the terror or disturbance of others, the person or persons so offending shall be deemed guilty of an offense.

(Code 1975, § 17-38)

State Law References: Rioting, RSMo 574.050.

Sec. 70-63. Peace disturbance.

A person commits the offense of peace disturbance if:

- (1) He unreasonably and knowingly disturbs or alarms another person or persons by:
 - a. Loud noise;
 - b. Offensive and indecent language which is likely to produce an immediate violent response from a reasonable recipient;
 - c. Fighting; or
 - d. Creating a noxious and offensive odor.
- (2) He is in a public place or on the private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
 - a. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public or private place.

(Code 1975, § 17-39)

State Law References: Peace disturbance, RSMo 574.010 et seq.

Sec. 70-64. Disturbing meetings.

Whoever shall, within the city, disturb or disquiet any congregation or assembly of persons by making any noise or by loud talking, rude or indecent behavior or by profane discourse within or about their place of assembly, or so near the place as to disturb the

order or solemnity of their meeting, and whoever shall in this city, by loud or boisterous talking, rude or indecent behavior, or willfully extinguishing the lights in any hall or building occupied by an audience or assemblage of persons, or who shall attempt to disturb or break up such audience or assemblage of persons, shall be deemed guilty of an offense.
(Code 1975, § 17-40)

Sec. 70-65. Unlawful assembly.

A person commits the offense of unlawful assembly if he knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal laws of the state or of the United States with force or violence.
(Code 1975, § 17-41)

State Law References: Unlawful assembly, RSMo 574.040.

Sec. 70-66. Rioting.

A person commits the offense of rioting if he knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal laws of the state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of such laws with force or violence.
(Code 1975, § 17-42)

State Law References: Rioting, RSMo 574.050; refusal to disperse, RSMo 574.060; promoting civil disorder, RSMo 574.070.

Sec. 70-67. Excessive noise from motor vehicle speakers prohibited.

No person shall operate an electronic, electrical or pneumatic loudspeaker located in a motor vehicle which is not signaling equipment required by state law within the limits of the city in such a manner as to produce a sound which can be audibly detected by another person who is more than 25 feet from exterior of the vehicle. A recording of audible noise emanating from such a speaker system using a standard cassette audio recording tape shall be prima facie evidence of a violation of this section if the person doing the recording shall testify to the manner of the making of the recording and the distance from the defendant's vehicle when the recording was made. This section shall not apply to any emergency vehicle as defined by state law nor to any vehicle participating in a public parade being supervised by members of the department of public safety.
(Ord. No. 02-19, § 1, 9-17-02)

Secs. 70-68--70-75. Reserved.

DIVISION 2.

CIVIL EMERGENCY CURFEW*

* **Cross References:** Mayor, § 2-136 et seq.

Sec. 70-76. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Civil emergency means:

(1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law.

(2) Any natural disaster or manmade calamity, including flood, conflagration, cyclone, tornado, earthquake or explosion, within the corporate limits of the city resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

Curfew means a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley,

street, highway, public property or vacant premises within the corporate limits of the city, excepting persons officially designated to duty with references to a civil emergency.

(Code 1975, § 17-49)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 70-77. Declaration.

When, in the judgment of the mayor or the acting president of the board of aldermen, a civil emergency is deemed to exist within the city, the mayor or the acting president of the board of aldermen shall forthwith proclaim in writing the existence of such civil emergency.

(Code 1975, § 17-50)

Sec. 70-78. Imposition of curfew.

After the proclamation of a civil emergency by the mayor or acting president of the board of aldermen, the mayor or acting president of the board of aldermen may order a general curfew applicable to such geographical areas of the city or to the city as a whole, as the mayor or acting president of the board of aldermen deems advisable, and applicable during such hours of the day or night as the mayor or acting president of the board of aldermen deems necessary in the interest of the public safety and welfare.

(Code 1975, § 17-51)

Sec. 70-79. Restriction of activities.

After the proclamation of a civil emergency, the mayor or the acting president of the board of aldermen may in the interest of public safety and welfare make any or all of the following orders:

- (1) Order the closing of all retail liquor stores.
- (2) Order the closing of all beer taverns.
- (3) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor or beer is permitted.
- (4) Order the discontinuance of the sale of beer.
- (5) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (6) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.
- (7) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.
- (8) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms or ammunition.
- (9) Issue such other orders as are imminently necessary for the protection of life and property.

(Code 1975, § 17-52)

Secs. 70-80--70-100. Reserved.

ARTICLE IV.

OFFENSES AGAINST PUBLIC MORALS AND DECENCY*

* **State Law References:** Sexual offenses, RSMo ch. 566; prostitution, RSMo ch. 567.

Sec. 70-101. Indecent exposure.

A person commits the offense of indecent exposure if he knowingly exposes his genitals under circumstances in which he knows that his conduct is likely to cause affront or alarm.

(Code 1975, § 17-64)

State Law References: Indecent exposure, RSMo 566.130.

Sec. 70-102. Obstructing entrance to buildings.

Any person who shall obstruct the entrance to any building by sitting or standing in or about such entrance and there remain spending his time, and refuse to move or vacate such place when requested to do so by the owner or occupant of such building or by any police officer of this city, shall be deemed guilty of an offense.

(Code 1975, § 17-75)

Secs. 70-103--70-125. Reserved.

ARTICLE V.

OFFENSES AGAINST PUBLIC HEALTH AND SAFETY*

* **State Law References:** Public safety offenses, RSMo ch. 577.

DIVISION 1.

GENERALLY

Sec. 70-126. Concealed weapons.

Whoever shall, within the city, carry concealed any weapon which could be concealed on or about his person, any dangerous or deadly weapon, or any pistol, revolver, bowie knife, dirk, dagger, razor or knuckles of brass or iron, lead or other metal shall be deemed guilty of an offense.

(Code 1975, § 17-87)

State Law References: Unlawful use of weapons, RSMo 571.030.

Sec. 70-127. Sale of fireworks.

(a) *When permitted.* No person shall offer for sale to individuals at retail any fireworks, as defined at RSMo 320.106, except during the period from June 20th to July 10th and during the period from December 20th to January 5th of each year.

(b) *Permit required; application; fee; inspection of premises.* No person shall offer for sale to individuals at retail any fireworks unless the person has first made application for and received a permit from the city clerk for conducting such business. Application for such permit shall include the name of the seller, the location of the place where the sales are proposed to be made, and such other information as may be deemed necessary by the fire chief. Each application shall be accompanied by a fee of \$10.00 for each sale location. No permit shall be issued unless the fire chief shall have inspected the premises and made a determination that all city ordinances, including zoning ordinances, and the safety requirements specified in RSMo 320.106--320.161 are and will be complied with. If the permit holder shall violate this section, or any other city ordinance (including the zoning ordinance), or the provisions of RSMo 320.106--320.161, inclusive, or any other state law applicable, then the permit shall automatically be void, and further sales shall be prohibited. A permit must be obtained each year.

(c) *Restrictions upon sale location.* Notwithstanding the provisions of any other ordinance or statute, the sale of fireworks shall be prohibited in residential zoning districts. The sale of fireworks shall be prohibited in commercial and industrial zoning districts at all times unless:

- (1) The sale location is at least 500 feet from any petroleum based or gaseous aboveground fuel storage tanks.
- (2) The sale location is at least 50 feet from any commercial establishment which dispenses or sells gasoline or propane fuel to the public.
- (3) There is present on the sale location at least two five-pound capacity ABC class fire extinguishers approved by Underwriters' Laboratories, and four signs printed with the warning, in six-inch lettering, "NO SMOKING WITHIN 50 FEET," displayed on each end of the sale location.

(d) *Smoking on sale premises.* It is hereby declared to be unlawful to smoke any cigarette, cigar or pipe or to intentionally create a spark or open flame within 50 feet of any place of sale of fireworks within the city.

(e) *Separate offenses.* Each sale or day of offering for sale shall constitute a separate offense.
(Code 1975, § 17-87.5; Ord. No. 99-16, § 1, 12-21-99; Ord. No. 02-8, § 1, 6-4-02)

Cross References: Fire protection and prevention, ch. 50; zoning, app. A.

Sec. 70-128. Discharge of firearms, fireworks prohibited; exception by permit for certain explosives.

(a) No person shall fire off, discharge, shoot or explode any rifle, shotgun, handgun or firearm of any other type or description, or any firecracker, rocket, gunpowder or dynamite or any other fireworks or explosive of any description whatsoever, nor shall any person throw any pebble or hard substance of any other description by hand, slingshot, or by other means or any other contrivance or device, except as permitted under this section.

(b) Permits shall be issued by the zoning officer for the purpose of necessary blasting for construction or demolition purposes, or for public fireworks displays, provided that the applicant for such permit provides evidence that the discharge of such explosives or fireworks will not endanger the property or persons of the inhabitants of the city. The zoning officer may impose such restrictions in permits issued as may be necessary for the protection of persons and property, including proof of liability insurance coverage. Permits shall specify the place of use, the day or days (including hours) during which such discharge is to be permitted, and such restrictions as may be imposed. Each application for a permit shall be accompanied by a fee of \$5.00, to be paid by the city treasurer to the zoning officer for his services in connection with the issuance of such permit. The permit shall be signed by the zoning officer, and the original thereof delivered to the applicant, with a copy to be retained by the city clerk.
(Code 1975, § 17-88)

Sec. 70-129. Abandonment of airtight or semi-irtight containers.

(a) A person commits the offense of abandonment of an airtight icebox if he abandons, discards, or knowingly permits to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-irtight container which has a capacity of 1 1/2 cubic feet or more and an opening of 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-irtight 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.
(Code 1975, § 17-89)

State Law References: Similar provisions, RSMo 577.100.

Secs. 70-130--70-140. Reserved.

DIVISION 2.

**DISTRIBUTING TOBACCO PRODUCTS OR ROLLING
PAPERS TO MINORS**

Sec. 70-141. Distribution of tobacco products to minors prohibited.

No person shall sell or distribute any tobacco product or rolling papers to any minor, except that this section shall not apply to the distribution by family members on property that is not open to the public.
(Ord. No. 92-11, § 1, 9-15-92)

Sec. 70-142. Sign to be displayed.

The owner of an establishment at which tobacco products or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products are sold and on every vending machine where tobacco products are sold and on every vending machine where tobacco products are purchased a sign that shall:

(1) Contain in red lettering at least one-half-inch high on a white background the following: "It is a violation of state law for cigarettes or other tobacco products to be sold to any person under the age of 18"; and

(2) Include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal diameter of a surrounding red circle, and the words "Under 18."
(Ord. No. 92-11, § 2, 9-15-92)

Sec. 70-143. Evidence of age to be required.

A person selling tobacco products or rolling papers or distributing tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of 18. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of this section.
(Ord. No. 92-11, § 3, 9-15-92)

Sec. 70-144. Employee liability.

If a sale is made by an employee of the owner of an establishment in violation of this division, the employee shall be guilty of an offense established in section 70-141. If a vending machine is in violation of the sign required by section 70-142, the owner of the establishment shall be guilty of an offense under this division. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense under this division.
(Ord. No. 92-11, § 4, 9-15-92)

Sec. 70-145. One violation each day.

No person shall be liable for more than one violation of this division on any single day.
(Ord. No. 92-11, § 6, 9-15-92)

Sec. 70-146. Possession of tobacco by minors.

It shall be unlawful for any person under the age of eighteen years of age to knowingly purchase, or attempt to purchase, or to possess or attempt to possess, cigarettes, cigarette tobacco, cigarette rolling papers, cigars, pipe tobacco, smokeless tobacco or other tobacco products. In any prosecution of a violation of this section, it shall be a rebuttable presumption that any tobacco products which are encased or enclosed in commercial packaging which labels the contents as including any tobacco products, shall be considered as tobacco products, notwithstanding any lack of laboratory analysis of the product which confirms with reasonable scientific certainty that tobacco is present in the sample.
(Ord. No. 02-4, § 1, 5-21-02)

Secs. 70-147--70-155. Reserved.

DIVISION 3.

SMOKING

Sec. 70-156. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bar or tavern means any licensed establishment which serves liquor on the premises for which not more than ten percent of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere.

Other person in charge means the agent of the proprietor authorized to give administrative directions to and general supervisions of the activities within the public place, workplace or public meeting at any given time.

Proprietor means the party who ultimately controls, governs or directs the activities within the public place, workplace or public meeting, regardless of whether he is the owner or lessor of such place or site. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting. The term "proprietor" shall apply to a corporation as well as an individual.

Public meeting means a gathering in person of members of a governmental body, whether in open or closed session, as defined in RSMo ch. 610.

Public place means any enclosed indoor area used by the general public or serving as a place of work, including but not limited to:

- (1) Any retail or commercial establishment;
- (2) Health care facilities, health clinics or ambulatory care facilities, including, but not limited to, laboratories associated with health care treatment, hospitals, nursing homes, physicians' offices and dentists' offices;
- (3) Any vehicle used for public transportation, including, but not limited to, buses, taxicabs and limousines for hire;
- (4) Restrooms;
- (5) Elevators;
- (6) Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;
- (7) All public areas and waiting rooms of public transportation facilities, including, but not limited to, bus and airport facilities;
- (8) Any enclosed indoor place used for entertainment or recreation, including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas and swimming pools;
- (9) Any other enclosed indoor areas used by the general public, including, but not limited to, corridors and shopping malls.

However, the following areas are not considered a public place:

- (1) An entire room or hall which is used for private social functions, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or other person in charge;
- (2) Limousines for hire and taxicabs, where the driver and all passengers agree to smoking in such vehicle;
- (3) Performers on the stage, provided that the smoking is part of the production;
- (4) A place where more than 50 percent of the volume of trade or business carried on is that of the blending of tobaccos, cigarettes, pipes, cigars or smoking sundries;

(5) Any bar, any tavern, a restaurant that seats less than 50 people, any bowling alley or any billiard parlor, provided such establishment conspicuously posts at least two signs stating that "nonsmoking areas are unavailable";

(6) Private residences; and

(7) Any enclosed indoor arena, stadium or other facility which may be used for sporting events and which has a seating capacity of more than 15,000 persons.

Restaurant means any building, structure or area used, maintained or advertised as or held out to the public to be an enclosure where meals for consideration of payment are made available to be consumed on the premises.

Smoking means possession of burning tobacco in the form of a cigarette, cigar, pipe or other smoking equipment.
(Ord. No. 92-12, §§ 3, 4, 9-15-92)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 70-157. Prohibited acts.

The following shall be offenses under this division in this community, and shall be punishable as provided in section 1-8.

(1) No person shall smoke in a public place or in a public meeting except in a designated smoking area.

(2) No proprietor or other person in charge of a public place or public meeting shall permit, cause, suffer or allow a person to smoke in those areas where smoking is prohibited.

(Ord. No. 92-12, § 1, 9-15-92)

Sec. 70-158. Duties of person having control of public place.

The person having custody or control of a public place or public meeting shall:

(1) Make reasonable efforts to prevent smoking in the public place or public meeting by posting appropriate signs indicating no-smoking or smoking areas and arrange seating accordingly. These signs shall be placed at a height and location easily seen by a person entering the public place or public meeting and not obscured in any way.

(2) Arrange seating and utilize available ventilation systems and physical barriers to isolate designated smoking areas.

(3) Make a reasonable request of persons smoking to move to a designated smoking area.

(4) Allow smoking in designated areas of theater lobbies only.

(Ord. No. 92-12, § 2, 9-15-92)

Sec. 70-159. Designated smoking area.

(a) A smoking area may be designated by persons having custody or control of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation. No public place shall have more than 30 percent of its entire space designated as a smoking area.

(b) A proprietor or other person in charge of a restaurant shall designate an area of sufficient size to accommodate the usual customer demand for nonsmoking areas by the customers or patrons thereof.

(Ord. No. 92-12, § 5, 9-15-92)

Chapters 71--73

RESERVED

Chapter 74

PARKS AND RECREATION*

* **Cross References:** Administration, ch. 2; amusements, ch. 14; fire protection and prevention, ch. 50; planning and development, ch. 82; traffic, ch. 114; zoning, app. A; subdivisions, app. B; floodplain management, app. C.

State Law References: Purchase of parks, RSMo 79.390; parks and recreation generally, RSMo 90.010 et seq.; bonds for parks, RSMo 95.405.

Article I. In General

Secs. 74-1--74-25. Reserved.

Article II. Parks and Recreation Division

Sec. 74-26. Created.

Sec. 74-27. Advisory board; appointment of members.

Sec. 74-28. Same--Meetings.

Sec. 74-29. Recreation director; budget.

Sec. 74-30. Park fund.

Sec. 74-31. Rules and regulations.

Sec. 74-32. Permit--required for commercial or fundraising use of parks.

Sec. 74-33. Same--Fees.

Sec. 74-34. Other fees and charges.

Sec. 74-35. When fees payable; revocation of permit; disposition of fees.

Sec. 74-36. Penalty for misuse of park property and facilities, violation of rules and regulations.

Secs. 74-37--74-50. Reserved.

Article III. City Park

Sec. 74-51. Established; use subject to ordinance.

Sec. 74-52. Park name.

Sec. 74-53. Street named and dedicated.

Sec. 74-54. Cleaning of fish or other wildlife or disposal of solid waste therefrom prohibited in park.

Sec. 74-55. Unauthorized off-road vehicular traffic; skating, skateboarding prohibited in park.

Sec. 74-56. Dogs prohibited in park.

Sec. 74-57. River Front Park closed from 11:00 p.m. until 5:00 a.m.

ARTICLE I.

IN GENERAL

Secs. 74-1--74-25. Reserved.

ARTICLE II.

PARKS AND RECREATION DIVISION*

* **Editors Note:** Ord. No. 96-2, adopted Feb. 6, 1996, repealed and replaced art. II, §§ 74-26--74-40 with a new art. II, §§ 74-26--74-36, to read as herein set out. Prior to repeal, former art. II pertained to similar subject matter as derived from the Code of 1975, §§ 18-13, 18-15, 18-16; and Ord. No. 95-1, § 1, adopted Feb. 21, 1995.

Cross References: Administration, ch. 2.

Sec. 74-26. Created.

There is hereby created a division of the department of public works in and for the city to supervise and direct the operation and maintenance of all city parks and recreation programs to be known as the parks and recreation division.

(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-27. Advisory board; appointment of members.

The mayor, with the advice and consent of the board of aldermen, may appoint a five-member park advisory board to make recommendations to the parks and recreation division relating to the operation and maintenance of the city's parks and recreation programs. The park advisory board members shall serve a term of one year and until their successors are appointed and qualified. The terms of office for such members shall expire on the first day of July each year. The officers of the board shall be a chairman, a vice-chairman, and a secretary. The officers shall be elected by the board from among its members at the regular monthly meeting in July of each year for a term of one year and until their successors are elected and qualified. The chairman shall preside at all meetings of the board and represent the interests of the board to the board of aldermen. In the absence of the chairman, the vice-chairman shall exercise the duties of the chairman. The secretary shall keep the minutes of meetings and all other records of the board.
(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-28. Same--Meetings.

The park advisory board shall meet at least once each month in regular public session, in the city hall, and at such other times and places as may be set by the board. Special meetings may be called by any officer of the board upon 24-hour notice to the members. Minutes of each meeting shall be kept as a permanent record, and a copy thereof shall be filed with the city clerk within ten days of any meeting. Three members shall constitute a quorum for the transaction of business at any regular or special meeting of the board and action by the board shall require the affirmative vote of a majority of the members of the board present and voting. The board is a public governmental body and is subject to the Missouri open meetings law (RSMo 610.010 et seq.) Meeting notices shall be posted at city hall at least 24 hours in advance of a meeting.
(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-29. Recreation director; budget.

(a) The director of public works shall, from time to time, with the approval of the board of aldermen, employ a recreation director who shall serve at the will of the board of aldermen. The recreation director so selected shall be the head of the parks and recreation division and shall have control and management of the sports and recreation programs conducted at city parks or other leased facilities subject to the supervision of the director of public works.

(b) In May of each year the park advisory board and the recreation director shall draw up a budget proposal for the park fund and transmit such budget proposal to the director of public works of the city for inclusion in the annual city budget ordinance.
(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-30. Park fund.

The recreation director shall cause all money, revenue, rents, franchise fees, and profits derived from the city's parks and from the sports and recreation programs or concessions operated by the parks and recreation division to be deposited in the park fund under the control of the city treasurer. The park fund shall be used only for park program purposes. All warrants for disbursements shall be signed by the mayor. No warrant shall be issued unless the expenditure shall be within the limits of the budget adopted by the board of aldermen. It shall be the duty of the recreation director to assist the city treasurer and city clerk to keep books of account showing accurate entries of the receipts and expenditures of the division in such manner as to enable such records to be understood and investigated, and to preserve in the city's files the approved vouchers for all expenditures. The recreation director shall provide the board of aldermen with an annual report showing money received by the division, the source from whom received and a detailed itemized statement of all money expended, to whom paid and for what purposes.
(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-31. Rules and regulations.

The recreation director may prepare rules and regulations for the operation of all municipal parks whether owned or leased by the city, which rules and regulations shall be submitted to the board of aldermen for adoption by ordinance of the board of aldermen. Copies of such rules and regulations shall be kept on file with the city clerk and open for public inspection.
(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-32. Permit--Required for commercial or fundraising use of parks.

No person or organization shall use the facilities of a city park to conduct commercial activities or fundraising activities

without a permit from the board of aldermen. Violation of this section shall constitute an offense. In granting of such permits, the board of aldermen shall give priority of use to not-for-profit charitable organization or events over private commercial organizations or events.

(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-33. Same--Fees.

The recreation director may, with the consent of the board of aldermen, establish, by rule or regulation, a permit fee for every commercial or fundraising permit issued by the city, provided that such permit fees shall be uniform in application with respect to similar classifications of users.

(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-34. Other fees and charges.

The recreation director may, with the consent of the board of aldermen, by rule or regulation, establish and charge fees for participation in sports and recreation programs administered by the parks and recreation division.

(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-35. When fees payable; revocation of permit; disposition of fees.

All fees to be charged under this article shall be paid in advance by the applicant and collected by the recreation director and his agents, and deposited daily with the city treasurer for credit to the park fund. Upon failure or refusal to pay any such fee or fees or upon refusal or failure to comply with the rules and regulations and orders of the recreation director duly approved by the board of aldermen, or for violations of this article, the use of the parks and the recreation programs conducted by the parks and recreation division may be denied to any person.

(Ord. No. 96-2, § 2, 2-6-96)

Sec. 74-36. Penalty for misuse of park property and facilities, violation of rules and regulations.

Any person, except a city officer in the performance of his duty, who shall, without the permission of the recreation director:

(1) Operate, drive or park any motor vehicle, farm implement, machinery, animal team or livestock upon, across, over or along the grass covered areas of the city municipal park property; or

(2) Intentionally mark, damage, deface, vandalize or destroy any roadway, path, building, fence, light fixture or structure operated at the city municipal park; or

(3) Knowingly violate any rule or regulation relating to the use of park property promulgated by the park board and approved by ordinance of the board of aldermen; shall be guilty of an offense and, upon conviction, shall be punished as provided in section 1-8 of the Code of Ordinances.

(Ord. No. 96-2, § 2, 2-6-96)

Secs. 74-37--74-50. Reserved.

ARTICLE III.

CITY PARK

Sec. 74-51. Established; use subject to ordinance.

(a) The following described real estate owned by the city in fee simple, or held under lease by the city, is hereby declared to be a public park:

Tract 1. A parcel of land situate in the west half of Section 26 and the east half of Section 27, Township 23 North, Range 2 East of the fifth principal meridian, Doniphan, Ripley County, Missouri, bounded and described as follows:

Beginning at the southwest corner of a parcel of land as conveyed by the Missouri Pacific Railroad Company to Floyd B. and Glenna Sue Lynxwiler, by quitclaim deed dated March 31, 1986, said corner also being the west quarter corner of said Section 26; thence northerly, along the west line of said Section 26 and along the west line of said conveyed parcel, 130.81 feet to the northwest corner of said conveyed parcel, said corner also being on the northeasterly line of a parcel of land as conveyed by Permelia J. Kelly to the St. Louis, Iron Mountain and Southern Railway Company, by deed dated October 17, 1889; thence northwesterly, along the northeasterly line of said conveyed parcel, 103.7 feet to a point on the southeasterly right-of-way line of a state road, as originally located and constructed; thence north 38 degrees 38 minutes west, 30.0 feet to a point on the centerline of said state road; thence along said centerline, south 51 degrees 22 minutes west, 445.0 feet; thence south 38 degrees 38 minutes east, 30.0 feet to a point on said southeasterly right-of-way line and on the northwesterly line of said conveyed parcel; thence along the boundary of said conveyed parcel, the following three courses: (1) South 8 degrees 48 minutes east, 431.5 feet; (2) South 35 degrees 55 minutes east, 616.5 feet; (3) South 30 degrees 13 minutes east, 131.6 feet to a point on the west line of said Section 26; thence northerly, along the west line of said Section 26, 713.0 feet to a point 447.0 feet, more or less, normally distant southerly from the north line of the southwest quarter of said Section 26; thence easterly, parallel with said north line, 613 feet, more or less, to a point 200.0 feet, normally distant southeasterly from the centerline of the main track of the Doniphan Branch of the Missouri Pacific Railroad Company (as originally located and constructed by the St. Louis, Iron Mountain & Southern Railway Company), said point being on the southeasterly line of a parcel of land as conveyed by Herman Borth, et al, to the Doniphan Branch Railway Company by warranty deed dated September 22, 1882, said point also being the southwest corner of a parcel of land as conveyed by the Missouri Pacific Railroad Company to Fowler Central L.P. Gas, Inc., by quitclaim deed dated August 14, 1985, said point also being on the southerly prolongation of the west line of block 33 in the Town of Doniphan; thence northerly, along said southerly prolongation and along the westerly line of said parcel conveyed to Fowler L.P. Gas, Inc., 447 feet, more or less, to the northwest corner of said conveyed parcel, said corner also being the southwest corner of block 33, said point also being on the north line of the southwest quarter of said Section 26; thence westerly, along the north line of said southwest quarter and along the south line of block 32, 217.9 feet to the southwest corner of the original platted Town of Doniphan, said corner also being the most easterly corner of said parcel conveyed to Floyd B. and Glenna Sue Lynxwiler; thence continuing westerly, along the north line of said southwest quarter and along the south line of said conveyed parcel, 396 feet to the point of beginning, containing an area of 15.4 acres, more or less, except for those parts of this tract 5 heretofore conveyed to Floyd Lynxwiler and Sue Lynxwiler, his wife and described above follows:

Exception No. 1: A part of a parcel of land described in deed book Y at page 8, lying in the northeast quarter of the southeast quarter and the southeast quarter of the northeast quarter of Section 27, Township 23 North, Range 2 East of the fifth principal meridian in Ripley County, Missouri, bounded on the north by the centerline of the abandoned old state road, bounded on the west by a portion of the westerly boundary of said parcel and bounded on the east by the west right-of-way of the road to the Wright Lumber Company boat landing as they are situated today in 1987, said right-of-way being 15 feet westerly from the centerline of said road, more specifically described as follows: Commencing at the quarter corner to Sections 26 and 27 of said township, go south 3 degrees 39 minutes east along the section line 631.1 feet; thence south 86 degrees 21 minutes west 300.5 feet to a point on the west boundary of said parcel, which is the point of beginning of the land described herein, thence north 36 degrees 31 minutes west along said boundary, 156.0 feet to a "t-rail" marker; thence north 8 degrees 48 minutes west 441.1 feet to the south right-of-way of the old state road, now abandoned; thence north 38 degrees 38 minutes west 30.0 feet to said road's centerline; thence north 51 degrees 22 minutes east along the centerline, 198.3 feet to its intersection with the west right-of-way of the boat landing road; thence along the right-of-way the following courses and distances: South 17 degrees 52 minutes west 140.0 feet, to a P.I.; South 0 degrees 01 minute east 105.5 feet, to a P.I.; South 8 degrees 00 minutes east 93.6 feet, to a P.I.; South 4 degrees 11 minutes west 152.3 feet, to a P.I.; South 24 degrees 16 minutes east 150.5 feet, to a P.I.; South 19 degrees 00 minutes east 75.8 feet, to a point; thence south 52 degrees 38 minutes west 26.9 feet back to the point of beginning, containing 1.0 acres per survey by LS 1765.

Exception No. 2: A triangular shaped parcel of land being a part of a tract described in deed book Y at page 8 lying in the southeast quarter of the northeast quarter of Section 27, Township 23 North, Range 2 East of the fifth principal meridian in Ripley County, Missouri, more specifically described as follows: Beginning at the quarter corner to Sections 26 and 27 of said township, go north 4 degrees 03 minutes west along the section line, 130.8 feet; thence north 76 degrees 37 minutes west 109.2 feet to a point on the south right-of-way of the old state road, now abandoned; thence south 36 degrees 33 minutes east 193.9 feet back to the point of beginning, containing 0.1 acre per survey by LS 1765.

Exception No. 3: A part of a tract described in deed book Y at page 8 lying in the northwest quarter of the southwest quarter of Section 26, Township 23 North, Range 2 East of the fifth principal meridian in Ripley County, Missouri, more specifically described as follows: Beginning at the quarter corner to Sections 26 and 27 of said township, go south 68 degrees 45 minutes

east along an old fence line, 201.0 feet; thence north 74 degrees 56 minutes east 105.7 feet; thence north 3 degrees 57 minutes west parallel with the west line of the original Town of Doniphan, 69.8 feet to a point on the quarter section line 110 feet westerly of the southwest corner of said town; thence south 85 degrees 08 minutes west along said quarter line, 285.6 feet back to the point of beginning, containing 0.4 acre per survey by LS 1765.

Tract 2. A part of a parcel of land described in deed book 64, at page 332, lying in the northeast quarter of the southeast quarter of Section 27, Township 23 North, Range 2 East of the fifth principal meridian in Ripley County, Missouri, more specifically described as follows:

Commencing at the quarter corner to Sections 26 and 27 of said township, go south 3 degrees 39 minutes west along the section line 631.1 feet; thence south 86 degrees 21 minutes west 300.5 feet to a point on the west boundary of a parcel of land described in deed book Y, at page 8, which is the point of beginning of the land described herein, said point being south 36 degrees 31 minutes east 156.0 feet from a t-rail corner marker reported on plat of survey recorded in county surveyors record book E, at page 18; thence south 36 degrees 31 minutes east along said boundary, 149.6 feet; thence south 38 degrees 37 minutes west 163.5 feet, more or less, to the left bank of Current River; thence upstream northwesterly along the meanders of said bank 250 feet, more or less, to its intersection with a line that bears south 52 degrees 38 minutes west from the point of beginning; thence go northeasterly along said line 255 feet, more or less, back to the point of beginning, containing 0.6 acre, more or less, per survey by LS 1765.

(b) The use of the city park described in subsection (a) of this section by members of the public shall be subject to the provisions of this article and of other ordinances of the city or laws of the state relating thereto.
(Code 1975, § 18-41)

Sec. 74-52. Park name.

The city park described in section 74-51 shall be named the Doniphan City Park. The boat landing in the above-named city park shall be known as the T.L. Wright Memorial Boat Launching Facility.
(Code 1975, § 18-42)

Sec. 74-53. Street named and dedicated.

The gravel road running between Jefferson Street and the T.L. Wright Memorial Boat Launching Facility on the bank of Current River is hereby dedicated to public use as a public street and is named and shall be known as "Current River Drive."
(Code 1975, § 18-43)

Sec. 74-54. Cleaning of fish or other wildlife or disposal of solid waste therefrom prohibited in park.

No person shall, within the boundaries of the T.L. Wright Memorial Boat Landing or adjoining city park, clean any fish or other wildlife. No person shall, within the boundaries of the T.L. Wright Memorial Boat Landing or adjoining city park, dispose of any solid waste generated by the cleaning at some other location of fish or other wildlife.
(Code 1975, § 18-44)

Sec. 74-55. Unauthorized off-road vehicular traffic; skating, skateboarding prohibited in park.

No person shall within the boundaries of the T.L. Wright Memorial Boat Landing or within the boundaries of the adjoining city park, operate or park a motor vehicle upon any unpaved or ungravelled areas not designed or designated as a roadway or parking area; provided that this section shall not apply to motor vehicles owned or operated by public officials, employees or agents or by utility service workers when acting in the course of their employment. No person within the boundaries of the city park adjoining the T.L. Wright Memorial Boat Landing shall enter upon the paved portion of the pedestrian walking track while skating on roller skates, inline roller skates or skate boards or while operating a wheeled scooter, unicycle, bicycle, tricycle, motorbike, motor scooter, motor cycle, four wheel drive vehicle or any other motorized vehicle, except during a festival or event sponsored by or permitted by the city when such use may be allowed by city officers and employees.
(Ord. No. 92-9, § 1, 9-15-92; Ord. No. 04-5, § 1, 4-6-04)

Sec. 74-56. Dogs prohibited in park.

(a) Except within the boundaries of the T.L. Wright Memorial Boat Launching Facility, no person shall bring into the confines of the city park any dog, or allow any dog under their ownership, possession or control to enter upon the premises of the city park; provided that this section shall not apply to [a] dog which is physically tied, restrained or confined within the interior of a motor vehicle, or within the bed of a pickup truck, which is being lawfully operated or parked within the confines of the city park. The city department of public works shall post written notice of this ordinance at or near the entrance of the city park.

(b) Penalty provisions. Any person who shall violate subsection (a) of this section shall, upon conviction, be sentenced to pay a fine of not more than \$50.00 or sentenced to imprisonment for a term of not more than ten days or both such fine and imprisonment.
(Ord. No. 02-15, §§ 1, 2, 8-6-02)

Sec. 74-57. River Front Park closed from 11:00 p.m. until 5:00 a.m.

(a) Except within the boundaries of the T.L. Wright Memorial Boat Launching Facility and on Current River Drive, no person shall enter the River Front Park during the hours between 11:00 p.m. and 5:00 a.m. the following morning, provided that this section shall not apply to:

(1) Persons participating in a special event sponsored by the city or sanctioned by the Board of Aldermen and granted advance permission to use the River Front Park during normal closing hours.

(2) Persons acting with the specific permission of one of the city officers or employees while engaged in activities for the benefit of the city.

(3) Officers, employees or licensees of the city or federal, state or county governments in the performance of a public duty.

(4) Persons operating motor vehicles with boat trailers attached who enter the overflow parking lot for vehicles with boat trailers when the normal lot adjacent to Current River Drive is full for the purpose of parking said vehicles and going to and from said parked vehicle and the T.L. Wright Boat Launching facility.

The city department of public works shall post written notice of this ordinance at or near the entrance of the city park notifying the public that violation can result in a fine of up to \$50.00.

(b) Penalty provision. Any person who shall violate subsection (a) of this section shall, upon conviction, be sentenced to pay a fine of not more than \$50.00.
(Ord. No. 04-13, § 1, 7-20-04)

Chapters 75--77

RESERVED

Chapter 78

PEDDLERS*

* **Cross References:** Advertising, ch. 6; health and sanitation, ch. 54; sales, ch. 90; streets and sidewalks, ch. 102; taxation, ch. 106; traffic, ch. 114.

State Law References: Itinerant vendors, RSMo 150.380 et seq.; peddlers, RSMo 150.470 et seq.

Article I. In General

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ARTICLE I.

IN GENERAL

Sec. 78-1. Definitions.

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:

Peddler means any individual, whether a resident of this city or not, traveling by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of, as well as the selling, offering for sale or taking or attempting to take orders for the sale of, goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or not or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodginghouse, apartment, shop or any other place within this city for the sole purpose of exhibiting samples and taking orders for future delivery. The word "peddler" shall include the terms "canvasser," "solicitor," "transient or itinerant merchant or vendor" or "transient or itinerant photographer."

(Code 1975, § 19-1)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 78-2. Exceptions to chapter.

The provisions of this chapter shall not apply to solicitations, sales or distributions made by charitable, educational or religious organizations which have their principal place of activity in this city. Nor shall this chapter apply to the sale, or soliciting of orders for the sale, of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce grown or produced by the person selling the same.

(Code 1975, § 19-2)

Sec. 78-3. Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises after having been notified by the owner or occupant of such premises, or his agent, to leave the premises and not return to the premises, shall be deemed guilty of an offense.

(Code 1975, § 19-3)

Sec. 78-4. Entrance to premises restricted.

It shall be unlawful for any peddler to enter upon any private premises when such premises is posted with a sign stating "No peddlers allowed" or "No solicitations allowed" or other words to such effect.
(Code 1975, § 19-4)

Sec. 78-5. Misrepresentation.

It shall be unlawful for any peddler to make false or fraudulent statements concerning the quality of his goods, wares, merchandise or services for the purpose of inducing another to purchase the same.
(Code 1975, § 19-5)

Sec. 78-6. Hours of operation.

It shall be unlawful for any peddler to engage in the business of peddling within the city between the hours of one-half hour before sunset and 9:00 a.m. the following morning, or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.
(Code 1975, § 19-6)

Secs. 78-7--78-30. Reserved.

ARTICLE II.

PERMIT*

* **Cross References:** Licenses, ch. 62.

Sec. 78-31. Required.

It shall be unlawful for any person to engage in business as a peddler within this city without first obtaining a permit to do so.
(Code 1975, § 19-18)

Sec. 78-32. Application.

Applicants for a permit under this article shall file with the city clerk a sworn application, in writing, in duplicate, on a form to be furnished by the city clerk, which shall give the following information:

- (1) The name and description of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced; where such goods or products are located at the time the application is filed; and the proposed method of delivery;
- (7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;

(8) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor, infraction, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;

(9) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery;

(10) The last five municipalities wherein the applicant has worked before coming to this city; and

(11) Such other relevant information as may be required by the investigation of the applicant.
(Code 1975, § 19-19)

Sec. 78-33. Driver's license.

At the time of filing his application for a permit required by this article, the applicant shall present his driver's license, if he has one, to the city clerk.
(Code 1975, § 19-20)

Sec. 78-34. Application fee.

At the time of filing the application for a permit under this article, a fee of \$5.00 shall be paid to the city clerk to cover the cost of investigation of the facts stated therein.
(Code 1975, § 19-21)

Sec. 78-35. False information.

It shall be unlawful for any person to give any false or misleading information in connection with his application for a permit required by this article.
(Code 1975, § 19-22)

Sec. 78-36. Fingerprints.

At the time of making application for a permit required by this article, the applicant shall submit to fingerprinting by the chief of police.
(Code 1975, § 19-23)

Sec. 78-37. Fee.

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee, based upon the duration he desires to engage in business in the city, as follows:

Per day....	\$ 5.00
Per week....	10.00
Per month....	25.00
Per three months....	50.00
Per six months....	75.00
Per 12 months....	100.00

(Code 1975, § 19-24)

Sec. 78-38. Bond.

(a) Every applicant not a resident of the city, or who is a resident of the city and represents a firm whose principal place of business is located outside the state, shall file with the city clerk a surety bond running to the city in the amount of \$1,000.00, with surety acceptable to and approved by the mayor, conditioned that the applicant shall comply fully with all applicable provisions of this Code, the ordinances of the city and state law regulating and concerning the business of peddling, and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the peddler; and further guaranteeing to any citizen of the city doing business with such peddler that the property purchased will be delivered according

to the representations of such peddler. Action on such bond may be brought in the name of the city to the use or benefit of the aggrieved person.

(b) If the applicant is an agent, employee, canvasser or solicitor of a corporation authorized to do business in this state or registered under the fictitious name act of the state, such corporation or fictitious name business may furnish one bond in the amount of \$1,000.00 for any and all of its agents, employees, canvassers or solicitors.
(Code 1975, § 19-25)

Sec. 78-39. Service of process.

Before any permit shall issue under this article, there shall be filed with the city clerk an instrument in writing, signed by the applicant under oath, nominating and appointing the city clerk his true and lawful agent, with full power and authority to acknowledge service of notice of process for and on the behalf of such applicant, and service of summons in any action brought upon the applicant's bond shall be deemed made when served on the city clerk.
(Code 1975, § 19-26)

Sec. 78-40. Investigation of applicant.

Upon receipt of an application for a permit required by this article, the original shall be referred to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public interest. The chief of police shall complete his investigation within one week of receiving the application.
(Code 1975, § 19-27)

Sec. 78-41. Denial.

If, as a result of investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on the application for permit under this article his disapproval and his reasons for such disapproval, and return the application to the city clerk, who shall notify the applicant that his application is disapproved and that no permit shall be issued. Any person whose application is denied may appeal to the board of adjustment.
(Code 1975, § 19-28)

Sec. 78-42. Issuance.

If, as a result of investigation, the character and business responsibility of the applicant for a permit under this article are found to be satisfactory, the chief of police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for, and return the permit along with the application to the city clerk, who shall, upon payment of the required fee, deliver the permit to the applicant.
(Code 1975, § 19-29)

Sec. 78-43. Contents.

Each permit issued under this article shall contain the signature and seal of the issuing officer, and shall show:

- (1) The name, address and photograph of the permittee;
- (2) The class of permit issued and the kind of goods to be sold thereunder;
- (3) The amount of fee paid;
- (4) The date of issuance and the length of time the permit shall be operative; and
- (5) The permit number and other identifying description of any vehicle used in such business.

(Code 1975, § 19-30)

Sec. 78-44. Permanent record.

The city clerk shall keep a permanent record of all permits issued under this article.
(Code 1975, § 19-31)

Sec. 78-45. Display.

Every peddler having a permit issued under the provisions of this article and doing business within the city shall display his permit upon the request of any person, and failure to do so shall be deemed an offense.
(Code 1975, § 19-32)

Sec. 78-46. Duration.

Every permit issued under the provisions of this article shall be valid for the period of time stated therein, but in no event shall any such permit be issued for a period of time in excess of 12 months.
(Code 1975, § 19-33)

Sec. 78-47. Revocation.

Any permit issued under the provisions of this article may be revoked by the board of aldermen for the violation by the permittee of any applicable provision of this Code, state law or city ordinance, rule or regulation.
(Code 1975, § 19-34)

Chapters 79--81

RESERVED

Chapter 82

PLANNING AND DEVELOPMENT*

* **Cross References:** Administration, ch. 2; buildings, ch. 22; electricity, ch. 46; parks and recreation, ch. 74; plumbing, ch. 86; sewers, ch. 94; streets and sidewalks, ch. 102; utilities, ch. 118; zoning, app. A; subdivisions, app. B; floodplain management, app. C.

State Law References: Zoning and planning, RSMo ch. 89.

Article I. In General

- Sec. 82-1. Penalty for violation of chapter.
- Sec. 82-2. Amendments and changes.
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- Secs. 82-8--82-30. Reserved.

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- Sec. 82-31. Created.
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Article III. Board of Adjustment

- Sec. 82-61. Created.
- Sec. 82-62. Composition.

- Sec. 82-63. Appointment, terms.
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- Sec. 82-71. Minutes.
- Sec. 82-72. Powers.
- Sec. 82-73. Appeals to board.
- Sec. 82-74. Appeals from board.

ARTICLE I.

IN GENERAL

Sec. 82-1. Penalty for violation of chapter.

Penalties for violation of this chapter shall be as follows:

(1) Any person who violates any provision of this chapter or any lawful order of the board of aldermen, zoning commission, board of adjustment, or zoning officer pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$10.00 nor more than \$100.00, or imprisoned for not more than 20 days, or both. Each day during which such violation shall be permitted to exist shall be deemed a separate offense. Willful violations shall be punished as provided for in RSMo 89.120.

(2) The owner or tenant of any building, structure, premises, or part thereof, or any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and be subject to the penalties provided in this section.

Nothing contained in this section shall prevent the city from taking such other lawful action as it deems necessary to prevent or remedy any violation.

(Code 1975, § 20-1)

Sec. 82-2. Amendments and changes.

(a) The board of aldermen may, from time to time, in the manner set forth in this section, amend the regulations imposed and the districts created by this chapter and the city's zoning ordinance, and amend district boundary lines, provided that in all amendatory orders adopted under the authority of this section, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantage of the entire community, and the uses to which property is devoted at the time of the adoption of such amendatory order.

(b) This chapter shall be amended in the following manner:

(1) Amendments may be proposed by any citizen, organization or governmental body.

(2) An application for an amendment to this chapter shall be filed with the zoning officer in such form and accompanied by such information as required by the zoning officer. The zoning officer, upon receiving an application for amendment, shall transmit one copy of such application, along with all pertinent data filed therewith, to the following agencies and/or legal entities for their review and written recommendations, protests or comments:

- a. The zoning commission.
- b. The board of aldermen.

(3) A fee of \$10.00 shall be paid to the city for each application for an amendment to cover the costs of advertising and other administrative expenses involved. The board of aldermen, the zoning commission and the board of adjustment shall be exempt from this fee.

(4) The board of aldermen shall hold a public hearing on each application for an amendment at such time and place as shall be established by such board. The hearing shall be conducted and a record of such proceedings shall be preserved in such manner as the board of aldermen shall, by rule, prescribe from time to time.

(5) Notice of time and place of hearing shall be published or distributed as the board of aldermen may, by rule, prescribe from time to time.

(6) The zoning commission shall make written findings of fact and shall submit such findings together with its recommendations to the board of aldermen prior to the public hearing. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the zoning commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

- a. Relation of the proposed amendment to goals and outlines of the long range physical plan of the city.
- b. Existing uses of property within the general area of the property in question.
- c. The zoning classification of property within the general area of the property in question.
- d. The suitability of the property in question to the uses permitted under the existing zoning classification.
- e. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.

(7) The board of aldermen shall not act upon a proposed amendment to this chapter or the zoning ordinance until it shall have received a written report and recommendation from the zoning commission on the proposed amendment, or until the board of aldermen determine no such report and recommendation are forthcoming.

(8) The board of aldermen shall approve or deny the proposed amendment. If an application for such an amendment is not acted upon by the board of aldermen within a 90-day period following its initial submission, it shall be deemed to have been denied.

(Code 1975, § 20-2)

State Law References: Hearings, notice, RSMo 89.050, 89.060.

Sec. 82-3. Zoning officer, powers.

The zoning officer shall administer and enforce the provisions of this chapter. The zoning officer shall be any person designated as such by the board of aldermen. The powers and duties of the zoning officer shall be as follows:

- (1) Issue all building permits and make and maintain records thereof.
- (2) Issue all certificates of occupancy and make and maintain records thereof.
- (3) Conduct inspections of buildings, structures, and the use of land to determine compliance with the terms of this chapter, the city's zoning ordinance and other applicable provisions of this Code.
- (4) Require that all construction or work of any type be stopped when such work is not in compliance with this chapter, the city's zoning ordinance and other applicable provisions of this Code.
- (5) Revoke any permit which was unlawfully issued or any permit wherein defective work has been performed, and when such work has not been corrected within 90 days of notification.

(6) Maintain permanent and current records required by this chapter, the city's zoning ordinance and other applicable provisions of this Code, including, but not limited to, all maps, amendments, variances, appeals and applications.

(7) Provide and maintain a public information bureau relative to all matters arising out of this chapter, the city's zoning ordinance and other applicable provisions of this Code.

(8) Forward to the zoning commission all applications for amendments to this chapter.

(9) Forward to the board of adjustment applications for appeals, variances, or other matters on which the board of adjustment is required to pass under this chapter, the city's zoning ordinance and other applicable provisions of this Code. Issue permits regulating the erection and use of tents for periods not to exceed ten days for specific purposes such as temporary carnivals, churches, charities or charitable uses, and revival meetings, such uses not being detrimental to the public health, safety, morals, comfort, convenience or general welfare; provided, however, that such tents or operations are in conformance with all other ordinances of the city.

(10) Initiate, direct and review, from time to time, a study of the provisions of this chapter, the city's zoning ordinance and other applicable provisions of this Code, and to make such reports available to the zoning commission not less than once a year. (Code 1975, § 20-3)

Cross References: Administration, ch. 2; buildings, ch. 22.

Sec. 82-4. Building permit--Required.

(a) No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor issued by the zoning officer.

(b) No building permit for alteration, repair or construction of any building or structure shall be issued unless the plans and specifications show that the building or structure, and its proposed use, will be in compliance with the provisions of the zoning ordinance.

(c) A temporary building permit may be issued by the zoning officer for a period not exceeding six months during alteration or construction for partial occupancy of a building pending its completion, or for bazaars, carnivals and revivals, provided that such temporary permit shall require such conditions and safeguards as will protect the safety of the occupants and the public.

(d) The failure to obtain the necessary building permit shall be punishable under section 82-1.

(e) Building permits issued on the basis of plans and applications approved by the zoning officer authorize only the use, arrangement and construction set forth in such approved plans and specifications. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter and shall be punishable as provided by section 82-1. (Code 1975, § 20-4)

Sec. 82-5. Same--Application.

(a) Applications for building permits shall be accompanied by a duplicate set of plans with the following information indicated in order to determine compliance with this chapter, the city's zoning ordinance and other applicable provisions of this Code:

(1) A plot plan, showing:

a. The exact size, shape and dimensions of the lot to be built upon;

b. The exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected or moved; and

c. The size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all offstreet parking and loading facilities.

(2) The location of such lot with respect to existing rights-of-way and adjacent lots.

(3) Any other information which the zoning officer may deem necessary for consideration in enforcing the provisions of this chapter, the city's zoning ordinance and other applicable provisions of this Code.

(b) If the building permit is denied on the basis of this chapter, the applicant may appeal the action of the zoning officer to the board of adjustment.

(c) No building permit for alteration, repair or construction of any building or structure shall be issued unless the plans and specifications show that the building or structure, and its proposed use, will be in compliance with provisions of the zoning ordinance.

(Code 1975, § 20-5)

Sec. 82-6. Variances--Application.

Applications for variances to the requirements of this chapter shall be processed in the following manner:

(1) An application for a variance from the terms of this chapter, signed by the applicant, shall be addressed to the board of adjustment and presented to the zoning officer.

(2) A fee of \$10.00 shall be paid to the city for each application, to cover the costs of advertising and administrative costs. The application shall contain or be accompanied by such legal descriptions, maps, plans, and other information as to completely describe the proposed use and existing conditions.

(3) The zoning officer shall review the application and determine that sufficient data is contained to adequately describe the situation to the board of adjustment. If the data is not adequate, the zoning officer shall return the application to the applicant for additional information. Completed applications shall be forwarded to the board of adjustment.

(Code 1975, § 20-6)

Sec. 82-7. Same--Approval, denial.

(a) *Manner.* The board of adjustment shall approve or deny appeals and variances in the following manner: The chairman of the board of adjustment shall schedule a public hearing to be held within 60 days after an application is filed. Public notice of the hearing shall be published in a newspaper of general circulation in the city at least once a week for two successive weeks prior to the hearing. The zoning officer shall post notices on the property involved for a period of one week prior to the hearing.

(b) *Criteria for approval.* The board of adjustment shall approve or deny the application for variance following the public hearing. Before any variance is granted, the board of adjustment must find that all of the following criteria are met:

(1) Special circumstances exist which are peculiar to the applicant's land, structure or buildings and do not generally apply to the neighboring lands, structures or buildings in the same district or vicinity.

(2) Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the land, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same district.

(3) The special circumstances are not the result of action of the applicant taken subsequent to the adoption of this chapter.

(4) Relief, if approved, will not cause substantial detriment to the public welfare or impair the purposes and intent of this chapter.

(c) *Rules.* The following rules will be considered by the board of adjustment when approving or denying a variance:

(1) Financial disadvantages to the property owner shall not constitute conclusive proof of unnecessary hardships within the purpose of zoning.

(2) The board may not grant as a variance any use not permitted as a zoned principal use.

(3) In granting a variance, the board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this chapter. Violations of any of these conditions or safeguards shall be deemed a violation of this chapter.

(4) Unless otherwise specified at the time the variance is granted, the variance applies to the subject property and not to the individual who applied. Consequently, the variance is transferable to any further owner of the subject property, but cannot be transferred by the applicant to a different site.

(5) A variance shall continue for an indefinite period of time unless otherwise specified at the time the variance is granted, except that when a variance has not been used within one year after the date it was granted, the variance shall be cancelled by the administrative official and written notice shall be given to the property owner.
(Code 1975, § 20-7)

Secs. 82-8--82-30. Reserved.

ARTICLE II.

ZONING COMMISSION*

* **Cross References:** Administration, ch. 2.

Sec. 82-31. Created.

There is hereby created the zoning commission for the city.
(Code 1975, § 20-21)

Sec. 82-32. Composition.

The zoning commission shall consist of six members who shall be residents of the city.
(Code 1975, § 20-22)

Sec. 82-33. Appointment.

The members of the zoning commission shall be appointed by the board of aldermen.
(Code 1975, § 20-23)

Sec. 82-34. Terms.

At the first meeting of the board of aldermen in May in each year, the board of aldermen shall appoint three persons to the zoning commission for a term of two years.
(Code 1975, § 20-24)

Sec. 82-35. Organization.

The zoning commission shall organize as soon as appointed, in May of each year. At such organizational meeting the zoning commission shall elect one of its members as chairman, and one as secretary.
(Code 1975, § 20-25)

Sec. 82-36. Minutes.

The secretary shall keep written minutes of the proceedings of the zoning commission and shall transmit the minutes to the city clerk within one week of any proceedings as are had. Such minutes shall be signed by the secretary and approved by the signature of the chairman.
(Code 1975, § 20-26)

Sec. 82-37. Powers and duties.

The zoning commission shall have those powers and duties set forth in RSMo 89.070, and as designated in this chapter and other ordinances of the city.
(Code 1975, § 20-27)

Secs. 82-38--82-60. Reserved.

ARTICLE III.

BOARD OF ADJUSTMENT*

* **Cross References:** Administration, ch. 2.

Sec. 82-61. Created.

There is hereby created within and for the city a board of adjustment with the powers and duties set forth in this article.
(Code 1975, § 20-41)

Sec. 82-62. Composition.

The board of adjustment shall consist of five members, who shall be freeholders.
(Code 1975, § 20-42)

Sec. 82-63. Appointment, terms.

Members of the board of adjustment shall be appointed for staggered terms of five years each.
(Code 1975, § 20-43)

Sec. 82-64. Removal.

All members of the board of adjustment shall be removable for cause by the appointing authority upon written charges and after public hearings.
(Code 1975, § 20-44)

Sec. 82-65. Vacancies.

Vacancies occurring in the membership of the board of adjustment shall be filled for the unexpired term of any member whose term becomes vacant.
(Code 1975, § 20-45)

Sec. 82-66. Chairman.

The board of adjustment shall elect its own chairman who shall serve for one year.
(Code 1975, § 20-46)

Sec. 82-67. Rules.

The board of adjustment shall adopt rules in accordance with the provisions of this chapter.
(Code 1975, § 20-47)

Sec. 82-68. Meetings.

Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board may determine; and all such meetings shall be open to the public.
(Code 1975, § 20-48)

Sec. 82-69. Oaths, witnesses.

The chairman of the board of adjustment, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(Code 1975, § 20-49)

Sec. 82-70. Taking of testimony.

All testimony, objections thereto and rulings thereon shall be taken down by a reporter employed by the board of adjustment for that purpose.

(Code 1975, § 20-50)

Sec. 82-71. Minutes.

The board of adjustment 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 city clerk and shall be a public record.

(Code 1975, § 20-51)

Sec. 82-72. Powers.

(a) The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.

(2) To hear and decide all matters referred to it or upon which it is required to pass under such ordinance.

(3) In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

(b) In exercising the powers set out in subsection (a), the board of adjustment may, in conformity with the provisions of RSMo 89.010--89.140, 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 was taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

(Code 1975, § 20-52)

Sec. 82-73. Appeals to board.

An appeal from action taken by the zoning officer shall be taken to the board of adjustment in the following manner:

(1) All appeals shall be taken within 60 days of the date of the action which is appealed.

(2) Appeals from the enforcement and interpretation of this chapter, signed by the appellant, shall be addressed to the board of adjustment and presented to the zoning officer. A fee of \$10.00 shall be paid to the city for each appeal, to cover costs of advertising and administrative costs. The appeal shall contain or be accompanied by such legal descriptions, maps, plans, and other information so as to completely describe the decisions or interpretation being appealed and the reasons for such appeal.

(3) The zoning officer shall transmit to the board of adjustment the appeal and all papers constituting the record upon which the action appealed was taken. The chairman of the board of adjustment shall schedule a hearing to be held within 60 days from the filing of the appeal. Public notice of the hearing shall be published in a newspaper of general circulation in the city at least once

each week for two successive weeks prior to the hearing. The zoning officer shall post notices on the property involved for a period of one week prior to the hearing.
(Code 1975, § 20-53)

Sec. 82-74. Appeals from board.

All appeals from any action, decision, ruling or order of the board of adjustment may be taken as provided by law.
(Code 1975, § 20-54)

Chapters 83--85

RESERVED

Chapter 86

PLUMBING*

* **Cross References:** Buildings, ch. 22; electricity, ch. 46; electrical inspections, § 46-30; health and sanitation, ch. 54; licenses, ch. 62; planning and development, ch. 82; sewers, ch. 94; utilities, ch. 118; subdivisions, app. B.

State Law References: Authority to adopt certain technical codes by reference, RSMo 67.280.

Sec. 86-1. Code adopted.

Sec. 86-2. Modifications.

Sec. 86-3. Enforcement.

Sec. 86-4. Penalty provisions.

Sec. 86-1. Code adopted.

The Standard Plumbing Code, published by Southern Building Code Congress International, Inc., and in particular the 1991 Edition thereof, three copies of which are on file in the office of the city clerk, is adopted and incorporated in this chapter by reference as fully as if set forth at length in this chapter and shall be controlling within the limits of the city except as in this chapter modified, amended or deleted.

(Code 1975, § 21-1)

Sec. 86-2. Modifications.

The provisions of the Standard Plumbing Code adopted by this chapter shall be amended, modified or deleted as follows:

Section 102.1 is deleted.

Section 102.2 is deleted.

Section 104.2 is modified to read as follows: "The application for plumbing code permit shall be part of the same city form as the application for a building code permit."

Section 106.3 is modified to read as follows: "The plumbing code permit fee shall be the same as the building code permit fee. If a building or electrical code permit is applied for at the same time, only one permit fee shall be charged."

Appendixes D-4 and E and H are deleted.

(Code 1975, § 21-2)

Sec. 86-3. Enforcement.

The zoning officer designated under the city zoning ordinance shall be the building official charged with enforcement of the Standard Plumbing Code. The board of adjustment established under the city zoning ordinance shall be the appellate body to which appeals from the decisions of the building official are taken. The practice and procedure in appeal cases shall be governed by sections 82-61 through 82-74 of the city Code.

(Code 1975, § 21-3)

Sec. 86-4. Penalty provisions.

Any person who shall violate any of the provisions of the code adopted in this article or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of adjustment or by a court of competent jurisdiction, within the time fixed in this chapter, shall severally for each and every violation and noncompliance respectively, be guilty of an offense, punishable as provided in section 1-8 of this Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of the penalty under this section shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1975, § 21-4)

Chapters 87--89

RESERVED

Chapters 87--89

RESERVED

Chapter 90

SALES*

* **Cross References:** Advertising, ch. 6; licenses, ch. 62; peddlers, ch. 78; taxation, ch. 106; zoning, app. A.

Article I. In General

Secs. 90-1--90-25. Reserved.

Article II. Yard Sales

- Sec. 90-26. Definitions.**
- Sec. 90-27. Yard sales regulated.**
- Sec. 90-28. Posting of signs regulated.**
- Sec. 90-29. Penalty provision.**

ARTICLE I.

IN GENERAL

Secs. 90-1--90-25. Reserved.

ARTICLE II.

YARD SALES*

* **Editors Note:** Ordinance No. 02-18, § 1, repealed §§ 90-26--90-30 and enacted new §§ 90-26--90-29. Formerly, such sections pertained to similar provisions and derived from § 22.5-16 of the 1975 Code; Ord. No. 93-15, § 1, 11-2-93.

Sec. 90-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Day means a calendar day commencing at 12:01 a.m and ending at 11:59 p.m.

Yard sales means the sale of personal property by the owner thereof from the premises occupied by the seller as a residence, and shall include those activities commonly and usually known as yard sales, garage sales and carport sales. As used in this definition, the term "yard sales" shall include those sales of personal property whereby not more than four families join in a common sale activity from the residence of one family.

(Ord. No. 02-18, § 1, 9-17-02)

Sec. 90-27. Yard sales regulated.

No person shall conduct, hold or participate in the sale of personal property at a yard sale on a particular lot or tract of land within a commercial or industrial zoning district within the limits of the city for more than three days in any one calendar month, nor in more than four calendar months during the calendar year, unless a full time city business license has been issued under chapter 62 of this Code. No person shall conduct, hold or participate in the sale of personal property at a yard sale on a particular lot or tract of land within a residential zoning district within the limits of the city for more than three days in any one calendar month, nor in more than four calendar months during the calendar year.

(Ord. No. 02-18, § 1, 9-17-02)

Sec. 90-28. Posting of signs regulated.

No person who conducts, holds or participates in the sale of personal property at a yard sale shall post any signs or bills regarding said yard sale upon any highway or street sign within the limits of the city. Any signs or bills regarding a yard sale which are lawfully posted shall be removed and properly disposed of in accordance with the solid waste management ordinances of the city within 24 hours after the conclusion of said yard sale.

(Ord. No. 02-18, § 1, 9-17-02)

Sec. 90-29. Penalty provision.

Any person who holds, conducts or participates in a yard sale on a particular lot or tract of land within a commercial or industrial zoning district for more than three days in any one calendar month, or in more than four calendar months during the calendar year, without obtaining a valid full time business license issued by the city clerk; and any person who holds, conducts or participates in a yard sale on a particular lot or tract of land within a residential zoning district for a period in excess of three days in any calendar month, or in more than four calendar months during the calendar year, shall, upon conviction, be sentenced to pay a fine of \$50.00 for the first offense, or a fine of \$100.00 for second or subsequent offenses. Each day that a yard sale is operated in violation of the ordinances of the city shall constitute a separate offense. Any person who shall post any sign or bill regarding a yard sale upon a highway or street sign within the city shall be fined not more than \$50.00.

(Ord. No. 02-18, § 1, 9-17-02)

Chapters 91--93

RESERVED

Chapter 94

SEWERS*

* **Cross References:** Administration, ch. 2; buildings, ch. 22; health and sanitation, ch. 54; planning and development, ch. 82; plumbing, ch. 86; solid waste, ch. 98; streets and sidewalks, ch. 102; utilities, ch. 118; subdivisions, app. B.

Sec. 94-1. Definitions.

Sec. 94-2. Insanitary deposit of waste prohibited.

Sec. 94-3. Discharges into natural outlet prohibited.

Sec. 94-4. Privies, septic tanks, etc., prohibited.

Sec. 94-5. Connection to public sewer required.

Sec. 94-6. Private sewage disposal regulations.

Sec. 94-7. Permits required for connection to public sewer.

Sec. 94-8. Construction methods and regulations.

Sec. 94-9. Discharges into sanitary sewer restricted.

Sec. 94-10. Variances to be authorized by superintendent.

Sec. 94-11. Special interceptors.

Sec. 94-12. Preliminary treatment at owner's expense.

Sec. 94-13. Control manholes, tests.

Sec. 94-14. Testing methods.

Sec. 94-15. Special contracts for industrial wastes.

Sec. 94-16. Damage to sewer system prohibited.

Sec. 94-17. Powers and authority of superintendent, etc.

Sec. 94-18. Violations; notice to cease.

Sec. 94-19. Penalty provisions.

Sec. 94-20. Violators liable for damages.

Sec. 94-1. Definitions.

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:

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter (mg/l).

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer receiving both surface runoff and sewage.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

pH means the negative logarithm of the hydrogen ion concentration in gram equivalents per liter of solution.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwater, surface water and stormwater as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collecting, pumping, treating and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Shall is mandatory; "may" is permissive.

Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Storm drain (storm sewer) means a sewer which carries stormwater and surface water and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

Superintendent means the water and wastewater superintendent of the city or his authorized deputy, agent or representative.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.
(Code 1975, § 23-1)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 94-2. Insanitary deposit of waste prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited in any insanitary 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 objectional waste.

(Code 1975, § 23-2)

Sec. 94-3. Discharges into natural outlet prohibited.

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 the provisions of this chapter.

(Code 1975, § 23-3)

Sec. 94-4. Privies, septic tanks, etc., prohibited.

Except as provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, cesspool or other facility intended or used for the disposal of sewage.

(Code 1975, § 23-4)

Sec. 94-5. Connection to public sewer required.

The owners of all houses, buildings or properties used for human employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary

or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so, provided that such public sewer is within 100 feet (30.5 meters) of the property line.

(Code 1975, § 23-5)

Sec. 94-6. Private sewage disposal regulations.

(a) Where a public sanitary or combined sewer is not available under the provisions of section 94-5, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. 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 is deemed necessary by the superintendent. A permit and inspection fee of \$50.00 shall be paid to the city at the time the application is filed.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the superintendent.

(d) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department of health and the state department of natural resources. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet (1303.5 square meters). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 94-5, a direct connection shall be made to the public sewer in compliance with this chapter, and any privy, privy vault, cesspool, or other similar private sewage disposal facilities shall be abandoned and filled with suitable materials.

(f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(g) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the city council or the city, the state department of health, or the state department of natural resources.

(Code 1975, § 23-6)

Sec. 94-7. Permits required for connection to public sewer.

(a) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(b) There shall be two classes of building sewer permits: (i) for residential and commercial service, and (ii) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of \$50.00 for a residential and commercial building sewer permit and \$100.00 for an industrial building sewer permit shall be paid to the city at the time the application is filed.

(c) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1975, § 23-7)

Sec. 94-8. Construction methods and regulations.

(a) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining

alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(b) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

(c) 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 plumbing code or other applicable rules and regulations of the city. In absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(d) 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.

(e) No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(f) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation. All connections to the public sewer shall be made by, and at the expense of, the owner or his agent.

(g) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(h) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Code 1975, § 23-8)

Sec. 94-9. Discharges into sanitary sewer restricted.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water or unpolluted industrial process waters, to any sanitary sewer.

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.

(c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including, but not limited to, cyanides in excess of two mg/l as CN in the wastes as discharged to the public sewer.

(3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch, manure, hair or fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).

(2) Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius).

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

(4) Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(8) Any waters or wastes having a pH in excess of 9.5.

(9) Materials which exert or cause:

a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).

b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

d. Unusual volume of flow or concentration of wastes constituting slugs.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(11) Any waters or wastes having (i) a five-day BOD greater than 255 mg/l, or (ii) containing more than 330 mg/l of suspended solids, or (iii) having an average daily flow greater than one percent of the average sewage flow of the city shall be subject

to the review of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to (i) reduce the biochemical oxygen demand to 255 parts per million by weight, or (ii) reduce the suspended solids to 330 parts per million by weight, or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent and no construction of such facilities shall be commenced until such approvals are obtained in writing.
(Code 1975, § 23-9)

Sec. 94-10. Variances to be authorized by superintendent.

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 94-9, and which, in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

(b) If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances and laws.
(Code 1975, § 23-10)

Sec. 94-11. Special interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.
(Code 1975, § 23-11)

Sec. 94-12. Preliminary treatment at owner's expense.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
(Code 1975, § 23-12)

Sec. 94-13. Control manholes, tests.

When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible, lockable and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
(Code 1975, § 23-13)

Sec. 94-14. Testing methods.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater,

published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples. In certain cases the superintendent may require sampling periods of up to several weeks.)
(Code 1975, § 23-14)

Sec. 94-15. Special contracts for industrial wastes.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.
(Code 1975, § 23-15)

Sec. 94-16. Damage to sewer system prohibited.

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.
(Code 1975, § 23-16)

Sec. 94-17. Powers and authority of superintendent, etc.

(a) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company; the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the testing and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(c) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Code 1975, § 23-17)

Sec. 94-18. Violations; notice to cease.

Any person found to be violating any provision of this chapter except section 94-16 shall be served by the city with written notice stating the nature of the violation and providing a time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
(Code 1975, § 23-18)

Sec. 94-19. Penalty provisions.

Any person who shall continue any violation beyond the time limit provided for in section 94-18 or who shall violate section 94-16 shall be guilty of an offense, and on conviction thereof shall be fined in an amount not exceeding \$500.00 or sentenced to imprisonment for not more than 90 days, or both, for each violation. Each 24-hour period in which any such violation shall continue

shall be deemed a separate offense.
(Code 1975, § 23-19)

Sec. 94-20. Violators liable for damages.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.
(Code 1975, § 23-20)

Chapters 95--97

RESERVED

Chapter 98

SOLID WASTE*

* **Cross References:** Administration, ch. 2; fire protection and prevention, ch. 50; health and sanitation, ch. 54; sewers, ch. 94; utilities, ch. 118.

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ARTICLE I.

IN GENERAL

Sec. 98-1. Definitions.

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:

Collection means removal and transportation of solid waste from its place of storage to its place of processing or disposal.

Contractor means such person as may be contracted with to provide solid waste transportation and disposal for the city.

Demolition or construction waste means waste materials from the construction or destruction of residential, industrial or commercial structures.

Director means the mayor and board of aldermen, acting as a body, or an individual authorized by the mayor and board of aldermen to supervise the solid waste management program of the city.

Disposable solid waste container means disposable plastic or paper sacks with a capacity of 20 to 35 gallons, specifically designed for storage of solid waste.

Dwelling unit means 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 living, sleeping, cooking and eating, excluding, however, any motel or hotel.

Garbage means putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food.

Hazardous waste means any waste or combination of wastes, as determined by the state hazardous waste management commission by rules and regulations, which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a present or potential threat to the health of humans or the environment.

Institutional, commercial, industrial, agricultural or business establishment means a person who generates solid waste within the limits of the city and who maintains a dwelling unit, office or other permanent structure within the city.

Multiple housing facility means a housing facility containing more than one dwelling unit under one roof.

Occupant means any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as tenant.

Person means any natural person, partnership, corporation, trust or governmental entity.

Processing means incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

Refuse means solid waste.

Solid waste means trash and garbage, both putrescible and nonputrescible (excluding, however, human body waste), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, solid market and industrial wastes, rubbish, both combustible and noncombustible, including paper, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials; putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods (excluding human body wastes), and all other trash, refuse or garbage of any kind or description.

Solid waste container means a receptacle used by any person to store solid waste during the interval between solid waste collections.

Solid waste disposal means the process of discarding or getting rid of unwanted material, in particular the final deposition of solid waste by man.

Solid waste management means the entire solid waste system of storage, collection, transportation, processing and disposal.

Storage means the containment of solid wastes in individual containers at residential units or commercial establishments.

Yard waste means leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

(Code 1975, § 24-1)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 98-2. Rules and regulations.

(a) The director shall make, amend, revoke and enforce reasonable and necessary rules and regulations governing, but not limited to:

- (1) Preparation, drainage and wrapping of garbage deposited in solid waste containers.
- (2) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof.
- (3) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any.
- (4) Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations on bundles of solid waste too large for solid waste containers.
- (5) Storage of solid waste in solid waste containers.
- (6) Sanitation, maintenance and replacement of solid waste containers.
- (7) Schedules of and routes for collection of solid waste.
- (8) Collection points of solid waste containers.
- (9) Collection and disposal of solid waste.
- (10) Processing facilities and fees for the use thereof.
- (11) Disposal facilities and fees for the use thereof.

(12) Records of quantity and type of wastes received at processing and/or disposal facilities.

(13) Handling of special wastes such as toxic wastes, sludges, ashes, agricultural wastes, construction debris, bulky items, tires, automobiles, oils, greases, etc.

(b) A copy of any and all rules and regulations made and promulgated under the provisions of this section shall be filed in the office of the city clerk.

(Code 1975, § 24-2)

Sec. 98-3. Unlawful use of containers.

(a) It shall be unlawful for any person to deposit solid waste in any solid waste container other than his own without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge provided in this chapter for solid waste collection and disposal.

(b) It shall further be unlawful for any person to place, deposit or receive, or cause or allow to be placed, deposited or received, any solid waste which was not generated within the city as a normal consequence of operating a residence or commercial establishment within the city, into any solid waste container within the city.

(Code 1975, § 24-3)

Sec. 98-4. Interfering with collectors, equipment.

It shall be unlawful for any person to interfere in any manner with solid waste collection equipment, or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the city, or those of a solid waste collection agency operating under contract with the city.

(Code 1975, § 24-4)

Sec. 98-5. Burning restricted; placing of leaves for burning.

(a) It shall be unlawful for any person to burn solid waste unless an approved incinerator is used, or unless a variance has been previously obtained from the appropriate air pollution agency, except that tree leaves (but no other solid waste) may be burned on private property, or may be burned in road or street ditches.

(b) Any leaves placed for burning in road or street ditches must be burned immediately after being placed in such road or street ditches. Any person who places leaves in road or street ditches and thereafter fails to immediately burn such leaves shall be deemed guilty of littering, and punished as provided by this Code. The term "road and street ditches" shall not be construed to include any paved gutters or any paved portion of any roadway or streetway within the city, and placing or burning of leaves on any paved portion of any roadway or streetway within the city or any paved gutter is hereby forbidden.

(Code 1975, § 24-5)

Sec. 98-6. Disposal of solid waste restricted.

It shall be unlawful for any person to dispose of solid waste at any place outside the limits of the city if such solid waste was generated within the limits of the city. It shall be unlawful for any person to dispose of solid waste generated within the limits of the city at any place within the city except in a solid waste disposal container approved by the director for collection by the city or its contractor.

(Code 1975, § 24-6)

Sec. 98-7. Littering prohibited.

It shall be unlawful for any person to throw, drop, cast or deposit upon any street, alley, sidewalk, or any yard or premises, public or private, any filth of any kind, or cans, paper, trash, paper containers, rubbish, tree limbs, grass cuttings, bottles or any other form of litter or waste matter.

(Code 1975, § 24-7)

Cross References: Placing glass, scrap metal, etc., on street, § 114-17.

Sec. 98-8. Dumping unlawful.

It shall be unlawful for any person, except a city employee or contractor with authorization to do so, to dump, deposit, drop or throw solid waste upon any real estate owned or leased by the city outside the limits of the city.
(Code 1975, § 24-8)

Secs. 98-9--98-30. Reserved.

ARTICLE II.

PREPARATION

Sec. 98-31. Containers required.

The occupant of every dwelling unit and of every institutional, commercial, business, industrial or agricultural establishment producing solid waste within the corporate limits of the city shall provide sufficient and adequate containers for the storage of all solid waste except bulky rubbish and demolition and construction waste to serve each such dwelling unit and/or establishment; and shall maintain such solid waste containers at all times in good repair.
(Code 1975, § 24-19)

Sec. 98-32. Wastes placed in containers.

The occupant of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste to be collected in proper solid waste containers, except as otherwise provided in this chapter, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times.
(Code 1975, § 24-20)

Sec. 98-33. Container specifications.

Residential solid waste shall be stored in containers of not more than 35 gallons nor less than 20 gallons nominal capacity. Containers shall be leakproof, waterproof, and fitted with a flytight lid and shall be properly covered at all times except when depositing waste therein or removing the contents thereof. The containers shall have handles, bails or other suitable lifting devices or features. Containers shall be of a type originally manufactured for residential solid waste, with tapered sides for easy emptying. They shall be of lightweight and sturdy construction. The weight of an individual container and contents shall not exceed 75 pounds. Galvanized metal containers, rubber or fiberglass containers, and plastic containers which do not become brittle in cold weather may be used. Disposable solid waste containers with suitable frames or containers as approved by the director may also be used for storage of residential solid waste.
(Code 1975, § 24-21)

Sec. 98-34. Commercial waste containers generally.

Commercial solid waste shall be stored in solid waste containers as approved by the director. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein or removing the contents thereof, and shall meet all requirements set forth in section 98-2.
(Code 1975, § 24-22)

Sec. 98-35. Bundling of tree limbs.

Tree limbs less than four inches in diameter and brush shall be securely tied in bundles not larger than 48 inches long and 18 inches in diameter when not placed in storage containers. The weight of any individual bundle shall not exceed 75 pounds.
(Code 1975, § 24-23)

Sec. 98-36. Yard wastes.

Yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights-of-way. The weight of any individual container and

contents shall not exceed 75 pounds.
(Code 1975, § 24-24)

Sec. 98-37. Unapproved containers.

Solid waste containers which are not approved will be collected together with their contents and disposed of.
(Code 1975, § 24-25)

Sec. 98-38. Replacement of containers upon notice.

It shall be the duty of every person owning, controlling, managing, operating, policing, renting or occupying any premises where solid wastes accumulate to replace within ten days after receipt of a condemnation notice any container which has deteriorated or that has jagged edges capable of causing injuries to those whose duty it is to handle the container or that has been damaged to that extent.
(Code 1975, § 24-26)

Sec. 98-39. Maintenance of containers.

Every solid waste container required by this article shall be maintained in as sanitary condition as possible in view of the use to which it is put, and shall be thoroughly cleansed as needed by washing, scalding or otherwise.
(Code 1975, § 24-27)

Sec. 98-40. Storage of containers.

Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the city to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel and fire inspection personnel.
(Code 1975, § 24-28)

Secs. 98-41--98-60. Reserved.

ARTICLE III.

COLLECTION

Sec. 98-61. Generally.

(a) *Collection of residential and commercial solid waste.* The city shall provide for the collection of and actually collect all solid waste generated within the limits of the city by all dwelling units and institutional, commercial, industrial, agricultural or business establishments; provided, that the city may provide such collection service by contracting therefor with another person.

(b) *Mandatory service fee for solid waste management.* Every person who owns or occupies a dwelling unit or an institutional, commercial, industrial, agricultural or business establishment shall be charged by and pay to the city a monthly service fee on each such dwelling unit or institutional, commercial, industrial, agricultural or business establishment for the operation of the city solid waste management system. The service fee established by the director and approved by ordinance shall be collected by the city collector in the same manner as other city utility service fees established by the board of aldermen.
(Code 1975, § 24-40)

Sec. 98-62. Bulky rubbish.

All solid waste from premises to which collection services are provided by the city shall be collected, except bulky rubbish as defined in this chapter; provided, however, that bulky rubbish will be collected if tied securely in bundles not exceeding reasonable limitations of weight and bulk to be fixed by regulations to be made and promulgated by the director as provided in this chapter.
(Code 1975, § 24-41)

Sec. 98-63. Ownership of collected wastes.

All solid waste collected shall, upon being loaded into collection equipment, become the property of the collection agency.
(Code 1975, § 24-42)

Sec. 98-64. Placement.

Tree limbs and yard wastes, as described in sections 98-35 and 98-36, respectively, shall be placed at the curb or alley for collection. Solid waste containers required by this chapter for the storage of other residential solid waste shall be placed at the curb or alley for collection. Any solid waste containers, tree limbs, yard wastes, or other solid waste permitted by this chapter to be placed at the curb or alley for collection shall not be placed until the regularly scheduled collection day.
(Code 1975, § 24-43)

Sec. 98-65. Collectors' right of entry.

Solid waste collectors employed by the city or a solid waste collection agency operating under contract with the city are hereby authorized to enter upon private property for the purposes of collecting solid waste therefrom as required by this chapter. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste. Commercial solid waste may be removed from within commercial establishments upon written request of the owner and approval by the director or contractor.
(Code 1975, § 24-44)

Sec. 98-66. Frequency.

The following collection frequencies shall apply to collectors of solid waste within the city:

(1) All residential solid waste, other than bulky rubbish, shall be collected at least once weekly.

(2) All commercial solid waste shall be collected at least once weekly and collected at lesser intervals as may be necessary from any commercial establishments for aesthetic, health and safety purposes, and the general welfare of the city. Such lesser intervals of collection shall be fixed by the city or city and contractor.
(Code 1975, § 24-45)

Sec. 98-67. Maintenance of vehicles.

All collection vehicles shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for collection of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or which shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicles and shall be secured whenever the vehicle is transporting solid wastes, or, as an alternate, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers.
(Code 1975, § 24-46)

Sec. 98-68. Earth and rock material from excavations, etc.

Permits shall not be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. All such material shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.
(Code 1975, § 24-47)

Sec. 98-69. Demolition and construction wastes.

Transportation and disposal of demolition and construction wastes shall be in accordance with sections 98-70 and 98-91 through 98-106.
(Code 1975, § 24-48)

Sec. 98-70. Disposal.

(a) Solid wastes shall be disposed of at a processing facility or disposal area approved by the city and complying with all requirements of the state department of health.

(b) The director may classify certain wastes as hazardous wastes which will require special handling and shall be disposed of only in a manner acceptable to the director and which will meet all local, state and federal regulations.

(Code 1975, § 24-49)

Secs. 98-71--98-90. Reserved.

ARTICLE IV.

PERMITS*

* **Cross References:** Licenses, ch. 62.

Sec. 98-91. Required.

No person shall engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the city without first obtaining an annual permit therefor from the city; provided, however, this section shall not be deemed to apply to employees of the holder of any such permit.

(Code 1975, § 24-61)

Sec. 98-92. Application.

Each applicant for any permit required by the provisions of this article shall state in his application therefor:

- (1) The nature of the permit desired, as to collect, transport, process or dispose of solid waste or any combination thereof;
- (2) The characteristics of solid waste to be collected, transported, processed or disposed;
- (3) The number of solid waste vehicles to be operated thereunder;
- (4) The precise location or locations of solid waste processing or disposal facilities to be used;
- (5) Boundaries of the collection area; and
- (6) Such other information as required by the mayor and board of aldermen.

(Code 1975, § 24-62)

Sec. 98-93. Modification of application.

If, in the opinion of the mayor and board of aldermen, modifications can be made to the application for a permit under this article regarding service, equipment or mode of operation so as to bring the application within the intent of this chapter, the mayor and board of aldermen shall notify the applicant in writing setting forth the modification to be made and the time in which it shall be done.

(Code 1975, § 24-63)

Sec. 98-94. Denial.

If the applicant does not make the modifications pursuant to the notice in section 98-93 within the time limit specified therein, or if the application does not clearly show that the collection, transportation, processing or disposal of solid wastes will create no public health hazard and be without harmful effects on the environment, the application shall be denied and the applicant notified by the mayor and board of aldermen, in writing, stating the reason for such denial. Nothing in this section shall prejudice the right of the

applicant to reapply after the rejection of his application, provided that all aspects of the reapplication comply with the provisions of this chapter.

(Code 1975, § 24-64)

Sec. 98-95. Insurance.

No permit required by this article shall be issued unless and until the applicant therefor, in addition to all other requirements set forth in this article, shall file and maintain with the mayor and board of aldermen evidence of a satisfactory public liability insurance policy, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than \$100,000.00 for each person injured or killed, and in the amount of not less than \$300,000.00 in the event of injury or death of two or more persons in any single accident, and in the amount of not less than \$50,000.00 for damage to property. Such policy may be written to allow the first \$100.00 of liability for damage to property to be deductible. Should any such policy be cancelled, the mayor and board of aldermen shall be notified of such cancellation by the insurance carrier in writing not less than ten days prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.

(Code 1975, § 24-65)

Sec. 98-96. Performance bond.

The mayor and board of aldermen shall determine the amount of a performance bond to be obtained by the contractor, and such amount shall be placed in the notice to bidders.

(Code 1975, § 24-66)

Sec. 98-97. Fee.

Before any permit shall be issued under the provisions of this article, the applicant shall pay a fee of \$13.00 therefor.

(Code 1975, § 24-67)

Sec. 98-98. Issuance.

If the application for a permit required by the provisions of this article shows that the applicant will collect, transport, process or dispose of solid wastes without hazard to the public health or damage to the environment and in conformity with the laws of the state and this chapter, the mayor and board of aldermen shall issue the permit.

(Code 1975, § 24-68)

Sec. 98-99. Duration.

Each permit issued under the provisions of this article shall be valid for a period of one year.

(Code 1975, § 24-69)

Sec. 98-100. Renewal.

The annual permit may be renewed simply upon payment of the fee or fees as designated in this article if the business has not been modified. If modifications have been made, the applicant shall reapply for a permit as set forth in sections 98-92, 98-95 and 98-96.

(Code 1975, § 24-70)

Sec. 98-101. Transfer.

No permit issued under the provisions of this article shall be transferable from person to person.

(Code 1975, § 24-71)

Sec. 98-102. Inspections.

In order to ensure compliance with the laws of this state, this chapter and the rules and regulations authorized by this chapter, the mayor and board of aldermen are authorized to inspect all phases of solid waste management within the city. No inspection shall

be made in any residential unit unless authorized by the occupant or by due process of law.
(Code 1975, § 24-72)

Sec. 98-103. Notice of violations.

In all instances where an inspection reveals a violation of this chapter, the rules and regulations authorized by this chapter for the storage, collection, transportation, processing or disposal of solid waste, or the laws of the state, the mayor and board of aldermen shall issue notice for each such violation stating therein the violations found, the time and date, and corrective measures to be taken, together with the time in which such corrections shall be made.
(Code 1975, § 24-73)

Sec. 98-104. Suspension, revocation.

In all cases when corrective measures have not been taken within the time specified in the notice of violation, the mayor and board of aldermen shall suspend or revoke the permit involved in the violation; however, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time period for the corrective measures may be given.
(Code 1975, § 24-74)

Sec. 98-105. Appeal.

Any person who feels aggrieved by any notice of violation or order issued pursuant thereto of the mayor and board of aldermen may, within ten days of the act for which redress is sought, appeal directly to the municipal court in writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.
(Code 1975, § 24-75)

Sec. 98-106. Display of number.

All motor vehicles operating under any permit required by this article shall display the number or numbers of such permit on each side in colors which contrast with that of the vehicle, which numbers shall be clearly legible and not less than six inches high.
(Code 1975, § 24-76)

Chapters 99--101

RESERVED

Chapter 102

STREETS AND SIDEWALKS*

* **Cross References:** Administration, ch. 2; marking on streets, sidewalks prohibited, § 6-2; buildings, ch. 22; peddlers, ch. 78; planning and development, ch. 82; sewers, ch. 94; taxicabs and other vehicles for hire, ch. 110; traffic, ch. 114; closing streets, § 114-15; utilities, ch. 118; subdivisions, app. B.

State Law References: Public improvements, RSMo 71.290 et seq.; public works and special assessments therefor, RSMo ch. 88.

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- Sec. 102-1. Snow and ice on sidewalks.**
- Sec. 102-2. Extension of streets, alleys.**
- Sec. 102-3. Sweeping refuse onto sidewalks, streets.**
- Secs. 102-4--102-25. Reserved.**

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- Sec. 102-26. Permit required.**
- Sec. 102-27. Application for permit.**

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Sec. 102-159. Conveyances.
Sec. 102-160. Liability of costs.

ARTICLE I.

IN GENERAL

Sec. 102-1. Snow and ice on sidewalks.

It shall be unlawful for the owner or occupant of any property, or the agent of any nonresident property owner, within the city to permit any snow, ice or other obstruction to remain upon any sidewalk in front of or along such property for more than 24 hours so as to interfere with the free, easy or safe passage of people along and over such sidewalk.

(Code 1975, § 25-1)

Sec. 102-2. Extension of streets, alleys.

(a) The names of the streets and avenues in any addition of which plats have been duly accepted, approved, filed and recorded in the county recorder's office shall remain the same as indicated on such plats.

(b) Any street that may be extended or continued from any street shown on the plat of any addition of this city now on file shall be known by the name or designation of the street or avenue of which it is the continuation or extension.

(c) All streets, avenues, alleys, sidewalks, footways and thoroughfares within the corporate limits of this city are hereby declared to be public highways and thoroughfares, and any ordinance declaring any act done or permitted to be done on any public highway or thoroughfare an offense shall be construed to include such streets, avenues, alleys, sidewalks, footways and thoroughfares.

(Code 1975, § 25-2)

Sec. 102-3. Sweeping refuse onto sidewalks, streets.

No person shall sweep any dust, dirt, leaves, limbs or any refuse or rubbish matter whatever from any building, store, yard or premises of any kind or character, upon or into the sidewalks, streets, alleys or other public ways in the city.

(Code 1975, § 25-3)

Secs. 102-4--102-25. Reserved.

ARTICLE II.

EXCAVATIONS

Sec. 102-26. Permit required.

It shall be unlawful for any person to dig any ditch, hole, tunnel, or any excavation whatever in, upon, under or through any public street, alley, road or highway within the city without first obtaining a written permit signed by the mayor authorizing such digging or excavation.

(Code 1975, § 25-15)

Sec. 102-27. Application for permit.

(a) All applications for permits required by this article shall be signed by the person who desires to do the work designated in such application. The application shall not be assignable and shall be used only by the person desiring to make such further excavation. No person shall allow or permit his name to be used to obtain a permit for any other person.

(b) The applicant shall designate the location of the proposed cut or excavation and file with such application a plat showing the exact location, width, depth and length of such cut or excavation and the side of the street upon which the cut or excavation is to be made.

(Code 1975, § 25-16)

Sec. 102-28. Fee.

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay the city clerk a fee of \$5.00 for such permit.

(Code 1975, § 25-17)

Sec. 102-29. Bond.

Before the mayor shall issue any permit under this article, he shall first require the person requesting such permit to post a cash bond with the treasurer of the city in an amount as determined by the board of aldermen from time to time to indemnify the city for any damages that may be done to the city as a result of the work. Any permit so issued as provided in this article shall specify that any such excavation shall be done under the supervision of the mayor and shall be completed according to his directions.

(Code 1975, § 25-18)

Sec. 102-30. Manner of work generally.

The person doing the cutting or excavating under a permit issued pursuant to this article shall cause the cutting or excavating to be done with the least possible injury to the pavement, sidewalk or other surface, and place the materials therefrom where they will cause the least possible inconvenience to the public and permit the uninterrupted passage of water along the gutters, and the width of the excavation shall be no greater than is necessary for doing the work.

(Code 1975, § 25-19)

Sec. 102-31. Refilling, notice; manner.

The person making any cut or excavation pursuant to a permit issued under this article shall notify the mayor at least three hours prior to the commencement of refilling any cut or excavation. Such refilling and repairing shall be done pursuant to such specifications established therefor and on file in the office of the mayor.

(Code 1975, § 25-20)

Sec. 102-32. Removal of debris.

With proper notification, permits and bonds as required by this article, the person doing the cutting or excavating shall make proper filling of such cutting or excavation and immediately after the cutting or excavation clean up and haul away all surplus earth, rocks or rubbish therefrom.

(Code 1975, § 25-21)

Sec. 102-33. Barricades, other warning devices.

Any person who has made an excavation in any of the streets, sidewalks, alleys or other public places in this city shall cause such excavation to be barricaded in such manner as to adequately protect traffic, both vehicular and pedestrian, and shall cause such excavations, barricades, excavated materials, tools, supplies or equipment at such excavated area to be lighted with proper and suitable danger signals in such manner that all traffic may be amply and duly warned of the existence of such excavations, barricades, materials, tools, supplies or equipment.

(Code 1975, § 25-22)

Secs. 102-34--102-55. Reserved.

ARTICLE III.

OBSTRUCTIONS

DIVISION 1.

GENERALLY

Sec. 102-56. Prohibited.

No owner or occupant of any building or property abutting on any sidewalk, street or avenue in this city shall erect, place or permit to be placed any sign, hitching post, awning or any other thing that is an obstruction to vehicular or pedestrian traffic in the city.

(Code 1975, § 25-34)

Sec. 102-57. Permit for construction.

No person shall construct, install, erect, build, affix or otherwise place any manner of fixed structure, material or object in, under, on, through or above any right-of-way or cause the same to be done, except after having first secured a permit therefor from the city clerk.
(Code 1975, § 25-35)

Sec. 102-58. Certain construction prohibited.

No permit shall be issued for any construction described in section 102-57 if such construction when completed will thereafter directly hinder, obstruct or otherwise interfere with the free passage of persons or vehicles or the free flow of surface water in, upon or along the public right-of-way.
(Code 1975, § 25-36)

Sec. 102-59. Minimum height and clearance of signs and protrusions.

No person shall suspend or place from any building, structure or lot any awning, sign, object or other physical protrusion which hangs within the traveled portion of a vehicular right-of-way or which hangs over a sidewalk closer than seven feet above the sidewalk surface. Except for U.S. mail boxes, utility poles and landscaping ornamentation or elements approved by the board of aldermen, no person shall place or allow to be placed any goods, wares, merchandise, signs or other objects upon a public sidewalk in such a manner that there remains less than three feet of sidewalk width between the goods, wares, merchandise or other objects and the street which adjoins such sidewalk; provided that the provisions of this section shall not apply to sidewalk sales during community festivals or parades which are sanctioned or approved by the board of aldermen or to charitable bake sales unless such sidewalk sales or bake sales obstruct pedestrian traffic upon such sidewalk.
(Code 1975, § 25-37; Ord. No. 92-3, § 1, 5-19-92)

Sec. 102-60. Penalty for violation of section 102-59.

Any person who shall violate the provisions of section 102-59 shall, upon conviction, be fined not less than \$10.00 and not more than \$500.00.
(Ord. No. 92-3, § 2, 5-19-92)

Secs. 102-61--102-70. Reserved.

DIVISION 2.

GROWTH OF SHRUBS, ETC., AT INTERSECTIONS*

* **Cross References:** Zoning, app. A.

Sec. 102-71. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Street gutter flow line means the street gutter flow line of the curb adjacent to and bordering upon each restricted area described in section 102-73; if there is no such curb, the height restrictions set forth in this division shall be based upon the actual level of the paved or used portion of the public street adjacent to and bordering upon each such restricted area.
(Code 1975, § 25-44)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 102-72. Enforcement.

In addition to any penalty which may be imposed for the violation of this division, the city shall be entitled to enter upon and

remove from the triangular corner areas described in this division any of the growths prohibited by this division. Such entry and removal shall be without liability to the owners thereof.
(Code 1975, § 25-45)

Sec. 102-73. Restricted areas.

(a) The areas in the city restricted by the provisions of this division are as follows:

(1) All of that portion of land lying within a triangular shaped area on each street corner within the city described by metes and bounds as follows: Beginning at the precise corner of intersection point of the curbs of each of the two streets forming each corner and extending 20 feet along each such curblines from such curb intersection point, the third side being determined by the drawing of a straight line from the ends of such 20-foot extensions; whether such land is privately owned or unpaved or untraveled street right-of-way property.

(2) Where no curbs are in existence at such street intersections, such 20-foot lines shall coincide with the central flow line of the ditches paralleling such uncurbed streets, as shall be determined by the city engineer.

(b) The provisions of this division shall apply only to those areas of the city designated and classified by the city's zoning ordinance requiring construction on lots in zoned sections to be set back from the property line of each such lot.
(Code 1975, § 25-46)

Sec. 102-74. Maximum height of shrubs, etc.

No person shall plant, grow or maintain in any restricted area any plant, hedge, shrub or other growth, except trees, at a height greater than three feet from the street gutter flow line.
(Code 1975, § 25-47)

Sec. 102-75. Minimum clearance of trees.

Any trees planted, grown and maintained in any restricted area shall not have branches or foliage extending from the trunk thereof at a height lower than ten feet from the street gutter flow line.
(Code 1975, § 25-48)

Secs. 102-76--102-95. Reserved.

ARTICLE IV.

HOUSE NUMBERING*

* **Cross References:** Buildings, ch. 22.

Sec. 102-96. Buildings to be numbered.

All buildings erected in the city shall bear an identification, commonly known as a house number, which number shall serve to identify such building as to its location in the block in which it is situated, and the relative position of such building in such block.
(Code 1975, § 25-60)

Sec. 102-97. East-west base line.

Washington Street shall be used as a base dividing line running east and west, and all streets now in existence or hereafter coming into existence which shall cross Washington Street in a north and south direction shall be known and designated in the following manner: That part of any street lying north of Washington Street shall bear the name "North" before the name of such street and that part lying south of Washington Street shall bear the name "South" before the name of such street. The buildings along such streets which cross Washington Street shall be numbered both north and south with the numbers beginning at Washington Street.
(Code 1975, § 25-61)

Sec. 102-98. North-south base line.

Lafayette Street shall be used as a base dividing line running north and south, and all streets now in existence or hereafter coming into existence which shall cross Lafayette Street in an east and west direction shall be known and designated in the following manner: That part of any street lying east of Lafayette Street shall bear the name "East" before the name of such street, and that part of any street lying west of Lafayette Street shall bear the name "West" before the name of such street. The buildings along such streets which cross Lafayette Street shall be numbered both east and west with the numbers beginning at Lafayette Street.
(Code 1975, § 25-62)

Sec. 102-99. Numbering intervals.

In numbering the buildings along all of the streets of the city, the standard of 25 feet frontage for each number shall be used.
(Code 1975, § 25-63)

Sec. 102-100. Plan of numbering.

On all streets, the numbers shall run in consecutive order, alternating from side to side. On all streets running north and south, the even numbers shall be on the east side of the street; and on streets running east and west, the even numbers shall be on the south side of the street. The numbers shall run 100 to each block or distance between two street intersections on the same street. Where the streets intersect but do not cross, the numbers shall run in each case to a street intersecting on both sides of the street being numbered. The respective blocks located upon the streets which do not intersect the base lines shall bear the hundred number of the corresponding block nearest the same location on the nearest street, extending in the same direction, which does intersect the base lines.
(Code 1975, § 25-64)

Sec. 102-101. Designation of number.

Whenever a building permit shall be granted, the city clerk, before issuing such permit, shall designate the street and number of the building to be constructed on the building permit.
(Code 1975, § 25-65)

Sec. 102-102. Size and location of numbers.

The street numbers shall be at least three inches tall and shall be placed in a conspicuous place on the building or porch.
(Code 1975, § 25-66)

Secs. 102-103--102-125. Reserved.

ARTICLE V.

SIDEWALK MAINTENANCE

Sec. 102-126. Generally.

All sidewalks now constructed or that may be constructed in the city shall at all times be kept in good repair by the owner of the property fronting and abutting thereon, and should such owner fail to do so, such sidewalk shall be repaired by the city and the costs for such repairs shall be assessed as a special tax against the property fronting and abutting on such sidewalk.
(Code 1975, § 25-78)

Sec. 102-127. Inspections.

It shall be the duty of the mayor to inspect all sidewalks in the city at least once each month.
(Code 1975, § 25-79)

Sec. 102-128. Notice to owner.

Whenever the mayor shall observe or be notified by the board of aldermen, any citizen or other person that any sidewalk or portion thereof is out of repair, he shall, when so notified, immediately inspect such sidewalk, or portion thereof, and if he finds the sidewalk to be out of repair he shall give either verbal or written notice to the owner, occupant or agent of the lot or piece of ground fronting and abutting on such sidewalk or portion thereof to repair such sidewalk within five days from the date of receiving such notice.

(Code 1975, § 25-80)

Sec. 102-129. Repair by city.

If the owner or occupant of the abutting property fails to comply with the notice provided for by this article within the time designated, then the mayor shall make such repairs. If the lot or piece of ground fronting and abutting on such sidewalk is vacant or unoccupied and the owner and agent are unknown or nonresidents of the city, then the mayor may make such repairs without notice.

(Code 1975, § 25-81)

Sec. 102-130. Records.

The mayor shall keep an accurate account of the costs of any repairs made under the provisions of this article and report such costs to the board of aldermen for assessment.

(Code 1975, § 25-82)

Sec. 102-131. Assessment of costs.

The board of aldermen shall, by ordinance, levy a special assessment for the amount unpaid against each lot or piece of ground fronting and abutting on a sidewalk repaired by the mayor under this article.

(Code 1975, § 25-83)

Sec. 102-132. Special tax bills.

The board of aldermen shall, by order made of record, authorize and direct the city clerk to issue special tax bills in favor of the mayor for the amount due from each lot or piece of ground fronting and abutting on such sidewalk, according to the report of the mayor thereon. All such special tax bills shall be issued in the name of the owner of the lot or piece of ground so fronting and abutting on such sidewalk, and such tax bill shall be and constitute a lien upon the property described therein until paid. If such tax bills are not paid within 60 days from presentation and demand therefor, they shall, as a penalty for such nonpayment, bear interest at the rate of eight percent per annum.

(Code 1975, § 25-84)

Sec. 102-133. Collection of special tax bills.

Whenever the city clerk shall issue any special tax bills in favor of the mayor as provided by this article, he shall deliver such special tax bills to the city collector for collection, taking his receipt therefor, and charge him with the amount thereof. The city collector shall proceed to collect such special tax bills in the manner provided by the provisions of this Code and city ordinances for the collection of other special tax bills.

(Code 1975, § 25-85)

Sec. 102-134. Register of special assessments for improvements.

The city clerk shall enter an abstract of all special tax bills issued under the provisions of this article in a register to be kept for that purpose, known as the register of special assessments for improvements. Such abstract shall show in convenient form the number and date of the tax bill, the name of the owner and description of the property, the number and date of approval of the ordinance levying such special assessment, the amount of the tax, when due, and when and by whom paid.

(Code 1975, § 25-86)

Sec. 102-135. Satisfaction of special tax bill.

Whenever any owner of property against whom any special tax bill shall have been issued under this article shall pay such bill, the city collector shall endorse on the back thereof a receipt for the amount paid, and deliver such bill so endorsed to the party

making such payment, and report such fact to the city clerk, in writing; whereupon the city clerk shall file such report and enter satisfaction upon the register of special assessments for improvements.
(Code 1975, § 25-87)

Sec. 102-136. Presumptive evidence.

All special tax bills issued for special assessments under the provisions of this article shall, in any action thereon, be prima facie evidence of the regularity of the proceedings for such special assessments, of the validity of the bill, of the doing of the work and of the furnishing of the materials charged for, and of the liability of the property to the charge stated in the bill.
(Code 1975, § 25-88)

Secs. 102-137--102-155. Reserved.

ARTICLE VI.

VACATION OF STREETS, ALLEYS

Sec. 102-156. Petition.

Vacation of streets, alleys and ways in the city shall be initiated by the filing of a petition describing the street, alley or way to be vacated, the names of the owners on both sides of the way to be vacated, and signed by the parties filing such petition; provided however, that the board of aldermen may dispense with the necessity of such petition by motion.
(Code 1975, § 25-104)

Sec. 102-157. Publication of notice.

(a) Upon the filing of a petition to vacate any street, alley or way, the city clerk shall cause the following notice to be published one time in the official newspaper of the city or posted at the city hall:

NOTICE

Notice is hereby given that on the _____ day of _____, 19_____, at a duly convened meeting of the board of aldermen of the City of Doniphan, Missouri, an ordinance providing for the vacating of the following streets, alleys and ways, to wit:

(Description)

will be considered for enactment by the board of aldermen. At such meeting, all persons interested may file remonstrances and appear and be heard.

	City Clerk
--	------------

(b) The notice provided for in this section shall be published not more than ten days nor less than five days before the meeting at which the vacation ordinance is to be acted upon.
(Code 1975, § 25-105)

Sec. 102-158. Objections; action of council.

(a) Upon a filing of a remonstrance or objection to the vacation of a street, alley or way pursuant to this article, or a personal appearance at the meeting at which the vacation ordinance is considered in objection thereto, the board of aldermen shall request the petitioners to furnish written consent to such vacation, signed and acknowledged by two-thirds of the owners of the property abutting and adjoining the streets, alleys or ways to be vacated.

(b) Upon the consent to the vacation of a street, alley or way being filed, the board of aldermen may in its discretion enact or refuse to enact the vacation ordinance. If no remonstrances or objections are filed, then enactment of such ordinance shall be

entirely dependent upon the discretionary power of the board of aldermen, and no consents shall be necessary, provided that the petitioners constitute two-thirds of the owners of the abutting and adjoining property.
(Code 1975, § 25-106)

Sec. 102-159. Conveyances.

Upon the enactment and passage of any ordinance vacating a street, alley or way under this article, it shall be the duty of the mayor, or acting president of the board of aldermen if the mayor shall be absent or unable to act, to execute the proper conveyances, and for the city clerk to attest such signature and affix the official seal of the city, and to record the entire proceedings with the county recorder of deeds.
(Code 1975, § 25-107)

Sec. 102-160. Liability of costs.

All costs incurred in any proceedings initiated under this article shall be paid by the persons petitioning for the vacation of a street, alley or way.
(Code 1975, § 25-108)

Chapters 103--105

RESERVED

Chapter 106

TAXATION*

* **Cross References:** Administration, ch. 2; city collector, § 2-246 et seq.; budget officer, § 2-276 et seq.; buildings, ch. 22; licenses, ch. 62; peddlers, ch. 78; sales, ch. 90.
State Law References: Taxing powers of city, RSMo 71.610 et seq.; taxation in fourth class cities, RSMo 94.190 et seq.

Article I. In General

- Sec. 106-1. County assessor to act for city.
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- Sec. 106-4. Establishing rate of tax.
- Sec. 106-5. Taxes collected for bonded indebtedness and interest, restricted.
- Sec. 106-6. Assessment of taxes generally.
- Sec. 106-7. City, county assessments to conform.
- Sec. 106-8. Reserved.
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- Sec. 106-10. Property held on January 1 subject to taxation.
- Sec. 106-11. Lien on real property.
- Sec. 106-12. When personal property taxes delinquent.
- Sec. 106-13. When delinquent.
- Sec. 106-14. Interest, penalty on delinquent taxes.
- Sec. 106-15. Collection of delinquent taxes generally.
- Sec. 106-16. Disposition of uncollectible taxes.
- Sec. 106-17. City sales tax.
- Secs. 106-18--106-40. Reserved.

Article II. Transportation Sales Tax

- Sec. 106-41. Imposed.
- Sec. 106-42. Rate of tax.
- Sec. 106-43. To be in addition to other sales taxes.
- Sec. 106-44. Collection procedures.
- Sec. 106-45. City transportation trust fund established.

Secs. 106-46--106-55. Reserved.

Article III. Transient Guest Tax

Sec. 106-56. Transient guest tax imposed.
Sec. 106-57. Rate of tax.
Sec. 106-58. Payment of tax.
Sec. 106-59. Delinquent taxes; penalties and interest.
Sec. 106-60. Collector-treasurer's duties.
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Article IV. Motel Tourism Tax

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Sec. 106-80. Refund procedures.
Sec. 106-81. Delinquent taxes; penalties and interest.
Sec. 106-82. Bond required.
Sec. 106-83. Collector-treasurer's duties.
Sec. 106-84. Expenditures from motel tourism tax fund.
Sec. 106-85. Violation an offense.

ARTICLE I.

IN GENERAL

Sec. 106-1. County assessor to act for city.

The county tax assessor shall serve and act as the tax assessor for the city.
(Code 1975, § 26-1)

Sec. 106-2. No exemption from taxation.

The mayor and board of aldermen shall have no power to relieve any person from the payment of any tax, unless same shall have been barred by the state statutes of limitations, or exempt any person from any assessment or burden imposed upon him by law.
(Code 1975, § 26-2)

State Law References: Similar provisions, RSMo 94.240.

Sec. 106-3. All property subject.

For the support of the city government and advancement of the public interest and the improvement of the city, and the payment of the bonded indebtedness of the city and the interest thereon, taxes shall be assessed and levied on all property, both real and personal, subject to taxation for state, county or city purposes.

(Code 1975, § 26-3)

Sec. 106-4. Establishing rate of tax.

It shall be the duty of the board of aldermen, within a reasonable time after the assessor's book is returnable from the board of equalization, to establish by ordinance the rate of taxes to be levied, assessed and collected on the assessed valuation of real personal property within the city subject to taxation for city purposes.

(Code 1975, § 26-4)

State Law References: Similar provisions, RSMo 94.210.

Sec. 106-5. Taxes collected for bonded indebtedness and interest, restricted.

The tax levied and collected for the purpose or payment of the bonded indebtedness of the city and the interest thereon shall

not be used for any other purpose whatever, but shall be placed in a separate fund and used for that purpose.
(Code 1975, § 26-5)

Sec. 106-6. Assessment of taxes generally.

In assessing property, both real and personal, in the city, the county assessor shall assess all property in the city, and after such assessment has been passed upon by the board of equalization, as provided for in this chapter, such assessment shall be taken as the basis from which the board of aldermen shall make the levy for city purposes.
(Code 1975, § 26-6)

Sec. 106-7. City, county assessments to conform.

The assessment of city property as made by the county assessor shall conform to the county assessment thereof, and after the board of equalization has passed upon such assessment and equalized the same, the assessor's book shall be corrected in red ink in accordance with the changes made by the board of equalization, and so certified by such board, and then returned to the board of aldermen.
(Code 1975, § 26-7)

Sec. 106-8. Reserved.

Sec. 106-9. Assessor's book to be deposited with city collector.

A copy of the county assessor's book shall, when completed and verified by affidavit as required by law, be returned to and deposited in the office of the city collector, who shall lay such book before the board of aldermen, at its first regular meeting thereafter, for examination and approval. If the assessor's book is correctly and properly made, the board of aldermen shall approve and accept it. Should the assessor's book be incorrect or incomplete or not in conformity to law, the board of aldermen shall cause the assessor's book to be corrected or completed. If the board of aldermen fails to approve and accept the assessor's book, it shall nevertheless, be considered as having been approved and accepted as submitted by the assessor as of 30 days after the assessor has completed such assessment.
(Code 1975, § 26-9)

Sec. 106-10. Property held on January 1 subject to taxation.

Every person owning or holding property on January 1 in each year, including all such property purchased on that day, shall be liable for taxation thereon for the ensuing year.
(Code 1975, § 26-10)

Sec. 106-11. Lien on real property.

Real property within the city shall in all cases be liable for all taxes due the city, and a lien is hereby created in favor of the city for all taxes due.
(Code 1975, § 26-11)

Sec. 106-12. When personal property taxes delinquent.

Tangible personal property taxes and all personal taxes assessed by the city after January 1 of each year shall constitute a debt in favor of the city, and when unpaid and delinquent, a personal judgment may be recovered against the party or parties assessed with such taxes before any court of this state having jurisdiction.
(Code 1975, § 26-12)

Sec. 106-13. When delinquent.

On January 1 of each year all unpaid city taxes, both personal and real, shall become delinquent.
(Code 1975, § 26-13)

Sec. 106-14. Interest, penalty on delinquent taxes.

If any taxpayer shall fail, refuse or neglect to pay the collector his taxes prior to the time that they become delinquent, then it shall be the duty of the collector, after such taxes become delinquent, to collect an additional sum as interest, of 1 1/2 percent per month or fraction thereof, and to thereafter pay all such sums to the city as in other cases provided.
(Code 1975, § 26-14)

Sec. 106-15. Collection of delinquent taxes generally.

Delinquent taxes shall be collected in the manner provided by law for the collection of real and personal taxes for state and county purposes.
(Code 1975, § 26-15)

Sec. 106-16. Disposition of uncollectible taxes.

Upon a finding by the board of aldermen that taxes, both real and personal, are delinquent, and that such amounts are uncollectible, or that collection of such taxes would not be feasible from an economic standpoint, the board of aldermen, by ordinance, may abate such taxes.
(Code 1975, § 26-16)

Sec. 106-17. City sales tax.

Pursuant to the authority granted by and subject to the provisions of RSMo 94.500--94.550, a tax for general revenue purposes is hereby imposed upon all sellers 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 RSMo 144.010--144.425, and the rules and regulations of the director of revenue issued pursuant thereto. The rate of the tax shall be one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the city, if such property and taxable services are subject to taxation by the state under the provisions of RSMo 144.010--144.425. The tax shall be collected pursuant to the provisions of RSMo 94.500--94.550.
(Code 1975, § 26-17)

State Law References: Sales and use tax, RSMo ch. 144.

Secs. 106-18--106-40. Reserved.

ARTICLE II.

TRANSPORTATION SALES TAX*

* **Editors Note:** Ordinance No. 88-11, adopted April 5, 1988, from which this article derives, was passed at a special election on June 7, 1988.

Sec. 106-41. Imposed.

Pursuant to the provisions of RSMo 94.700--94.755, there is hereby imposed, at the rate established in this article, a sales tax for transportation purposes on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the city, if such property and services are subject to taxation by the state under the provisions of RSMo 144.010--144.525. The extent of such tax and the manner of its application shall be as provided in RSMo 144.010--144.525 and the rules and regulations of the director of revenue issued pursuant thereto.
(Code 1975, § 26-46)

Sec. 106-42. Rate of tax.

The rate of the transportation sales tax established in this article shall be one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail if such property and services are subject to taxation by the state under the provisions of RSMo 144.010--144.525.
(Code 1975, § 26-47)

Sec. 106-43. To be in addition to other sales taxes.

The amount of sales taxes reported and returned to the director of revenue by the seller shall be computed on the basis of the combined rate of the tax imposed by RSMo 144.010--144.525, the tax imposed by city ordinance as authorized by RSMo 94.500--94.550, the tax imposed by this article under the provisions of RSMo 94.700--94.755, and any other applicable sales taxes now in effect or hereafter adopted by state law or city ordinance which are applicable within the limits of the city.
(Code 1975, § 26-48)

Sec. 106-44. Collection procedures.

The transportation sales tax imposed under this article shall be administered and collected by the director of revenue of the state pursuant to the provisions which are adopted by reference and incorporated in this article.
(Code 1975, § 26-49)

Sec. 106-45. City transportation trust fund established.

All transportation sales tax monies received from the director of revenue by the city treasurer shall be deposited in a special and separate city fund to be known as the "city transportation trust fund." All monies in the city transportation trust fund shall be appropriated and disbursed only for transportation purposes as enumerated in RSMo 94.700--94.755.
(Code 1975, § 26-50)

Secs. 106-46--106-55. Reserved.

ARTICLE III.

TRANSIENT GUEST TAX

Sec. 106-56. Transient guest tax imposed.

Pursuant to the authority granted by, and subject to, the provisions of Sections 67.1000 through 67.1002 RSMo, (1998), a tax is hereby imposed upon the operators of all hotels and motels within the limits of the city based upon the charges for sleeping rooms which are rented by hotel and motel operators to transient guests.
(Ord. No. 02-1, § 1, 1-15-02)

Section 106-57. Rate of tax.

The rate of the tax shall be five percent of the total charge for each occupied sleeping room paid by each transient guest each day. The term "total charge for each occupied sleeping room" shall mean the total amount appearing on the bill of each transient guest for the use of the sleeping room for each day of use, but does not include separately itemized charges for telephone calls, room service, equipment rental or pay television fees which the transient guest has the option to decline by non-use. The tax imposed is in addition to any other sales, use or gross receipts tax imposed by state law or city ordinance and shall be separately stated from all other charges, fees and taxes and printed upon the bill given to such transient guests by the operator of the hotel or motel.
(Ord. No. 02-1, § 2, 1-15-02)

Section 106-58. Payment of tax.

The tax imposed by this article shall be collected from transient guests and paid by the hotel or motel operator at least monthly in the manner provided by subsequent city ordinance adopted pursuant to Section 67.1002 RSMo (1998).
(Ord. No. 02-1, § 3, 1-15-02)

Section 106-59. Delinquent taxes; penalties and interest.

If any hotel or motel operator shall fail to collect, or collect and fail to remit to the city collector, the tax imposed by this article within the time heretofore specified, the operator shall be assessed a penalty of one percent of the total tax due per month or portion thereof during which such tax remains unpaid. All unpaid taxes (including penalties assessed for delinquencies) shall draw

interest at the rate of two percent per month until the same are paid in full. The city clerk shall not issue or renew any city business license of a hotel or motel operator who is delinquent in the payment of any amount of tax due under this article. The board of aldermen may, by ordinance, revoke the business license of any hotel or motel operator who is more than 30 days delinquent in the payment of any tax, penalty or interest due under this article. When any tax hereunder is collectable by the Director of Revenue of the State of Missouri, the director of revenue shall have the powers and duties established by state law in the administration and enforcement of said tax. When any tax hereunder is collectible by the city collector, the city collector shall have the same powers and duties relating to the administration and enforcement of said tax as does the Director of Revenue of the State of Missouri under state law.

(Ord. No. 02-1, § 4, 1-15-02)

Section 106-60. Collector-treasurer's duties.

All tax revenue raised pursuant to this article which is received by the city collector or by the city treasurer, as the case may be, shall be held in a separate city fund to be known as the "motel tourism tax fund". All expenditures made from the motel tourism tax fund shall be made only to a not-for-profit corporation under written contract with the city to provide tourism promotional services in accordance with the provisions of Section 67.1000 RSMo (1998).

(Ord. No. 02-1, § 5, 1-15-02)

Sec. 106-61. Violation an offense.

Any transient guest who shall purposely fail to pay to the operator of a hotel or motel the amount of the tax imposed by this article as shown upon their bill from the operator of said hotel or motel shall be guilty of an offense and, upon conviction, shall be sentenced to serve not more than 90 days in the city jail or be sentenced to pay a fine of not more than \$500.00 or be sentenced to both such fine and imprisonment. Any operator of a hotel or motel who shall knowingly refuse to collect such tax from a transient guest, or who shall knowingly fail to file a motel tourism tax return, or who shall knowingly refuse to allow the director of revenue or the city collector, as the case may be, to view, audit and copy the business records and/or the guest registry of such hotel or motel for the purpose of determining the liability of such hotel or motel for the tax imposed by this article, and any operator of a hotel or motel who shall knowingly fail to pay such tax after demand for such payment has been made in writing by the director of revenue or by the city collector, as the case may be, shall be guilty of an offense, and, upon conviction, shall be sentenced to serve not more than 90 days in the city jail or be sentenced to pay a fine of not more than \$500.00 or be sentenced to both such fine and imprisonment. Each day in which a violation occurs shall be considered as a separate offense.

(Ord. No. 02-1, § 6, 1-15-02)

Secs. 106-62--106-75. Reserved.

ARTICLE IV.

MOTEL TOURISM TAX

Sec. 106-76. Collector to collect tax.

The city collector shall collect the tax imposed by Ordinance 2002-1 [article III, above] in the manner provided in said ordinance as supplemented herein.

(Ord. No. 02-6, § 1, 6-4-02)

Sec. 106-77. Return required.

Every hotel and motel business within the limits of the city which shall rent rooms to transient guests in any calendar month, shall, within 20 days after the end of said calendar month, for each hotel or motel business location, submit to the city collector a written Motel Tax Return (Form 2002-1), which shall be completely filled out and signed by the owner or authorized officer of the hotel or motel business. The Motel Tax Return (Form 2002-1) shall include, but not necessarily be limited to, the following information:

Type of business entity.

Name, address, Social Security Number and telephone number of all owners, if a proprietorship or partnership.

Name, address, federal employee identification number of corporate entity with list of all separate business locations within the city.

Name, address and telephone number of every officer or director of a corporate entity.

State sales tax number for each business location.

Copy of Missouri State Sales Tax Return for period.

Aggregate amount of tax due for period computed in accordance with ordinance.

A copy of [the] Motel Tax Return (Form 2002-1) shall be in substantially the form attached hereto, labeled Motel Tax Return (Form 2002-1), incorporated herein by reference. The city collector may, however, require the submission of additional information from the taxpayer on the Motel Tax Return (Form 2002-1) if, in the collector's discretion, the same is required for the proper determination or administration of the tax. In particular, the city collector may demand a list by name of occupant signing register of all occupants of hotel or motel during the period, showing length of stay, and "total charge for each occupied sleeping room" each day.

The term "total charge for each occupied sleeping room" shall mean the total amount appearing on the bill of each transient guest for the use of the sleeping room for each day of use, but does not include separately itemized charges for telephone calls, room service, equipment rental or pay television fees which the transient guest has the option to decline by non-use. The tax imposed is in addition to any other sales, use or gross receipts tax imposed by state law or city ordinance and shall be separately stated from all other charges, fees and taxes and printed upon the bill given to such transient guests by the operator of the hotel or motel.
(Ord. No. 02-6, § 2, 6-4-02)

Sec. 106-78. Payment based upon return.

Every hotel or motel business which is required by city ordinance to file a motel tax return under the ordinances of the city shall, on or before the due date for filing of said motel tax return, submit payment of the total tax collected for the period covered by said motel tax return as shown on said return in lawful money of the United States made payable to the City Collector of the City of Doniphan, Missouri.
(Ord. No. 02-6, § 3, 6-4-02)

Sec. 106-79. Records to be kept; audit by collector.

Each hotel or motel business within the city shall make written records of each days business operation which shows the number of transient guests who stayed in a room or rooms of the hotel or motel that day along with the amount of the "total charge for each occupied sleeping room" which was paid by said transient guest. All written records used for the determination or collection of the motel tax from transient guests, including, but not limited to, the hotel or motel register, the hotel or motel state sales tax returns, income statements of the business, and federal and Missouri Income Tax Returns of the Business shall be kept for at least five years after the end of the monthly reporting period covered by a Motel Tax Return (Form 2002-1), and shall be open to inspection, audit and copying by the city collector or the authorized employee or officer of the city designated by the city collector. The owner or chief executive officer of any hotel or motel business which knowingly refuses to allow such inspection, audit or copying after written demand by the city collector shall be deemed guilty of an offense. The owner or chief executive officer of any hotel or motel business which knowingly fails to keep and produce the records required to be kept under this section shall be deemed guilty of an offense.
(Ord. No. 02-6, § 4, 6-4-02)

Sec. 106-80. Refund procedures.

(a) Where a taxpayer claims an overpayment as a result of clerical error or mistake, s/he must file a written claim in a manner as prescribed by the collector within two years of the overpayment. No claim will be considered unless filed within that time.

(b) Before any claim for refund is approved, it must be shown, where applicable, that the taxpayer has returned to the transient guest the amount claimed if the transient guest was charged this amount.

(c) In cases where a claim for credit is approved, the collector will issue a credit memorandum in the amount of the overpayment. The credit may then be applied by the taxpayer to any existing tax liability or to his/her subsequent tax liability. In no case should the taxpayer take credit for any overpayment unless prior approval has been obtained from the collector.
(Ord. No. 02-6, § 5, 6-4-02)

Sec. 106-81. Delinquent taxes; penalties and interest.

If any hotel or motel operator shall fail to collect, or collect and fail to remit to the city collector, the tax imposed by this article within the time heretofore specified, the operator shall be assessed a penalty of one percent of the total tax due per month or portion thereof during which such tax remains unpaid. All unpaid taxes (including penalties assessed for delinquencies) shall draw interest at the rate of two percent per month until the same are paid in full. The city clerk shall not issue or renew any city business license of a hotel or motel operator who is delinquent in the payment of any amount of tax due under this article. The board of aldermen may, by ordinance, revoke the business license of any hotel or motel operator who is more than 30 days delinquent in the payment of any tax, penalty or interest due under this article. When any tax hereunder is collectable by the city collector, the city collector shall have the same powers and duties relating to the administration and enforcement of said tax as does the Director of Revenue of the State of Missouri under state law relating to the city sales tax.
(Ord. No. 02-6, § 6, 6-4-02)

Sec. 106-82. Bond required.

The city collector may require that any hotel or motel business within the city which is liable for the filing of a Motel Tax Return (Form 2002-1) which has become more than 30 days delinquent on filing such a return, or which has become more than 30 days delinquent in the payment of any tax due shown on such a return, to post a cash or surety bond in an amount equal to four times the actual delinquency or four times the delinquency estimated by the city collector, conditioned upon future payment of all sums due from the business under this article. The city collector shall notify any business which is required to post a bond hereunder in writing. If the business fails to tender a cash bond, or a surety bond approved by the city collector with sufficient personal or corporate sureties, within ten days after receipt of notice, the owners of said business, or the chief executive officer of a corporate business, shall be deemed guilty of an offense.
(Ord. No. 02-6, § 7, 6-4-02)

Sec. 106-83. Collector-treasurer's duties.

All tax revenue raised pursuant to this article which is received by the city collector during any calendar month shall be transmitted by the collector monthly, on or before the tenth day of the next month, to the city treasurer to be held in a separate city fund to be known as the "motel tourism tax fund".
(Ord. No. 02-6, § 8, 6-4-02)

Sec. 106-84. Expenditures from motel tourism tax fund.

All monies which are deposited into the motel tourism tax fund shall be used by the city solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city as a convention, visitor and tourist center in accordance with the provisions of Section 67.1000 RSMo (1998).

Any not-for-profit corporation of the State of Missouri, domiciled in Ripley County, Missouri, which has as a statutory purpose, the promotion of the City of Doniphan as a convention, visitor or tourist center, which desires to contract with the City of Doniphan, Missouri, for that purpose using monies held in the motel tourism tax fund, may apply for a grant of all or part of said monies in the manner set forth herein.

Any such corporate applicant shall submit to the city clerk, in writing, a grant application which provides such information as will allow the board of aldermen to determine its qualifications to receive such grant from the city, along with a proposed budget for the expenditure of monies out of the motel tourism tax fund. The budget period should coincide with the city's fiscal year and should be submitted for each fiscal year for which monies are to be expended. Applications should be submitted on or before May 1 of each year for the fiscal year starting July 1 of each year, except that applications for the 2002-2003 fiscal year should be submitted as soon as possible after July 1, 2002.

The board of aldermen shall schedule at least one public hearing to receive comments upon the proposed application with notice of said public hearing printed at least once in the Prospect News at least five days prior to the public hearing.

Following the public hearing, the board of aldermen shall review the application, make any changes or alterations it deems appropriate after consultation with the applicant, and approve or reject, in whole or in part, the application or proposed budget.

So much of the application and proposed budget which is approved by the board of aldermen shall be included in the annual budget of the City of Doniphan, Missouri, under the line item motel tourism tax expenditures. The applicant whose grant is approved shall designate in writing the name of one or more of its authorized officers who shall have the authority to submit warrants for payment by the city treasurer of funds budgeted out of the motel tourism tax fund for the fiscal year in question. All warrants drawn upon the motel tourism tax fund shall be signed by one or more of said authorized officers and shall be counter signed by the city clerk. If the city clerk deems it appropriate, the clerk may refer the warrant to the board at its next regular meeting for approval before counter signature.

(Ord. No. 02-6, § 9, 6-4-02)

Sec. 106-85. Violation an offense.

Any transient guest who shall purposely fail to pay to the operator of a hotel or motel the amount of the tax imposed by this article as shown upon their bill from the operator of said hotel or motel shall be guilty of an offense and, upon conviction, shall be sentenced to serve not more than 90 days in the city jail or be sentenced to pay a fine of not more than \$500.00 or be sentenced to both such fine and imprisonment. Any operator of a hotel or motel who shall knowingly refuse to collect such tax from a transient guest, or who shall knowingly fail to file a motel tourism tax return, or who shall knowingly refuse to allow the city collector, as the case may be, to view, audit and copy the business records and/or the guest registry of such hotel or motel for the purpose of determining the liability of such hotel or motel for the tax imposed by this article, and any operator of a hotel or motel who shall knowingly fail to pay such tax after demand for such payment has been made in writing by the city collector, shall be guilty of an offense, and, upon conviction, shall be sentenced to serve not more than 90 days in the city jail or be sentenced to pay a fine of not more than \$500.00 or be sentenced to both such fine and imprisonment. Each day in which a violation occurs shall be considered as a separate offense. Any person who shall violate any provision of this article or Ordinance No. 2002-1 [article III, above] for which no specific punishment has been specified shall be punished as set forth in section 1-8 of the Code of Ordinances of the City of Doniphan, Missouri.

(Ord. No. 02-6, § 10, 6-4-02)

Chapters 107--109

RESERVED

Chapter 110

TAXICABS AND OTHER VEHICLES FOR HIRE*

* **Cross References:** Advertising, ch. 6; licenses, ch. 62; streets and sidewalks, ch. 102; traffic, ch. 114; zoning, app. A.

State Law References: Authority to license, regulate vehicles for hire, RSMo 94.270.

Sec. 110-1. License required.

Sec. 110-2. Application for license; proof of insurance and driver's license; description of vehicle.

Sec. 110-3. Records to be kept by clerk.

Sec. 110-4. Specifications for vehicles.

Sec. 110-5. License to be posted in vehicle.

Sec. 110-6. License expiration; revocation.

Sec. 110-7. Penalty for violation of chapter.

Sec. 110-1. License required.

No person shall operate any hack, auto livery, auto dray, jitney, taxicab, or any other conveyance for the transport of persons

for hire unless such person has a valid and up-to-date license from the city clerk for such operation pursuant to the provisions of this chapter, except that senior citizen or low income transportation services operated by governmental or not-for-profit corporations shall not be required to obtain a license or be subject to the regulations of this chapter.
(Code 1975, § 27-1)

Sec. 110-2. Application for license; proof of insurance and driver's license; description of vehicle.

Applications for licenses required by section 110-1 shall be made to the city clerk, and each application shall be accompanied by proof of insurance coverage on each vehicle sought to be licensed as a taxicab in the minimum amounts required by the state statutes pertaining to property damage liability and personal injury liability coverages. Such applications shall also contain a description of the vehicles sought to be operated as taxicabs, the names of the persons who shall operate the taxicabs, and proof that the operators thereof hold a valid Missouri driver's license. Proof of insurance coverage shall consist of a policy or binder issued by an insurance company authorized to do business in the state naming the applicant as an insured person and describing the covered vehicles. The binder or policy shall be accompanied by a receipt showing that the policy premium has been prepaid for the term covered by the taxicab license.
(Code 1975, § 27-2)

Sec. 110-3. Records to be kept by clerk.

The clerk shall keep a record of the name of the insurer of each applicant for a taxicab license, and the driver's license number of the operator, together with a copy of the issued license, copies of which shall be open to public inspection.
(Code 1975, § 27-3)

Sec. 110-4. Specifications for vehicles.

No vehicle may be operated as a taxicab on the streets, highways or alleys of the city unless such vehicle is in a good operating condition with all equipment as required by the state statutes, and further, no vehicle shall be operated as a taxicab on the streets, highways or alleys of the city unless such vehicle has, painted or otherwise displayed on the sides thereof, in letters not less than four inches in height, in a color contrasting with the basic paint color of the vehicle, the word "taxicab," and further, no vehicle shall be operated as a taxicab on the streets, highways or alleys of the city without a valid Missouri driver's license being held by the operator or without the minimum vehicle insurance coverage required by section 110-2.
(Code 1975, § 27-4)

Sec. 110-5. License to be posted in vehicle.

A copy of the city license shall be affixed to the dashboard of each vehicle operated as a taxicab so that such license may be observed and read through the windshield from the outside of the vehicle.
(Code 1975, § 27-5)

Sec. 110-6. License expiration; revocation.

The taxicab license issued under the provisions of this chapter shall expire on June 30 of each year or upon the date that insurance coverage on any vehicle operated by the license holder is cancelled, is terminated or expires, whichever date is first to occur. Such license may be revoked by the board of aldermen upon one week's notice, by certified mail, for any violation of the provisions of this chapter by the license holder, his officers or employees.
(Code 1975, § 27-6)

Sec. 110-7. Penalty for violation of chapter.

Any person who operates a vehicle on the streets, highways or alleys of the city in violation of the provisions of this chapter shall, upon conviction, be punished as provided in section 1-8.
(Code 1975, § 27-7)

Chapters 111--113

RESERVED

Chapter 114

TRAFFIC*

* **Cross References:** Alcoholic beverages, ch. 10; animals and fowl, ch. 18; cemeteries, ch. 26; civil defense, ch. 30; municipal airport, ch. 66; misuse of airport property and facilities, § 66-15; parks and recreation, ch. 74; peddlers, ch. 78; streets and sidewalks, ch. 102; taxicabs and other vehicles for hire, ch. 110.

State Law References: Traffic regulations, RSMo ch. 304; municipal regulation of traffic, RSMo 304.120.

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ARTICLE I.

IN GENERAL

Sec. 114-1. Definitions.

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:

Commercial motor vehicle means a motor vehicle designed or regularly used for carrying freight, merchandise, or more than eight passengers.

Director of revenue or director means the director of revenue of the state, or his authorized officers and agents.

Motor vehicle means any self-propelled vehicle not operated exclusively on tracks.

Motorcycle means any motor vehicle having fewer than four wheels.

Police or city police means all police officers of the city, together with the mayor, president of the board of aldermen, fire chief or firefighters when they are acting as regulators of traffic.

Protective headgear means such headgear as meets the standards and specifications established by the director of revenue.

Street means any public thoroughfare, including streets, alleys, highways and approaches thereto, within the corporate limits of the city.

(Code 1975, § 28-3.1)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 114-2. Model ordinance adopted.

RSMo ch. 300, commonly referred to as the model traffic ordinance, is hereby adopted as and for the traffic ordinance of the city with like effect as if recited at length in this chapter. Any amendments in RSMo ch. 300 which are enacted into law after the date of adoption of this section shall be considered to be adopted within the limits of the city until such time as the board of aldermen, by ordinance, shall specifically delete such amendments to RSMo ch. 300.

(Code 1975, § 28-1)

Sec. 114-3. Amendments.

The model traffic ordinance adopted by this chapter is hereby amended, altered and changed in the following respects:

Sec. 300.060. Section 300.060 of the traffic ordinance is hereby deleted in its entirety.

Sec. 300.205. Section 300.205 of the traffic ordinance is hereby deleted in its entirety.

Sec. 300.330. Section 300.330 of the traffic ordinance is hereby deleted in its entirety.

Sec. 300.347. Section 300.347 of the traffic ordinance is hereby deleted in its entirety.

Sec. 300.445. Section 300.445 of the traffic ordinance is hereby deleted in its entirety.
(Code 1975, § 28-2)

Sec. 114-4. Conflicts.

In the event of any conflict between the provisions of the model traffic ordinance adopted by the provisions of this chapter and the provisions of this Code, city ordinance or state law, the latter shall prevail and be controlling over the former.
(Code 1975, § 28-3)

Sec. 114-5. Obedience to chapter required.

It shall be unlawful, and unless otherwise declared in this chapter with respect to a particular offense, it is an offense for any person to do any act forbidden, or fail to perform any act required in this chapter.
(Code 1975, § 28-4)

Sec. 114-6. Obedience to officers.

Every operator or driver of any vehicle, whether the vehicle is a motor vehicle or not, and the rider of any animal traveling or otherwise using the streets within the city shall stop on the signal of any member of the city police and obey any other reasonable signal or direction of such police officer while such police officer is directing movement of traffic on the city streets.
(Code 1975, § 28-3.2)

Cross References: Animals and fowl, ch. 18.

Sec. 114-7. Driver's license required for operation.

It shall be unlawful for any person to operate any motor vehicle within the city unless such person shall have been issued a current and valid operator's license issued by the director of revenue.
(Code 1975, § 28-5)

Sec. 114-8. Allowing unlicensed driver to operate.

No person owning a motor vehicle or having a motor vehicle under his control shall allow the vehicle to be operated on the streets of the city by any person not having a current, valid operator's license issued by the director of revenue.
(Code 1975, § 28-5.1)

Sec. 114-9. License for operating motorcycle, etc.

Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by RSMo 302.080, to:

(1) Operate a motorcycle or motortricycle upon any highway of this city unless such person has a valid license that shows he has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director of revenue. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by RSMo 302.173, is conducted on such vehicle.

(2) Authorize or knowingly permit a motorcycle or motortricycle owned by him or under his control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor.
(Code 1975, §§ 28-5.2, 28-5.3)

State Law References: Similar provisions, RSMo 302.020.

Sec. 114-10. Restrictions on license.

No person shall operate a motor vehicle on the streets of the city in violation of any restriction imposed in a restricted license issued to him by the director of revenue.
(Code 1975, § 28-5.4)

Sec. 114-11. Vehicle plates.

No person shall operate any motor vehicle on the streets of the city unless there is attached to such vehicle a current, valid vehicle license issued by the director of revenue for such vehicle, nor shall any person owning a motor vehicle or having a motor vehicle under his control allow the vehicle to be operated by any other person unless the vehicle has attached thereto a current and valid vehicle license issued by the director of revenue for such vehicle; except that dealer plates may be displayed on any motor vehicle used by an employee or officer of a dealer, but dealer plates shall not be displayed on any motor vehicle hired or loaned to others or upon any regularly used service or wrecker vehicle.
(Code 1975, § 28-5.5)

Sec. 114-12. Display of driver's license.

It shall be unlawful for any operator of any motor vehicle, when requested to do so by any police officer of the city, to refuse to produce for the inspection of such police officer the operator's license of such operator.
(Code 1975, § 28-5.6)

Sec. 114-13. Commercial motor vehicles to display information.

All commercial motor vehicles operated within the city shall display in a conspicuous place:

- (1) The name of the owner.
- (2) The address from which such motor vehicle is operated or the number issued to a motor carrier by the state public service commission.
- (3) The gross weight for which such vehicle is licensed.
- (4) If the motor vehicle is a "local commercial vehicle" as the word "local" is defined in RSMo ch. 301 (1969).

(Code 1975, § 28-5.7)

Sec. 114-14. Driving while license under revocation or suspension.

It shall be unlawful for any person to operate a motor vehicle upon the streets of the city during the time period in which that person's operator's license has been suspended or revoked by the state director of revenue. A revocation or suspension period shall end only upon issuance of a reinstatement of license by the director of revenue or upon the expiration of a period of two years from the date of suspension or revocation, whichever is first to occur.

(Code 1975, § 28-5.8)

State Law References: Duration of suspension or revocation of license, RSMo 302.525.

Sec. 114-15. Closing streets.

(a) The mayor is hereby authorized, with the approval of the board of aldermen, to close any street, alley, public place or highway and withdraw the same from public use temporarily and during such period as public work thereon or other public emergency or expediency shall make such action necessary. No person shall use or attempt to use such street, alley, public place or highway so withdrawn from public use or drive or attempt to drive any vehicle or animal thereon.

(b) The mayor shall place a sign or placard at each end of the portion withdrawn from public use, such placard or sign to have the following words printed thereon in letters three inches high: "Street Closed."

(Code 1975, § 28-6)

Cross References: Streets and sidewalks, ch. 102.

Sec. 114-16. Obstruction to operator's view or driving mechanism.

(a) It shall be unlawful for the operator of any vehicle to drive such vehicle when the vehicle is so loaded, or when there are in the front seat of the vehicle such number of persons as to obstruct the view of the operator to the front or side, or to interfere with the operator's control over the driving mechanism of the vehicle.

(b) It shall be unlawful for any passenger in a vehicle to ride in such position as to interfere with the operator's view ahead or to the sides, or to interfere with the operator's control over the driving mechanism of the vehicle.

(Code 1975, § 28-7)

Sec. 114-17. Placing glass, scrap metal, etc., on street.

Any person who has purposely, accidentally, or by reason of an accident, dropped from his person or any vehicle any tacks, nails, wire, scrap metal, glass, crockery, sharp stones, or other substances injurious to the feet of persons or animals or to the tires or wheels of vehicles, including motor vehicles, bicycles or any other vehicles, upon any street in the city shall immediately make all reasonable efforts to clear the street of such substances.

(Code 1975, § 28-8)

Cross References: Littering prohibited, § 98-7.

State Law References: Similar provisions, RSMo 304.160.

Sec. 114-18. Tampering with motor vehicles.

(a) No person shall drive, operate, use or tamper with a motor vehicle or trailer without the permission of the owner thereof.

(b) No person shall, without the permission of the owner or person in charge thereof, climb upon or into, or swing upon any motor vehicle or trailer, whether such motor vehicle or trailer is in motion or at rest, or sound the horn or other sound-producing device thereon, or attempt to manipulate any of the levers, starting devices, brakes or machinery thereof, or set the machinery in motion.

(c) The provisions of this section shall apply to any person employed by the owner of such motor vehicle as a chauffeur or registered operator if such motor vehicle is driven or operated, used or tampered with without the owner's knowledge or expressed consent, or in violation of his instruction.

(d) No person shall knowingly ride in a motor vehicle which has been stolen or is being operated without the consent of the owner thereof.

(Code 1975, § 28-9)

State Law References: Tampering, RSMo 569.080, 569.090.

Sec. 114-19. Manner of riding.

It shall be unlawful for any person to ride upon the fender, running board, hood, top, tank, luggage carrier, or any portion not designed or intended for the use of passengers, when the vehicle is in motion, of any vehicle operated on any street, way or parking lot, public or private, upon which the public is invited to travel, or for the operator thereof to permit any person to so ride on any vehicle, or to thus operate such vehicle when anyone is so riding thereon. This section shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

(Code 1975, § 28-10)

Sec. 114-20. Leaving scene of 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 culpability or to accident, he leaves the place of the injury, damage or accident without stopping and giving his 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.

(Code 1975, § 28-11)

State Law References: Similar provisions, RSMo 577.060.

Sec. 114-21. Obstructing traffic.

No person shall obstruct or hinder the flow of traffic on any street within the city in any fashion.

(Code 1975, § 28-12)

Sec. 114-22. Pedestrians to yield right-of-way when crossing within unmarked area.

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.

(Code 1975, § 28-13)

Sec. 114-23. Authorized removal of vehicles; notice to owner, state.

(a) Members of the police division 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 division, or otherwise maintained by the city, under the circumstances enumerated as follows:

(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 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.

(4) When any motor vehicle without valid license plates issued by the director of revenue is parked or stored on a public street where parking is not prohibited and where such motor vehicle remains parked in the same place for a period of more than 24 hours.

(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. If 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 provided in this section, and if the vehicle is not returned to the owner within a period of three 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. 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.

(Code 1975, § 28-14)

Sec. 114-24. Operation of motor vehicle without financial responsibility.

No person shall operate a motor vehicle, or authorize any other person to operate a motor vehicle owned by them, upon the streets of the city, unless the person operating the motor vehicle maintains financial responsibility as required by, and in the manner provided by, RSMo (1994) 303.025. The operation of a motor vehicle upon the streets of the city shall provide proof of financial responsibility, by production of an insurance card issued pursuant to RSMo (1994) 303.024, or otherwise, upon request of any peace

officer.
(Ord. No. 95-3, § 1, 3-7-95)

Secs. 114-25--114-45. Reserved.

ARTICLE II.

TRAFFIC ENGINEER*

* **Cross References:** Administration, ch. 2; officers and employees, § 2-106 et seq.

Sec. 114-46. Office created.

The office of city traffic engineer is hereby established in and for the city.
(Code 1975, § 28-23)

Sec. 114-47. Appointment.

The mayor, or other designated city official, shall serve as city traffic engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic as provided in this chapter.
(Code 1975, § 28-24)

Sec. 114-48. Duties generally.

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 investigations 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 the ways and means to improve traffic conditions, and carry out the additional powers and duties imposed by this chapter and ordinances of this city, except as provided in this chapter.
(Code 1975, § 28-25)

Sec. 114-49. Authority over state highways.

(a) The functions of the city traffic engineer with all the powers, duties and authority given under the model traffic ordinance adopted by this chapter shall vest in the state highways and transportation commission for all controlled access highways, either divided or undivided, and other state highways as defined in RSMo 300.010, in this section called "highway," which are presently in existence and maintained by the state highways and transportation commission and all such highways which are in the future built, constructed or which the state highways and transportation commission assumes the responsibility to maintain within the corporate limits or within any area annexed by the city.

(b) The state highways and transportation commission shall have exclusive authority to place and maintain traffic control signs, signals and devices on all highways maintained by such commission. The state highways and transportation commission is given express authority to delegate to the district engineer any power or authority vested in the state highways and transportation commission by this chapter.
(Code 1975, § 28-26)

Secs. 114-50--114-70. Reserved.

ARTICLE III.

TRAFFIC VIOLATIONS BUREAU*

* **Cross References:** Administration, ch. 2; court, ch. 34.

Sec. 114-71. Established; domicile; violations clerk.

The circuit court of the county, which is authorized to hear and determine cases involving violations of the ordinances of the city, pursuant to RSMo ch. 479 (1978 Supp.), is hereby requested to establish by court order a violations bureau in accordance with RSMo 479.050 (1978 Supp.), wherein persons charged with violation of the traffic ordinances of the city may, under the limitations set forth in this article, enter their written waiver of trial and plea of guilty, and pay the fine and costs assessed therefor, without a court appearance. It is further requested that such violations bureau be housed in the county courthouse in the city, and that the division clerk of division II of the circuit court be appointed violations clerk.
(Code 1975, § 28-38)

Sec. 114-72. Procedures.

Upon entry of the circuit court order requested in section 114-71, the following procedures shall apply to the operation of the traffic violations bureau unless different procedures are set forth by order of the court:

(1) *Category of cases cognizable in the violations bureau.* All municipal ordinance violations cases charging the violation of any section of this chapter shall be cognizable before the violations bureau except for the following described offenses:

- a. Driving while intoxicated or under the influence of drugs.
- b. Driving while having a blood alcohol content of 0.08 of one percent or more by weight.
- c. Leaving the scene of an accident.
- d. Driving without a license (not including expired license if within 60 days of expiration date).
- e. Driving while license suspended or revoked.
- f. Any violation resulting in damage to property or personal injury.
- g. Any third speeding offense within a two-year period.

(2) *Violations clerk.* The division clerk of division II of the circuit court shall be the officer in charge of the violations bureau and, in the performance of his duties as violations clerk, he shall be subject to the exclusive supervision and control of the circuit court.

(3) *Violations bureau office.* The violations bureau shall be headquartered in the courthouse building of the city, and all expenses incident to the operation of the violations bureau shall be borne by the court.

(4) *Costs.* All defendants who appear before the violations clerk in cases cognizable by the violations bureau shall, upon entry of their plea of guilty and waiver of trial, pay to the violations clerk as costs the sum required by state law or the Office of Courts Administrator, in addition to the fine imposed upon the fine schedule set forth in this section. All regular costs collected shall be turned over by the division clerk as provided by law to the state and county treasuries. All police training costs payable to the City shall be turned over by the division clerk to the city treasurer as provided by law.

(5) *Fines.* Any and all defendants who appear before the violations clerk in cases cognizable by the traffic violations bureau shall, upon entry of their plea of guilty and waiver of trial, pay to the violations clerk, in addition to the costs otherwise assessed, a fine in the amount set forth in the following schedule of fines:

Section(s)	Charge	Fine	
114-2, 114-3	Model ordinance violations	\$ 35.00	
114-7	Obedience to officer	35.00	
114-7	No operator's license	50.00	
114-7	Expired operator's license		
		Within 60 days	25.00
		More than 60 days	50.00
114-8	Allowing unlicensed driver to operate	50.00	

114-9	Motorcycle qualification	50.00	
114-9	Allowing unlicensed motorcycle operator to operate	50.00	
114-10	Restrictions on license	25.00	
114-11	Vehicle plates	50.00	
114-12	Display of driver's license	25.00	
114-13	Commercial motor vehicles to display information	50.00	
114-15	Closing streets	25.00	
114-16	Obstruction to operator's view	25.00	
114-17	Placing glass on street	50.00	
114-18	Tampering with motor vehicle	125.00	
114-19	Manner of riding	25.00	
114-20	Leaving scene of accident	N/A	
114-21	Obstructing traffic	35.00	
114-22	Pedestrian to yield right-of-way	20.00	
114-96	Lights required	35.00	
114-97	Number of lights	25.00	
114-98	Spotlamps	20.00	
114-99	Signaling devices	20.00	
114-100	Brakes required	50.00	
114-101	Mufflers	50.00	
114-102	Mirrors required	25.00	
114-103	Projections on vehicles	35.00	
114-104	Towlines	35.00	
114-105	Metal tired-vehicles	75.00	
114-106	Weight regulations	125.00	
114-107	Hand and mechanical signals	25.00	
114-108	Loose loads	35.00	
114-109	Truck flaps	35.00	
114-110	Headgear	35.00	
114-131	Drive on right of roadway	35.00	
114-133	Passing	35.00	
114-135	No passing zones	35.00	
114-136	Passing on right	35.00	
114-137	Passing prohibited	50.00	
114-138	No passing zones	50.00	
114-147	Crossing fire hoses	35.00	
114-148	Right turns	20.00	
114-149	Stop sign	25.00	
114-167	Maximum limit, plus \$1.00 per mile per hour over limit	30.00	
114-168	Maximum on specific streets, plus \$1.00 per mile per hour over limit	30.00	
114-169	Slow speed	25.00	
114-181	Careless driving:		
		No accident	75.00
		With accident or drinking	125.00
114-182	Driving on sidewalks	30.00	

All other ordinance violations cognizable by the traffic violations bureau shall be assessed a fine of \$35.00. All fines shall be turned over at least monthly to the city treasury.

(6) *Records.* All records of the traffic violations bureau shall be records of the county circuit court, and shall be filed with the circuit clerk of division II of the circuit court. The violations clerk shall keep a record of all cases disposed of by the traffic violations bureau showing the fines and costs collected and turned over to the city treasury. All cases not disposed of by the traffic violations bureau within seven days of the issuance of the summons in such cases shall be filed and processed by the violations clerk for prosecution by the city attorney in the circuit court.
(Code 1975, § 28-39; Ord. No. 04-1, § 1, 1-20-04)

Secs. 114-73--114-95. Reserved.

ARTICLE IV.

VEHICLE EQUIPMENT

Sec. 114-96. Lights required.

No motor vehicle or motorcycle or combination of motor vehicles, trailers, motorcycles, sidecars or other combinations shall be driven, moved, parked or otherwise operated from one-half hour after sunset to one-half hour before sunrise or at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the streets at a distance of 500 feet ahead unless such vehicle or motorcycle, or combination, displays lighted lamps and illuminating devices as required by RSMo ch. 307. All such lights shall at all times, when illuminated, be cast so as not to project into the eyes of another driver, as required by RSMo 307.070. Such lights shall not at any time be on high beam.

(Code 1975, § 28-52)

Sec. 114-97. Headlamps on motor vehicles.

Except as provided in RSMo ch. 307, every motor vehicle other than a motor-drawn vehicle and other than a motorcycle shall be equipped with at least two approved headlamps mounted at the same level with at least one on each side of the front of the vehicle. Every motorcycle shall be equipped with at least one and not more than two approved headlamps. Every motorcycle equipped with a sidecar or other attachment shall be equipped with a lamp on the outside limit of such attachment capable of displaying a white light to the front.

(Code 1975, § 28-52.1)

State Law References: Similar provisions, RSMo 307.045.

Sec. 114-98. Spotlamps.

Any motor vehicle may be equipped with not to exceed one spotlamp, but every lighted spotlamp shall be so aimed and used so as not to be dazzling or glaring to any person.

(Code 1975, § 28-53)

State Law References: Similar provisions, RSMo 307.090.

Sec. 114-99. 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.

(Code 1975, § 28-54)

State Law References: Similar provisions, RSMo 307.170.1.

Sec. 114-100. Brakes required.

All motor vehicles, except motorcycles, used, driven or operated on any street, avenue, highway or alley within the city shall be equipped and provided at all times with two sets of adequate brakes, kept in good working order; and motorcycles shall be provided with one set of adequate brakes kept in good working order.

(Code 1975, § 28-55)

State Law References: Similar provisions, RSMo 307.170.3.

Sec. 114-101. Mufflers.

It is hereby declared to be unlawful for any person to drive a motor vehicle within the corporate limits of the city in which muffler cutouts shall be used, and no vehicle shall be driven in such manner or condition that excessive and unnecessary noises shall be made by its machinery, motor, signaling device or other parts or by any improperly loaded cargo. The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity or construction as to quiet the maximum possible exhaust noises as completely as is done in modern gas engine passenger motor vehicles. Any cutout or opening in the exhaust pipe between the motor and the muffler on any motor vehicle shall be completely closed and disconnected from its operating lever and shall be so arranged

that it cannot automatically open or be opened or operated while such motor vehicle is in motion.
(Code 1975, § 28-56)

State Law References: Mufflers, cutouts, RSMo 307.170.2.

Sec. 114-102. Mirrors, when required.

All motor vehicles which are so constructed or loaded that the operator cannot see the road behind such vehicle by looking back or around the side of such vehicle shall be equipped with a mirror so adjusted as to reveal the road behind and be visible from the operator's seat.

(Code 1975, § 28-57)

State Law References: Similar provisions, RSMo 307.170.4.

Sec. 114-103. Projections on vehicles.

All vehicles carrying poles or other objects which project more than five feet from the rear of such vehicle shall, during the period when lights are required by this article, carry a red light at or near the rear end of the pole or other object so projecting. At other times a red flag or cloth, not less than 16 inches square, shall be displayed at the end of such projection.

(Code 1975, § 28-58)

State Law References: Similar provisions, RSMo 307.170.5.

Sec. 114-104. Towlines.

When one vehicle is towing another, the connecting device shall not exceed 15 feet. During the time that lights are required by RSMo 307.020--307.120, the required lights shall be displayed by both vehicles. Every towed vehicle shall be coupled to the towing vehicle by means of a safety chain, cable, or equivalent device in addition to the primary coupling device, except that such secondary coupling device shall not be necessary if the connecting device is connected to the towing vehicle by a center-locking ball located over or nearly over the rear axle and not supported by the rear bumper of the towing vehicle. Such secondary safety connecting devices shall be of sufficient strength to control the towed vehicle in the event of failure of the primary coupling device. The provisions of this section shall not apply to wreckers towing vehicles or to vehicles secured to the towing vehicle by a fifth-wheel type connection.

(Code 1975, § 28-59)

State Law References: Similar provisions, RSMo 307.170.6.

Sec. 114-105. Restriction on use of metal-tired vehicles; penalty.

(a) No metal-tired vehicle shall be operated over any of the improved highways of this city, except over highways constructed of gravel or claybound gravel, if such vehicle has on the periphery of any of the road wheels any lug, flange, cleat, ridge, bolt or any projection of metal or wood which projects radially beyond the tread or traffic surface of the tire, unless the highway is protected by putting down solid planks or other suitable material, or by attachments to the wheels so as to prevent such vehicles from damaging the highway; except that this prohibition shall not apply to tractors or traction engines equipped with what is known as caterpillar treads, when such caterpillar does not contain any projection of any kind likely to injure the surface of the road. Tractors, traction engines and similar vehicles may be operated which have upon their road wheels V-shaped, diagonal or other cleats arranged in such manner as to be continuously in contact with the road surface if the gross weight on the wheels per inch of width of such cleats or road surface, when measured in the direction of the axle of the vehicle, does not exceed 800 pounds.

(b) No tractor, tractor engine, or other metal-tired vehicle weighing more than four tons, including the weight of the vehicle and its load, shall drive onto, upon or over the edge of any improved highway without protecting such edge by putting down solid planks or other suitable material to prevent such vehicle from breaking off the edges of the pavement.

(c) Any person violating this section, whether operating under a permit or not, or who shall willfully or negligently damage a highway, shall be liable for the amount of such damage caused to any highway, bridge, culvert or sewer, and any vehicle causing such damage shall be subject to a lien for the full amount of such damage, which lien shall not be superior to any duly recorded or filed chattel mortgage or other lien previously attached to such vehicle; the amount of such damage may be recovered in any action in any court of competent jurisdiction, in the name of the city or any interested party.

(Code 1975, § 28-60)

State Law References: Similar provisions, RSMo 304.250.

Sec. 114-106. Weight regulations.

No vehicle shall be operated on the streets of the city having a weight greater than 18,000 pounds, unless there has been previously granted by the mayor of the city a permit to operate such vehicle on the streets of the city. Such permit shall be applied for to the mayor on forms to be provided by him, and shall be accompanied by a fee of \$2.00, which shall be remitted by the mayor to the city collector. This section does not apply to operation of vehicles on federal or state highways within the city.
(Code 1975, § 28-61)

State Law References: Weight of vehicles, RSMo 304.180 et seq.

Sec. 114-107. Hand and mechanical signals.

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 in this section.

(1) An operator or driver, when stopping or when checking the speed of his vehicle, if the movement of other vehicles may reasonably be affected by such checking of speed, shall extend his arm at an angle below horizontal so that his arm may be seen in the rear of his vehicle.

(2) An operator or driver intending to turn his vehicle to the right shall extend his arm at an angle above horizontal so that his arm may be seen in front of and in the rear of his vehicle, and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which he is proceeding before turning.

(3) An operator or driver intending to turn his vehicle to the left shall extend his arm in a horizontal position so that his arm may be seen in the rear of his vehicle, and shall slow down and approach the intersecting highway so that the left side of his vehicle shall be as near as practicable to the centerline of the highway along which he is proceeding before turning.

(4) The signals required in this section 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 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 14 feet, which limit of 14 feet shall apply to single vehicles or combinations of vehicles. The provisions of this subsection shall not apply to any trailer which does not interfere with a clear view of the hand signals of the operator or of the signaling device upon the vehicle pulling such trailer; provided, 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 provided in this section shall only be applicable to new vehicles registered within the state after January 1, 1954.

(Code 1975, § 28-62)

State Law References: Similar provisions, RSMo 304.019.

Sec. 114-108. Loads which might become dislodged to be secured.

(a) All motor vehicles, and every trailer and semitrailer operating upon the public highways of this city and carrying goods or materials 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 materials 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 an offense.

(Code 1975, § 28-63)

State Law References: Similar provisions, RSMo 307.010.

Sec. 114-109. Truck flaps.

All trucks, or truck tractor-trailers, which have no rear fenders shall be equipped with mud flaps for the rear wheels. Such

mud flaps shall be at least as wide as the tread of the tires, and shall extend to within no less than eight inches of the ground, and be of such construction as to protect other vehicles on the streets from thrown mud, rocks, dirt, sand and other debris.
(Code 1975, § 28-64)

Sec. 114-110. Motorcycles and motortricycles, protective headgear required.

It shall be unlawful for any person to operate a motor vehicle having less than four wheels within the corporate limits of the city or ride as a passenger on any motor vehicle having less than four wheels unless such operator or passenger is wearing protective headgear which meets the standards and specifications established by the state director of revenue.
(Code 1975, § 28-65)

Sec. 114-111. Passenger restraint system required for children under four years of age; exceptions; violation, fine.

(a) After the effective date of this section, every person transporting a child under the age of four years residing in this state shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways within the limits of the city, for providing for the protection of such child. When traveling in the front seat of a motor vehicle, the child shall be protected by a child passenger restraint system approved by the Missouri Department of Public Safety. When traveling in the rear seat of a motor vehicle the child shall be protected by either a child passenger restraint system approved by the Missouri Department of Public Safety or the vehicle's seat belt. When the number of child passengers exceeds the number of available passenger positions, and all passenger positions are in use, remaining children shall be transported in the rear seat of the motor vehicle. The provisions of this section shall not apply to motor vehicles registered in another state, or to a temporary substitute vehicle.

(b) Any person who violates this section is guilty of an offense and, upon conviction, may be punished by a fine of not more than \$25.00, and court costs.

(c) The provisions of this section shall not apply to any public carrier for hire.
(Ord. No. 93-1, § 1, 2-2-93)

Sec. 114-112. Seat belts required for passenger cars and trucks under 12,000 lbs.; definition; exceptions; failure to comply, effect on evidence and damages; penalty.

(a) As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of 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 city, and persons less than 18 years of age operating or riding in a truck operated on a street or highway in this city, as defined in RSMo 301.010, 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 years of age shall be protected as required in section 114-111.3. Each driver of a motor vehicle on a street or highway in this city transporting a child four years of age or more, but less than 16 years of age, shall secure the child in a properly adjusted and fastened safety belt. 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 his or her body. 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.

(c) In any action to recover damages arising out of the ownership, common maintenance or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall not be considered evidence of comparative negligence. Failure to wear a safety belt in violation of this section may be admitted to mitigate damages, but only under the following circumstances:

(1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation of this section must first introduce expert evidence proving that a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

(2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence.

(d) Each person who violates the provisions of this section shall be guilty of an offense for which a fine of \$10.00 shall 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, pursuant to RSMo 302.302, for a violation of this section.

(Ord. No. 93-1, § 2, 2-2-93; Ord. No. 01-5, § 1, 5-1-01)

Secs. 114-113--114-130. Reserved.

ARTICLE V.

OPERATION OF VEHICLES

DIVISION 1.

GENERALLY

Sec. 114-131. Driving on right of roadway.

Upon all streets in the city 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 rules governing such movement.
- (3) When the right half of the roadway is closed to traffic while under construction or repair.
- (4) Upon a roadway designated by ordinance as a one-way street and marked or signed for one-way traffic.

(Code 1975, § 28-74)

State Law References: Similar provisions, RSMo 304.015.2.

Sec. 114-132. Passing regulations--Generally.

Sections 114-133 and 114-134 shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions therein stated.

State Law References: Similar provisions, RSMo 304.016.

Sec. 114-133. Same--Requirements for overtaking vehicles.

(a) An operator or driver overtaking and desiring to pass a vehicle shall sound his horn before starting to pass, except where prohibited by ordinance.

(b) 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.

(Code 1975, § 28-75)

State Law References: Similar provisions, RSMo 304.016.

Sec. 114-134. Same--Duty of overtaken vehicles.

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 on audible signal and shall not increase the speed of his vehicle until completely passed by the

overtaking vehicle.

(Code 1975, § 28-77)

State Law References: Similar provisions, RSMo 304.016.

Sec. 114-135. Same--Limitations on passing.

(a) No driver of any motor vehicle shall pass any overtaken vehicle on any street if such overtaken vehicle is moving in excess of five miles per hour. Passing of stopped vehicles or vehicles moving at less than five miles per hour is permitted only when such movement can be accomplished without creating a traffic hazard.

(b) No passing of any overtaken vehicle may be made:

(1) Within any school zone.

(2) Within 200 feet of any church from 9:00 a.m. until 12:30 p.m. on any Sunday, or any other time services are being held in such church.

(3) Upon or within any of the following streets or portions of streets:

a. Washington Street, between Elm Street and the west city limits.

b. State Street, along its entire extent.

c. Grand Avenue, between Cherry Street and the south city limits.

d. U.S. Highway 160, along its entire length.

e. Lafayette Street, between Spring Street and the courthouse square.

f. Locust Street, between Grand Avenue and Jackson Street.

g. Water Street, between Lafayette Street and Grand Avenue.

(Code 1975, § 28-76)

Sec. 114-136. Same--Passing on the right.

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 street with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction;

(3) Upon a one-way street;

provided, however, such driver may overtake and pass to the right of another vehicle only 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.

(Code 1975, § 28-78)

State Law References: Similar provisions, RSMo 304.016.

Sec. 114-137. Same--When prohibited.

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 if another vehicle might approach from the opposite direction.

(2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, tunnel or when approaching within 100 feet of or at any intersection or railroad grade crossing.
(Code 1975, § 28-79)

State Law References: Similar provisions, RSMo 304.016.

Sec. 114-138. No passing zones.

(a) The traffic engineer is hereby authorized to locate and mark with yellow lines in or adjacent to the center of the road those sections of roads in which passing a vehicle traveling in the same direction is prohibited by city ordinance, or in which such passing is found by the police department to be unsafe, considering the contour of the ground, the direction and width of the road, the presence of connecting or cross roads, and the adjacent land uses.

(b) It shall be unlawful for any person to operate a vehicle across yellow lines when located in the traffic lane in which such vehicle is traveling.
(Code 1975, § 28-80)

Sec. 114-139. Meeting of vehicles.

Operators of vehicles proceeding in the opposite direction shall pass each other to the right, each giving to the other at least one-half of the main-traveled portion of the roadway, as nearly as possible.
(Code 1975, § 28-81)

Sec. 114-140. Right-of-way at intersections--Generally.

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 street, provided there is no form of traffic control at such intersection.
(Code 1975, § 28-82)

Sec. 114-141. Same--Two vehicles at same time.

When two vehicles enter an intersection from different streets 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 section 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.
(Code 1975, § 28-83)

Sec. 114-142. Same--Left turns.

(a) 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.

(b) 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.
(Code 1975, § 28-84)

Sec. 114-143. Same--Emerging from alley, private road.

The driver of a vehicle about to enter or cross a street from an alley or any private road or driveway shall yield the right-of-way to all vehicles approaching on such street.
(Code 1975, § 28-85)

Sec. 114-144. Same--When stop required.

The driver of any vehicle shall stop such vehicle at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection on the through street or which are approaching so closely on the through street as to constitute an immediate hazard.
(Code 1975, § 28-86)

Sec. 114-145. Distance at which vehicle must follow.

The driver of a vehicle shall not follow another vehicle more closely than is reasonably safe and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the roadway. Vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated, except in a funeral procession or in a duly authorized parade, so as to allow sufficient space between each such vehicle or combination of vehicles as to enable any other vehicle to overtake or pass such vehicles in safety. This section shall in no manner affect RSMo 304.044 relating to distance between trucks traveling on the highway.

(Code 1975, § 28-87)

State Law References: Distance at which vehicles must follow, RSMo 304.017.

Sec. 114-146. Following fire apparatus too closely.

The driver of any vehicle, other than one on official business, shall not follow within 500 feet of any fire apparatus traveling in response to a fire alarm, or drive into or park such vehicle within the block where such fire apparatus has stopped in answer to a fire alarm.

(Code 1975, § 28-87.1)

Sec. 114-147. Crossing fire hose prohibited.

No vehicle shall be driven over any unprotected hose of the fire division 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 division official in command.

(Code 1975, § 28-87.2)

Sec. 114-148. Right turns.

The driver of a vehicle intending to turn right at an intersection, or into an alley, building or private road shall approach and make such right turn as close as practicable to the righthand curb or edge of the street.

(Code 1975, § 28-88)

Sec. 114-149. Stop streets.

(a) The following are designated as stop intersections within the city, and all vehicular traffic operating on the first-named street in the specified direction shall stop before crossing or entering the following designated streets:

Vehicles On	Proceeding	Stop At
Unnamed connecting street between Highway 142 and Hillcrest Drive	north	Hillcrest Drive
Alma	north	Cherry
	south	Cherry, Plum
Apricot	east	Jackson
	west	Elm, Walnut
Borth	east	Grand, Jackson, Walnut
	west	Grand, Lafayette, Walnut
Bowden Drive	west	Highway Y
Brooks	east	Lafayette
Charles Street	east or west	Franklin Street
Cherry	east	Walnut
	west	Grand, Walnut
Chestnut	east	Elm
	west	Walnut
Clark	north	Washington
Clark Street	south	Charles Street
Crescent	east	Grand, Jackson
	west	Lafayette, Walnut
Current River Drive	north	Jefferson Street

East Locust	west	Jackson Street (Mo. Hwy 142)
Elm	north	Old U.S. Highway 160
	south	Page, Summit
Fox Drive	west	Old U.S. Highway 160
Grand	north	Old U.S. Highway 160, Washington
	south	Washington
Green	north	Cherry, Locust, Plum
	south	Plum, Barton Road
Green Meadows Drive	west	Elm
H & S Drive	east	Hillcrest Drive
High School Drive (south extension of Apricot)	south	Ball Park Road (Plum)
Highway 142 (Jackson)	north	Washington
Hillcrest Drive	northwest	New U.S. Highway 160
	southeast	Old U.S. Highway 160
	east	Hillcrest Drive
Hillcrest Drive (entering from plaza drive-in lot)	west	Hillcrest Drive
Jackson	north	Cherry, Chestnut, Old U.S. Highway 160, Page, Pine, Plum, Spring, Summit, Young
	south	Cherry, Chestnut, Page, Pine, Plum, Spring, Summit, Washington, Young
Jackson (Oak Lane extension)	south	Old U.S. Highway 160
Kegler	north	Locust, Spring
	south	Locust, Spring
Lafayette	north	Old U.S. Highway 160
Leroux Street	west	Highway Y
Leroux Street	south	Highway 160
Locust	east	Walnut
	west	Grand, Jackson, Vine, Walnut
Mabel	north	Plum
	south	Cherry, Plum
Maple	north	Young
	south	Summit, Young
Marvin	east	Lafayette
McKenzie	east	Elm
McManus Drive	south	U.S. Highway 160
Morgan	east	Lafayette
	west	First
Mound	north	Locust
	south	Barton Road, Locust
Oak Lane	south	Highway 142 (extension of Walnut)
Oak Tree Village Drive	north	U.S. Highway 160
Old U.S. Highway 160	northwest	Lafayette
	east	Highway 142 (Walnut)
	west	Walnut
Page	east	Grand, Walnut
	west	Grand, Lafayette, Walnut
Pine	east	Sycamore, Walnut
	west	Grand, Walnut
Plum	east	Grand, Vine, Walnut
	west	Grand, Lafayette, Vine, Walnut

Ponder	west	Second
Sloan	south	Plum
Smith Drive	south	U.S. Highway 160
Spring	east	Grand, Vine, Walnut
	west	Grand, Lafayette, Vine, Walnut
State	northwest	Grand
	southwest	Washington
Summit	east	Ball Park Road (Plum), Grand, Lafayette, Vine, Walnut
	west	Grand, Lafayette, Vine, Walnut
Sunny Acres Drive	north	Locust
	south	Locust
Sycamore	north	Locust, Pine, East Washington
	south	East Washington, Barton Road, Locust
Vine	north	Pine, Summit
Walnut	north	Washington
	south	Washington
	east (on Missouri Pacific Railroad right-of-way)	Walnut
	south	Pine, Locust
Wanda Drive	west	Elm
Washington	east	Grand, Mound, Sycamore, Walnut
	east	Jackson Street (Mo. Hwy 142)
	west	Grand, Mound, Sycamore, Walnut
Water	east	Grand, Lafayette
	west	Lafayette
Willow	south	Jefferson
Young	east	Grand, Walnut
	west	Grand, Lafayette, Walnut

Penalty provision: Any person who shall violate the provisions of this subsection (a) shall be punished as provided in section 1-8 of the Code of Ordinances.

(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 come to a complete and motionless stop at a clearly marked stop line or, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic in the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another street or which is approaching so closely on the street as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(c) No person shall be deemed guilty of a violation of the provisions of this section unless there is a stop sign in place at the place of the offense, in plain view, clearly directing a stop to be made at such place. (Code 1975, § 28-89; Ord. No. 92-8, § 1, 9-1-92; Ord. No. 93-3, § 1, 4-6-93; Ord. No. 95-22, § 2, 11-21-95; Ord. No. 96-14, § 1, 11-5-96; Ord. No. 98-9, § 1, 11-3-98; Ord. No. 99-3, § 1, 3-16-99; Ord. No. 04-6, §§ 2, 4-6-04)

Sec. 114-150. Yield signs, procedure.

The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable to the existing conditions, and, if required for safety to stop, shall stop, in accordance with section 114-149. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate

hazard during the time such traffic is moving across or within the intersection.
(Code 1975, § 28-90)

Sec. 114-151. Drivers to yield right-of-way to pedestrians.

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 from such vehicle.
(Code 1975, § 28-90.1)

Sec. 114-152. Driving between funeral procession prohibited; exception.

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 chapter. This section shall not apply at intersections where traffic is controlled by traffic control signals or police officers.
(Code 1975, § 28-91)

Sec. 114-153. Emergency vehicle regulations.

(a) Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle or a flashing blue light authorized by RSMo 307.175, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

(b) The motorman of every streetcar 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.

(c) An "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 division, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer, 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 RSMo 307.175.

(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 RSMo ch. 44.

(d) Emergency vehicle requirements and exemptions:

(1) The driver of any vehicle referred to in subsection (c) shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire.

(2) The driver of an emergency vehicle may:

- a. Park or stand, irrespective of the provisions of RSMo 304.014--304.026.
- b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- c. Exceed the prima facie speed limit so long as he does not endanger life or property.
- d. Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted in subsection (d)(2) to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle.

(e) No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.
(Code 1975, § 28-92)

State Law References: Similar provisions, RSMo 304.022.

Sec. 114-154. One-way streets.

When signs are erected giving notice thereof, vehicular traffic shall travel in only one direction on the following streets or parts of streets:

Ballpark Road, from Summit Street to Vine Street, vehicles shall travel south bound only.

Courthouse Square Street, vehicles shall travel counter-clockwise, relative to the courthouse only.

Current River Drive, from the north entrance of the T.L. Wright Memorial Boat Launching Facility to the south exit from such facility, vehicles shall travel so as to enter such facility from the north entrance and shall travel so as to exit such facility from the south exit.

Elm Street, from Summit Street to the intersection of Apricot/McKenzie Streets, from 7:30 a.m. until 8:30 a.m. and from 2:30 p.m. until 3:30 p.m., on weekdays, when school is in session, vehicles shall travel north bound only.

Page Street, between Maple Street and Elm Street, from 7:30 a.m. until 8:30 a.m. and from 2:30 p.m. until 3:30 p.m., on weekdays, when school is in session, vehicles shall travel west bound only.

State Street, along its entire length vehicles shall travel in a southerly direction only.

An alley between East Locust Street and East Washington Street, bounded on the east by lots 9 and 10 of block 3 of Kegler's second addition to the city, vehicles shall travel south only, on the north 124 feet thereof.

(Code 1975, § 28-93; Ord. No. 01-14, § 1, 8-21-01)

Sec. 114-155. Stop light at Highway No. 160.

(a) Vehicles proceeding east or west on U.S. Highway No. 160 at the intersection with Highway Y going north and Walnut Street going south shall come to a complete stop at the stop line of said intersection before crossing the intersection or turning left or right if the traffic signal at said intersection shows a flashing red light. Vehicles proceeding east or west on U.S. Highway No. 160 at the intersection with Highway Y going north and Walnut Street going south shall come to a complete stop at the stop line at the intersection if the traffic signal at said intersection shows a solid red light and shall remain stopped until said traffic light shows a green light or green arrow before proceeding through said intersection or turning left or right, except that right turns on a solid red light may be made after the vehicle has made a complete stop if the right of way is yielded to any other vehicle in the intersection.

(b) Vehicles proceeding north on Walnut Street and vehicles proceeding south on Highway Y at the intersection thereof with U.S. Highway No. 160 shall come to a complete stop at the stop line of said intersection before crossing the intersection or

turning left or right if the traffic signal at said intersection shows a flashing red light. Vehicles proceeding north on Walnut Street and vehicles proceeding south on Highway Y at the intersection thereof with U.S. Highway No. 160 shall come to a complete stop at the stop line of said intersection if the traffic signal at said intersection shows a solid red light and shall remain stopped until said traffic light shows a green light or green arrow before proceeding through said intersection or turning left or right, except that right turns on a solid red light may be made after the vehicle has made a complete stop if the right of way is yielded to any other vehicle in the intersection.

(c) If the traffic signal light at the intersection of U.S. Highway No. 160 with Highway Y going north and Walnut Street going south is inoperative, vehicles proceeding on Highway Y and on Walnut Street shall come to a complete stop at the stop line of said intersection and shall, before proceeding through the intersection or turning left or right, yield the right of way to vehicles on U.S. Highway No. 160.
(Ord. No. 96-14, § 2, 11-5-96)

Secs. 114-156--114-165. Reserved.

DIVISION 2.

SPEED

Sec. 114-166. State laws applicable.

(a) The state traffic laws regulating 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 investigations 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 divided limited access highways.

(b) The city will submit to the state highways and transportation commission for approval any ordinances, rules, regulations or resolutions appertaining to the regulation of speed where such ordinances, rules, regulations or resolutions are applicable to section 114-49, and will not enact or keep in force any ordinance not approved by such commission.
(Code 1975, § 28-99)

Sec. 114-167. Maximum limit generally.

The maximum speed limit for vehicles operating within this city shall be 30 miles per hour on all highways, streets or alleys, except where signs are posted indicating a different speed limit.
(Code 1975, § 28-100)

Sec. 114-168. Maximum limits on specific streets.

Whenever signs are posted giving notice of a maximum legal speed limit established for a specific street or portion of a street, it shall be unlawful for any person to drive or operate any vehicle at a rate of speed in excess of such limit. The following speed limits are hereby established for the streets and portions of streets enumerated in this section:

Street	Extent	Speed (mph)
Apricot	Elm east to east city limits	20
Ball Park Road (Old Greenville Ford Road)	Apricot south to Vine Street	20
Charles Street	Entire length	15
Clark Street	Entire length	15
Country Lane	Entire length	20
Courthouse Square Street	Entire length	15
Current River Drive	Entire length	20
Elm Street	Summit Street north to Apricot Street	20
Franklin Street	Entire length	15

Grand Avenue	Spring Street south to south city limits	15
H & S Drive	Entire length	20
Hillcrest Drive	Entire length	20
Jefferson Street	Entire length	15
Jefferson Street (Old East Highway 142)	Willow to U.S. Highway 160	30
Lafayette Street	Spring Street south to Courthouse Square	15
Leroux Street	Entire length	15
Locust Street	Grand Avenue east to Walnut Street	15
East Locust Street	Jackson Street east to Vine Street	20
McManus Drive	Entire length	20
Oak Tree Village Drive	Entire length	20
Pine Street	Jackson Street east to Kegler Street	20
State Street	Entire length	15
Summit Street	Jackson Street east to east city limits	20
U.S. Highway 160	Entire length	45
Vine Street	East Locust Street north to Summit Street	20
Washington Street	Walnut Street west to Courthouse Square	15
Water Street	Lafayette Street east to Grand Avenue	15

(Code 1975, § 28-101; Ord. No. 95-22, § 3, 11-21-95; Ord. No. 99-14, § 1, 8-17-99)

Sec. 114-169. Regulation of slow speed.

No person shall drive a motor vehicle at such a slow rate of 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 section and refusal to comply with the direction of an officer in accordance herewith, the continued slow operation of a vehicle by a driver shall be an offense.

(Code 1975, § 28-102)

State Law References: Similar provisions, RSMo 304.011.

Sec. 114-170. Speed determining mechanisms.

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; provided, however, that the use thereof shall not be construed to exclude any competent evidence secured by any other manner or means.

(Code 1975, § 28-103)

Secs. 114-171--114-180. Reserved.

DIVISION 3.

MISCELLANEOUS OPERATIONAL REGULATIONS

Sec. 114-181. Careless driving.

Every person operating a motor vehicle on the streets or parking lots in the city shall operate or drive such motor vehicle in a careful and prudent manner, and at a rate of speed so as not to endanger the property of another or the life or limb of any person, and shall exercise the highest degree of care.

(Code 1975, § 28-115)

Sec. 114-182. Driving on sidewalks.

The driver of a vehicle, except bicycles as provided for in section 114-183, shall not drive within any sidewalk area except on a permanent or temporary driveway.

(Code 1975, § 28-116)

Sec. 114-183. Rights and duties of bicycle and motorized bicycle riders.

(a) Every person riding a bicycle or motorized bicycle upon a street or highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle as provided by RSMo ch. 304, except as to special regulations in RSMo 307.180--307.193, and except as to those provisions of RSMo ch. 304, which by their nature can have no application.

(b) No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(c) No person shall ride a bicycle upon a sidewalk within a business district.

(d) Whenever a person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(Code 1975, § 28-117)

Sec. 114-184. Use of roller skates, toy vehicles on roadways.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of the city.

(Code 1975, § 28-117.1)

Sec. 114-185. Driving in an intoxicated condition--Prohibited generally.

No person shall operate a motor vehicle while in an intoxicated condition or under the influence of drugs. Any person who shall violate the provisions of this section shall be deemed guilty of an offense and punished as set forth in section 1-8 of the Code of Ordinances. If there was 0.08 of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time a specimen was taken for chemical analysis. The procedure for the use of breath tests, and chemical tests of blood, urine or saliva as shall be as specified in RSMo Chapter 577.

(Code 1975, § 28-118; Ord. No. 00-2, § 1, 3-7-00; Ord. No. 01-15, § 1, 9-19-01)

Cross References: Alcoholic beverages, ch. 10.

Sec. 114-186. Excessive blood alcohol content; penalty.

No person shall operate a motor vehicle with a blood alcohol content in excess of 0.08 of one percent or more by weight of alcohol. Any person who shall violate the provisions of this ordinance shall be deemed guilty of an offense and punished as set forth in section 1-8 of the Code of Ordinances. The procedure for the use of breath tests, and chemical tests of blood, urine or saliva as shall be as specified in RSMo Chapter 577.

(Code 1975, § 28-118.1; Ord. No. 00-2, § 1, 3-7-00; Ord. No. 01-15, § 1, 9-19-01)

Sec. 114-187. Corner cutting.

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.

(Code 1975, § 28-119)

Sec. 114-188. Rapid acceleration prohibited.

It shall be unlawful for any person to operate a motor vehicle on any public highway, street or alley within the limits of the city in such a manner that the acceleration of the vehicle causes the wheels of the vehicle to spin at a rate which removes rubber from the tires and leaves any visible rubber mark upon the surface of the pavement over which the vehicle is traveling.
(Ord. No. 02-5, § 1, 5-21-02)

Secs. 114-189--114-210. Reserved.

ARTICLE VI.

STOPPING, STANDING AND PARKING

Sec. 114-211. Parking not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in any manner or under such conditions as to leave available less than ten feet of width of the roadway for free movement of vehicular traffic; however, this section shall not apply to any highway included in section 114-49.
(Code 1975, § 28-120)

Sec. 114-212. Parking on right.

All vehicles not in motion shall be placed with their right side as near the righthand side of the street as practicable.
(Code 1975, § 28-121)

Sec. 114-213. Stopping for school bus.

The driver of a vehicle upon a street upon meeting or overtaking from either direction any school bus which has stopped on the street for the purpose of receiving or discharging any school children and whose driver has in the manner prescribed by law given the signal to stop, shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signaled by its driver to proceed.
(Code 1975, § 28-122)

Sec. 114-214. Location of stopped vehicle in relation to curb.

Every vehicle stopped or parked upon a roadway shall be so stopped or parked with the righthand wheels of such vehicle parallel to and within 18 inches of the righthand curb or side of the roadway.
(Code 1975, § 28-123)

Sec. 114-215. General regulation of stopping, standing or parking vehicles.

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

(1) Stop, stand or park a vehicle:

- a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- b. On a sidewalk;
- c. Within an intersection;
- d. On a crosswalk;
- e. Between a safety zone and the adjacent curb or within 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;

obstruct traffic;

- f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would

- 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 15 feet of a fire hydrant;

- c. Within 20 feet of a crosswalk at an intersection;

- d. Within 30 feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway;

- e. Within 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 75 feet of such 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 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 control into any such prohibited area or away from a curb such a distance as is unlawful.

(Code 1975, § 28-124)

Sec. 114-216. Unlawful 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 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.

(Code 1975, § 28-125)

Sec. 114-217. Physically disabled parking spaces.

(a) *Definitions.* As used in this section, the following words and phrases have the following meanings:

Physically disabled means a natural person with disabilities which limit or impair the ability to walk, as determined by a licensed physician as follows:

- (1) The person cannot walk 50 feet without stopping to rest;

- (2) The person cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

- (3) Is restricted by lung disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
- (4) Uses portable oxygen;
- (5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or
- (6) Is severely limited in his ability to walk due to an arthritic, neurological or orthopedic condition.

Vehicle means 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, or cotton trailers or motorized wheelchairs operated by handicapped persons.

(b) *Designation by city; distinguishing license plate or card required; penalty for violation.*

(1) The city street superintendent or the mayor, with the approval of the board of aldermen, may designate certain parking spaces on a city street or alley for use by persons who are physically disabled. When such designation is made and approved, the city's street department personnel shall mark the outline of such designated parking space upon the pavement and adjoining curb with blue paint as opposed to the yellow paint outlining regular parking places. All such designated parking spaces shall be 12 feet wide or greater or shall be open on one or both sides so as not to impede the safe egress and exit of disabled persons from vehicles parked in such spaces. The designated space shall also be marked or indicated by a sign upon which shall be 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.

(2) Any person who parks a vehicle in a parking space designated by the city as a space reserved for use by physically disabled persons and who does not display upon such vehicle a distinguishing license plate or card issued by the director of revenue of this state (or licensing agency of another state or D.C. under reciprocity) pursuant to RSMo 301.071 or 301.142 shall be guilty of an offense.

(3) Any person convicted of violating subsection (b)(2) of this section shall be sentenced to pay a fine of not less than \$50.00 nor more than \$200.00, plus costs.

(c) *Designation by private property owners; violations.* The owner or person in lawful possession of a public offstreet parking lot or facility may, after notifying the city police, cause the removal of any vehicle not displaying a distinguishing license plate or card on which is inscribed the international symbol of accessibility and the word "disabled" issued pursuant to RSMo 301.142 or a "disabled veteran" license plate issued pursuant to RSMo 301.071 or a distinguishing license plate or card issued by any other state from a space designated for physically disabled persons if there is posted immediately adjacent to, and readily visible from, such space a sign on which is inscribed the international symbol of accessibility in white on a blue background and may 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. 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 offense and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$200.00. Any vehicle which has been removed and which is not properly claimed within 30 days thereafter shall be considered to be an abandoned vehicle. Police officers are empowered to enter upon private property open to public use to enforce the provisions of this section. (Code 1975, § 28-126)

State Law References: Similar provisions, RSMo 301.142.

Sec. 114-218. Parking of unlicensed motor vehicles on city streets prohibited.

No person shall park for a period of more than 24 hours any motor vehicle on any street in the limits of the city unless such motor vehicle has affixed thereto valid license plates issued by the director of revenue of the state. (Code 1975, § 28-127)

Sec. 114-219. Parking prohibited on certain streets or portions thereof.

No person shall park any vehicle, as defined in RSMo 300.010.39, on the following streets or portions thereof:

Ball Park Road, its entire length.

Bowden Drive, all of Bowden Drive on the paved or blacktopped or other improved surface portions of the street.

Brooks Street, upon its entire length.

Carson Drive, upon the paved or blacktopped portion thereof.

Cherry Street, on the south side thereof between Maple Street and Elm Street.

Clark Street, upon the paved or blacktopped portion thereof.

Current River Drive, upon the graveled or paved portion thereof upon its entire length between Jefferson Street and the entrance to the T.L. Wright Memorial Boat Launching Facility.

East Locust Street, within the 900 block and 1000 block, on the paved or improved portion thereof, or on the right-of-way thereof.

Elm Street, between Summit Street and Highway Street, except that passenger motor vehicles may be stopped on the paved portion of Elm Street between Summit Street and Page Street between the hours of 7:30 a.m. and 8:30 a.m., and between the hours of 2:30 p.m. and 3:30 p.m., on any day when school is in session; provided, that the operator of such passenger motor vehicle not leave such motor vehicle unattended; and further provided, that any such passenger motor vehicle so stopped shall only be stopped for the purpose of discharging or picking up schoolchildren, and the operator thereof shall not stop such passenger motor vehicle in such a way as to impede or obstruct traffic.

Highway 142, from Washington Street to south city limits.

Highway 160, from the eastern city limit to a point 200 feet west of McManus Drive on the paved, blacktopped or improved portions of the right-of-way.

Kegler Street, between Spring Street and Plum Street.

Leroux Street, as marked by curbs or yellow painted lines, along its entire length.

McManus Drive, its entire length, where paved.

Oak Tree Village Drive, its entire length, where paved.

Park Avenue, its entire length.

Pine Street, east of its intersection with Walnut Street on the paved or blacktopped or other improved surface portions of the street, and anywhere within the right of way within 75 feet of the intersection with Vine Street on the east side thereof.

Smith Drive, along its entire length on the paved, blacktopped or other improved surface portions of the street.

Sycamore Street, between East Locust Street and Spring Street on the paved or blacktopped or other improved surface portions of the street.

Walnut Street, its entire length, on the paved or improved portion thereof, or on the right-of-way thereof.

Washington Street, from Jackson Street to Elm Street.

(Code 1975, § 28-128; Ord. No. 91-15, § 1, 12-17-91; Ord. No. 95-22, § 1, 11-21-95; Ord. No. 00-3, § 1, 3-21-00; Ord. No. 00-5, § 1, 5-16-00)

Sec. 114-220. Penalty for violations.

(a) Any person who violates the provisions of section 114-211 or of section 114-213 of the Code of Ordinances of the city shall, upon conviction, be sentenced to pay a fine of not more than \$500.00 or sentenced to imprisonment for not more than 90 days or both such fine and imprisonment.

(b) Any person who violates the provisions of sections 114-212, 114-214, 114-215, 114-216, 114-218, 114-219 or 114-221 of the Code of Ordinances of the city, shall pay a nonjudicial penalty fee of \$10.00 (without court costs) to the city treasurer within 72 hours of the occurrence of the violation. If such penalty fee is paid within the time limit heretofore imposed, no charges shall be filed in the municipal division of the circuit court of the county relating to such violation. If such penalty fee is not paid within the time limit heretofore imposed, a charge of violation of such ordinance shall be filed in the municipal division of the circuit court of the county, and, upon conviction, the violator shall pay a fine of \$10.00 plus court costs.
(Code 1975, § 28-129; Ord. No. 95-19, § 1, 8-15-95)

Sec. 114-221. Regulation of parking at T.L. Wright Memorial Boat Launching Facility.

(a) *Parking prohibited.* No person shall park any vehicle on the lowest level of the T.L. Wright Memorial Boat Launching Facility adjoining the boat launching ramps onto Current River, except when such person is in the process of launching or recovering a boat from Current River and placing such boat upon the parked vehicle or upon a boat trailer attached to such vehicle.

(b) *Trailer parking only.* The paved or graveled parking areas adjoining Current River Drive and the T.L. Wright Memorial Boat Launching Facility where indicated by signs posted thereon shall be reserved for the parking of vehicles towing boat trailers. No person shall park any vehicle which is not attached to a boat trailer upon the areas in such parking lots so designated for use of vehicles towing boat trailers only.

(c) *Parking in designated spaces only.* No person shall park any motor vehicle at the T.L. Wright Memorial Boat Launching Facility, or at the parking lots adjacent thereto or at the Doniphan City Park and ballfield property adjacent thereto except upon the paved portions of the parking lots designated by painted spaces for the parking of motor vehicles; and all motor vehicles parked in painted spaces shall be aligned with and within the lines painted upon the pavement. No person shall park any motor vehicle upon the walking track or upon the unpaved grounds of the Doniphan City Park adjacent to the T.L. Wright Memorial Boat Launching Facility or upon any public street providing access thereto which is posted with a sign prohibiting such parking of motor vehicles.

(d) *Penalty.* Any person who violates the provisions of this section shall, upon conviction, pay a fine of \$10.00 plus court costs.
(Code 1975, § 28-130; Ord. No. 91-12, § 1, 8-20-91; Ord. No. 95-9, § 1, 6-6-95; Ord. No. 95-18, § 1, 8-15-95)

Chapters 115--117

RESERVED

Chapter 118

UTILITIES*

* **Cross References:** Administration, ch. 2; buildings, ch. 22; electricity, ch. 46; fire protection and prevention, ch. 50; health and sanitation, ch. 54; planning and development, ch. 82; plumbing, ch. 86; sewers, ch. 94; solid waste, ch. 98; streets and sidewalks, ch. 102; subdivisions, app. B.

State Law References: Regulation of public utilities, RSMo 71.520 et seq.; municipally owned utilities, RSMo ch. 91.

Article I. In General

Sec. 118-1. Definitions.

Sec. 118-2. Scope of chapter.

Sec. 118-3. Service to comply with technical provisions.

Sec. 118-4. Rules, regulations.

Sec. 118-5. Termination of service authorized.
Sec. 118-6. Solid waste collection service charge billed separately.
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Sec. 118-9. Same--Not available to debtors.
Sec. 118-10. Same--Permit.
Sec. 118-11. Same--Use assumed.
Sec. 118-12. Damage, etc., to utility equipment, etc.
Sec. 118-13. Temporary interruption of service.
Sec. 118-14. Restricting use.
Sec. 118-15. Sale of service by customer.
Sec. 118-16. Connections to service.
Sec. 118-17. Separate connections.
Sec. 118-18. Unlawful connections.
Sec. 118-19. Unlawful use.
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Sec. 118-50. Voluntary discontinuance of service.
Sec. 118-51. Collector's duties.

ARTICLE I.

IN GENERAL

Sec. 118-1. Definitions.

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:

Utility means and includes water, sewer, solid waste collection and/or any other utility service furnished by the city to consumers thereof.

(Code 1975, § 29-1)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 118-2. Scope of chapter.

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the city shall furnish any utility service to any person, or whereby the city shall make any utility connections, or perform any work of any kind in connection with the furnishing of any utility service pursuant to the rules and regulations of the board of aldermen.

(Code 1975, § 29-2)

Sec. 118-3. Service to comply with technical provisions.

Any utility service furnished under the provisions of this chapter shall be in accordance with and in compliance with all applicable technical provisions of this Code, state law and city ordinances, rules and regulations.

(Code 1975, § 29-3)

Sec. 118-4. Rules, regulations.

The board of aldermen shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the city within or without the city and under the management of the board of aldermen. Such rules, regulations, standards and specifications shall be filed in the office of the city clerk. Violation of such rules, regulations, standards and specifications shall be deemed an offense.

(Code 1975, § 29-4)

Sec. 118-5. Termination of service authorized.

The city shall have the right to disconnect or refuse to connect or reconnect any utility service for any of the following reasons:

- (1) Failure to meet the applicable provisions of law.
- (2) Violation of the rules and regulations pertaining to utility service.
- (3) Nonpayment of bills.
- (4) Willful or negligent waste of service due to improper or imperfect pipes, fixtures, appliances or otherwise.
- (5) Molesting any meter, seal or other equipment controlling or regulating the supply of utility service.
- (6) Theft or diversion and/or use of service without payment therefor.
- (7) Vacancy of premises.

(Code 1975, § 29-5)

Sec. 118-6. Solid waste collection service charge billed separately.

Notwithstanding the provisions of sections 118-5 and 118-47, the service charge for solid waste collection services shall be stated separately from any other charge of any kind; the city shall not withhold, or authorize the withholding of, any other utility service for failure to collect the separately stated service charge.

State Law References: Similar provisions, RSMo 260.215.5.

Sec. 118-7. Liability of city for damage.

The city shall not be liable for any damage to any customer of any utility service furnished by the city due to backflow of the sewerage system, failure of supply, interruption of service or any other cause outside the direct control of the city.

(Code 1975, § 29-6)

Sec. 118-8. Utility service--Application required.

Any person desiring any utility service furnished by the city shall make application for such service to the city clerk. Such application shall contain the applicant's name, address and the uses for which such utility service is desired.

(Code 1975, § 29-7)

Sec. 118-9. Same--Not available to debtors.

The city may decline or fail or cease to furnish utility service to any person who may be in debt to the city for any reason, except ad valorem taxes and special assessments.

(Code 1975, § 29-8)

Sec. 118-10. Same--Permit.

Approval of the application for any utility service by the city clerk shall be deemed permission for such service.
(Code 1975, § 29-9)

Sec. 118-11. Same--Use assumed.

All premises connected to any utility service of the city shall be assumed to be using such utility service and the owner or occupant shall be charged therefor so long as such premises shall remain connected with the utility service.
(Code 1975, § 29-10)

Sec. 118-12. Damage, etc., to utility equipment, etc.

It shall be unlawful for any person not having authority to do so to open any water hydrant or tamper with any utility service furnished by the city to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the city connected with any utility service.
(Code 1975, § 29-11)

Sec. 118-13. Temporary interruption of service.

The city reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, affected customers will be notified as circumstances permit.
(Code 1975, § 29-12)

Sec. 118-14. Restricting use.

The city hereby reserves the right to at any time restrict or prevent the use of any utility service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of use.
(Code 1975, § 29-13)

Sec. 118-15. Sale of service by customer.

It shall be unlawful for any person to resell to others any utility service obtained from the city, except by special arrangement with the board of aldermen.
(Code 1975, § 29-14)

Sec. 118-16. Connections to service.

Connections for any utility service furnished by the city shall be made only under the supervision of the board of aldermen.
(Code 1975, § 29-15)

Sec. 118-17. Separate connections.

Every building, structure or consumer in the city shall have a separate utility service connection.
(Code 1975, § 29-16)

Sec. 118-18. Unlawful connections.

Any person who shall make any connection in any manner to any utility system, whether owned by the city or not, without the prior knowledge and consent of the owner of such utility system shall be deemed guilty of an offense.
(Code 1975, § 29-17)

Sec. 118-19. Unlawful use.

No person, other than employees of the city, shall be authorized to connect, turn on, turn off or disconnect any utility service offered by the city, or remove, replace or repair any equipment connected to any such utility service.
(Code 1975, § 29-18)

Sec. 118-20. Maintenance of system by consumer.

The consumer of any utility service furnished by the city shall maintain and keep in good repair all connections, appliances and other apparatus installed and used in connection with such utility service.
(Code 1975, § 29-19)

Secs. 118-21--118-40. Reserved.

**ARTICLE II.
RATES AND CHARGES**

Sec. 118-41. Meters.

Meters for the measurement of utility services furnished by the city shall be furnished and installed by, and shall remain the property of, the city.
(Code 1975, § 29-31)

Sec. 118-42. Deposit required.

Along with the application for utility service, the applicant therefor may be required to pay to the city a deposit in an amount equal to the charges for an average two-month period; provided, however, that if such service increases to a point where such deposit is not equal to the charges for an average two-month period, the required deposit may be increased to conform thereto.
(Code 1975, § 29-32)

Sec. 118-43. Refund of deposit.

Refunds of deposits made for utility service shall be made upon the termination of such utility service only after payment of all indebtedness to the city for such utility service. Application of the deposit may be made in partial or total settlement of accounts when the supply is cut off for nonpayment of the bill, or for any infraction or violation of any ordinance, rule or regulation of the city relative to utility services offered by the city.
(Code 1975, § 29-33)

Sec. 118-44. Determination of charges.

The rates and charges for the consumption of utility services furnished by the city, as well as the charges and fees for connection thereto, shall be as determined by the board of aldermen from time to time and kept on file in the office of the city clerk.
(Code 1975, § 29-34)

Sec. 118-45. When payment due.

All bills for utility services furnished by the city shall be due and payable prior to midnight of the tenth day following the date of such bill; provided, however, that if such due date shall fall on a Sunday or a legal holiday observed by the city, then such bill shall be due and payable by midnight of the following business day.
(Code 1975, § 29-35)

Sec. 118-46. Penalty for failure to pay bill.

If any consumer of utility services furnished by the city shall fail to pay his bill therefor when the bill is due, a penalty as determined by the board of aldermen shall be imposed.
(Code 1975, § 29-36)

Sec. 118-47. Disconnection for nonpayment.

If bills for utility services shall not be paid when such bills become due, the city shall have the right to disconnect and discontinue all utility services furnished by the city to the consumer so in arrears.

(Code 1975, § 29-37)

Sec. 118-48. Reconnection after disconnection.

If utility service is disconnected for nonpayment of the bill, the consumer thereof shall have the right to have the service reconnected only upon the payment of the amount due, and in addition thereto, a reconnection fee of \$5.00.
(Code 1975, § 29-38)

Sec. 118-49. Liability for charges.

The occupant and user of the premises receiving utility services shall be liable to pay for such services rendered on such premises. The city shall have power to sue the occupant of such real estate in a civil action to receive any sums due for such services, plus reasonable attorney's fees to be fixed by the court.
(Code 1975, § 29-39)

Sec. 118-50. Voluntary discontinuance of service.

Consumers wishing to discontinue the use of any utility service shall give written notice thereof at the city hall. Failure to do so shall render them liable for the payment of all bills until such notice has been given.
(Code 1975, § 29-40)

Sec. 118-51. Collector's duties.

(a) The city collector shall keep and maintain an individual ledger card on each utility customer's account, listing the customer's monthly usage, charges, payments and a running balance on such account. At the second meeting of the board of aldermen in each month, the city collector shall report to the board of aldermen, in writing:

(1) The total amount of customer usage for each utility with metered service during the prior month, and the total amount billed for all such usage.

(2) The name of each customer who is delinquent in the payment of utility charges and the amount unpaid.

(3) The total amount of delinquent charges for each utility service for the prior month.

(b) The collector's report required by subsection (a) shall be submitted in substantially the form as follows:

COLLECTOR'S UTILITY DELINQUENCIES FOR MONTH OF _____, 19_____.

Pursuant to section 118-51 of the Code of Ordinances, City of Doniphan, Missouri, the following report on city utility delinquent accounts is submitted to the board of aldermen.

1. The total of gallons used by water service customers during the month as billed by the collector was _____, and the total bills issued amount to \$_____.

2. The customer accounts remaining delinquent at the end of the month are as follows:

Customer Name	Amount Delinquent					Total
	Water	Sewer	Trash	Misc.	Penalty	
1.						
2.						
3.						
Etc.						
Totals:	\$	\$	\$	\$	\$	

	Respectfully submitted,
	City collector

(Code 1975, § 29-41)

Cross References: Collector, § 2-246 et seq.

APPENDIX A

ZONING*

* **Editors Note:** Printed herein is Ord. No. 76-1, as adopted by the board of aldermen on January 6, 1976. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.

Cross References: Issuance of alcoholic beverage licenses, § 10-41; amusements, ch. 14; animals and fowl, ch. 18; buildings, ch. 22; removal of unsafe structures, § 22-51 et seq.; cemeteries, ch. 26; licenses, ch. 62; sale of fireworks, § 70-127; parks and recreation, ch. 74; planning and development, ch. 82; sales, ch. 90; growth of shrubs, etc., at intersections, § 102-71 et seq.; taxicabs and other vehicles for hire, ch. 110; subdivisions, app. B; floodplain management, app. C.

State Law References: Zoning and planning, RSMo ch. 89.

Sec. I. Purpose, authority and jurisdiction.

Sec. II. Definitions.

Sec. III. Zoning districts.

Sec. IV. Application of zoning district regulations.

Sec. V. Residential district.

Sec. VI. Commercial districts.

Sec. VII. Industrial districts.

Sec. VIII. Mobile homes.

Sec. IX. General regulations.

Sec. X. Board of zoning adjustment.

Sec. XI. Amendment to text of regulations.

Sec. XII. Change in zoning district classification.

Sec. XIII. Enforcement.

Sec. XIV. Penalty for violation.

Sec. XV. Severability.

Sec. XVI. [Effective date.]

Section I. Purpose, authority and jurisdiction.

This ordinance is enacted for the statutory purposes set forth in RSMo ch. 89, and shall apply to the use of all land within the corporate limits of the city as the corporate limits now exist or may hereafter be altered.

Section II. Definitions.

A. For the purpose of this ordinance, the following terms or words used herein shall be interpreted as follows:

1. The word shall is mandatory, the word may is permissive.

2. The word lot includes the words plot or parcel.

B. For the purpose of this ordinance, the following terms or words are defined as follows:

1. *Accessory use.* A use which is customarily incidental to the principal use, e.g., a garage for the storage of an automobile by the occupant.

2. *Area*. This term refers to the amount of land surfaces in a lot, plot or parcel.
3. *Area requirements*. The yard, lot area, lot width, lot coverage, and parking requirements as set forth in a specific district.
4. *Dwelling unit*. A structure or portion thereof which provides complete housekeeping facilities for one family.
 - 4.1. *Light manufacturing*. A manufacturing activity which consists of (1) assembly of completed goods from otherwise finished component parts, (2) the fabrication of textiles, or (3) the manufacture of goods by hand or by the use of small electrical machinery.
(Ord. No. 89-26, § 1, 9-5-89)
5. *Lot*. A tract of land defined by metes, bounds or boundary lines in a recorded deed or on a recorded plat.
6. *Lot of record*. A lot which is part of a subdivision recorded in the office of the county recorder, or a lot, plat or parcel described by metes and bounds, the description of which had been so recorded before February 18, 1975.
7. *Mobile home*. A single-family dwelling unit which is either:
 - (a) A movable living unit designed for year-round occupancy, sometimes termed a trailer home; or
 - (b) A portable contrivance used or intended to be used generally for living and sleeping quarters and which is capable of being moved by its own power, towed or transported by another vehicle, except camping trailers not used for occupancy are not to be treated as a mobile home for the purposes of this ordinance.
8. *Mobile home park*. A mobile home park is any plot of ground upon which one or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation. A mobile home space means ground within a mobile home park designed for the accommodation of one mobile home.
9. *Nonconforming*. That use which does not meet the requirements of the use district in which it is located at the time of the effective date of these regulations.
10. *Parking space*. An on-lot space available for the parking of one motor vehicle and having an area of not less than 200 square feet, exclusive of space necessary to provide access to a street.
11. *Property line*. The line bounding a lot as defined herein.
12. *Residential structure*. A structure containing one or more dwelling units.
13. *Setback or setback requirements*. A minimum distance from the street line, a requirement that no structure be placed closer to the street line than specified.
14. *Street line*. The boundary of any street, highway, or alley, including right-of-way.
15. *Structure*. Anything constructed or erected with a fixed location on the ground, or attached to something with a fixed location on the ground. Among other things, structures include buildings, walks, fences, billboards and mobile homes.
16. *Yard*. A horizontal distance from a lot line to a parallel designated line. A yard is an open space extending the full distance of the lot.
(Ord. No. 89-26, § 1A, 9-5-89)

Section III. Zoning districts.

The city is hereby divided into zoning districts as follows:

C-1: Commercial district no. 1. Commence at the intersection of Walnut Street and Old Highway U.S. 160, thence go

westerly along the north line of Old Highway U.S. 160 to the point where said right-of-way line intersects with the north city limits, thence go northeasterly along the north city limits to the intersection thereof with the west line of Walnut Street ("Y" Highway), thence go southerly along the west line of Walnut Street ("Y" Highway) to the point of beginning.

C-2: Commercial district no. 2. Lots 1, 2, 3, 4, 5 and 6 in Block 2, Franklin Heights Addition to the city.

C-3: Commercial district no. 3. Lots 1, 2, 3, 4, 5, 6, 7 and 8 in Block 3, Franklin Heights Addition to the city.

C-4: Commercial district no. 4. Commence at the intersection of the south right-of-way line of New Highway U.S. 160 and Walnut Street ("Y" Highway), go thence southerly along the east line of Walnut Street ("Y" Highway) to its intersection with the west extension of Oak Lane (Old "Y" Highway), thence easterly and northerly along the west line of the Oak Lane Extension (Old "Y" Highway) and an extension thereof to the intersection thereof with the south right-of-way line of New Highway U.S. 160.

C-5: Commercial district no. 5 (downtown commercial district). Commence at the intersection of the north line of Jefferson Street and the west city limits, thence go easterly to the intersection thereof with the east line of Willow Street, thence go north to the intersection thereof with the south line of Water Street, thence go east to the intersection thereof with the west line of Lafayette Street, thence go north to the intersection thereof with the north line of Lot 20, Original Town of Doniphan, thence east along said north line of Lot 20, to the northeast corner of said Lot 20, thence due east to the east line of Grand Street, thence north to the intersection thereof with the north line of Lot 9, Block 3 of New Addition to the Town of Doniphan, thence east along said north line to the northeast corner of said Lot 9, thence due east to the west line of Walnut Street, thence south to the intersection thereof with the south line of Locust Street, thence east to the intersection thereof with the west line of Elm Street, thence due south to the south city limits, thence westerly with the south city limits to the point of beginning.

C-6: Commercial district no. 6. Commence at the intersection of the west line of Walnut Street and the north line of Crescent Street being the southeast corner of Survey No. 9 of the southeast quarter of the southwest quarter of Section 23, Township 23 North, Range 2 East, and run thence west along the north line of Crescent Street 114 feet, run thence north 87 feet; run thence west 55 feet, more or less, to the west line of the east half of said Survey No. 8, run thence north along the west line of said east half of Survey No. 8 to the north line of said Survey No. 8, run thence west along the north line of said Survey No. 8 to the east line of Grand Avenue, run thence north along the east line of Grand Avenue to the intersection thereof with the south line of Highway Street (Old Highway 160), run thence northeasterly along the south line of Highway Street to the intersection thereof with the west line of Walnut Street, run thence south along the west line of Walnut Street, to the north line of Crescent Street, the point of beginning.

(Ord. No. 88-2, § 1, 2-2-88)

C-7: Commercial district no. 7. All of Survey No. 68 and the south 55 feet of Survey No. 63 of the City of Doniphan, Missouri, being in Section 26, Township 23 North, Range 2 East.

(Ord. No. 79-6, § 1, 5-1-79)

C-8: Commercial district no. 8. All of Block 2 in Summit Addition to the City of Doniphan, Missouri, lying south of State Highway 21 and Old U.S. Highway 160, formerly State Highway 14, now referred to as Highway Street.

(Ord. No. 79-8, § 1, 6-5-79)

C-9: Commercial district no. 9. All that part of the northwest quarter of Section 23, Township 23, North, Range 2 East, and described as follows: Beginning at the northwest corner of the Doniphan (I.O.O.F.) Cemetery, thence run north to the south right-of-way of U.S. Highway 160; thence follow said right-of-way in a northeasterly direction to where the east line of the northwest quarter of said Section 23, Township 23, North, Range 2 East, intersects said Highway 160 right-of-way; thence run south to the north side of said cemetery, thence run west to the point of beginning.

(Ord. No. 82-12, § 1, 10-5-82)

C-10: Commercial district no. 10. All of the following described real estate lying east of Highway Y and north of Highway 160, in the City of Doniphan, Missouri, described as follows: All that part of the northwest quarter of Section 23, Township 23 North, Range 2 east, described as follows: Beginning at the point where the east line of the northwest quarter intersects the north right-of-way of U.S. Highway 160; thence in a southwesterly direction along and with the said north right-of-way 1622.3 feet to an iron pin, being the point of beginning; run thence N 0 degrees 30' west 1001.5 feet to an iron pin; thence

west 343.2 feet to the east right-of-way of Highway Y; thence run in a southerly direction along and with the said east right-of-way of Highway Y to its intersection with the north right-of-way of U.S. Highway 160; thence run in a northeasterly direction along and with the north right-of-way of U.S. Highway 160 to the point of beginning, being in the City of Doniphan, Missouri.

EXCEPT a part of the SW quarter of the northwest quarter and the northwest quarter of the southwest quarter, all in Section 23, Township 23 North, Range 2 East, Ripley County, Missouri, containing 0.11 acre of new right-of-way, described as follows: Commencing at a point which is North 4 degrees 34' west a distance of 1,325.7 feet from the common corner of Sections, 22, 23, 26 and 27, Township 23 North, Range 2 East; thence north 47 degrees 32' east for a distance of 1,894.9 feet to a point; thence north 42 degrees 28' west for a distance of 100 feet to a point, said point is 100 feet northwesterly as measured at right angles to Route 160 center line station 74+00; thence north 86 degrees 07' 37" west for a distance of 41.47 feet to the point of beginning, a point 130 feet northwesterly as measured at right angles to Route 160 center line station 73+71.37; thence south 47 degrees 32' west for a distance of 116.37 feet to a point 130 feet northwesterly as measured at right angles to Route 160 center line station 72+55; thence north 16 degrees 28' 29" west for a distance of 89.79 feet to a point 94.15 feet easterly of Route Y center line station 537+00; thence south 86 degrees 07' 37" east for a distance of 111.56 feet to the point of beginning.

ALSO, all of the following described real estate lying east of Highway Y and north of Highway 160, in the City of Doniphan, Missouri, described as follows: A tract of land in the southwest quarter of the northwest quarter of Section 23 and the southeast quarter of the northwest quarter of Section 23, all in Township 23 North, Range 2 East, Ripley County, being more particularly described as follows: Commencing at a point which north 4 degrees 34' west a distance of 1,325.7 feet from the common corner of Sections 22, 23, 26 and 27, Township 23 North, Range 2 East; thence north 47 degrees 32' east for a distance of 1,894.9 feet to a point; thence north 42 degrees 28' west for a distance of 100 feet to the point of beginning, said point is 100 feet northwesterly as measured at right angles to Route 160 center line station 74+00; thence north 86 degrees 07' 37" west for a distance of 65.86 feet; thence north 37 degrees 49' west for a distance of 71.44 feet; thence right on a curve (chord bearing north 30 degrees 36' 07" west) having a radius of 607.96 feet for an arc length of 153.11 feet; thence north 4 degrees 28' 40" east along the easterly right-of-way line of Route Y for a distance of 293.69 feet; thence south 5 degrees 27' 23" east for a distance of 87.72 feet; thence left on a curve (chord bearing south 16 degrees 23' 36" east) having a radius of 527.96 feet for an arc length of 230.37 feet; thence south 26 degrees 29' 57" east for a distance of 83.52 feet; thence south 37 degrees 49' east for a distance of 83.45 feet; thence north 47 degrees 32' east for a distance of 116.67 feet; thence north 58 degrees 09' 11" east for a distance of 162.67 feet; thence north 58 degrees 09' 11" east for a distance of 162.79 feet to a point on the north right-of-way line of Route 160 located 100 feet northwesterly as measured at right angles to Route 160 center line station 77+00; thence south 47 degrees 32' west for a distance of 300 feet to the true point of beginning, said point is 100 feet northwesterly as measured at right angles to Route 160 center line station 74+00, containing 0.74 acre.

(Ord. No. 95-2, § 1, 3-7-95)

I-1: Industrial district no. 1. All that part of the City of Doniphan, Missouri which lies north of U.S. Highway 160 and east of Highway Y, except for that part in C-10 district described as follows: All of the following described real estate lying east of Highway Y and north of Highway 160, in the City of Doniphan, Missouri, described as follows: All that part of the northwest quarter of Section 23, Township 23 North, Range 2 East, described as follows: Beginning at the point where the east line of the northwest quarter intersects the north right-of-way of U.S. Highway 160; thence in a southwesterly direction along and with the north right-of-way 1622.3 feet to an iron pin, being the point of beginning; run thence N 0 degrees 30' west 1001.5 feet to an iron pin; thence west 343.2 feet to the east right-of-way of Highway Y; thence run in a southerly direction along and with the east right-of-way of Highway Y to its intersection with the north right-of-way of U.S. Highway 160; thence run in a northeasterly direction along and with the north right-of-way of U.S. Highway 160 to the point of beginning, being in the City of Doniphan, Missouri.

EXCEPT a part of the SW quarter of the northwest quarter and the northwest quarter of the southwest quarter, all in Section 23, Township 23 North, Range 2 East, Ripley County, Missouri, containing 0.11 acre of new right-of-way, described as follows: Commencing at a point which is north 4 degrees 34' west a distance of 1,325.7 feet from the common corner of Sections 22, 23, 26 and 27, Township 23 North, Range 2 East; thence north 47 degrees 32' east for a distance of 1,894.9 feet to a point; thence north 42 degrees 28' west for a distance of 100 feet to a point, said point is 100 feet northwesterly as measured at right angles to Route 160 center line station 74+00; thence north 86 degrees 07' 37" west for a distance of 41.47 feet to the point of beginning, a point 130 feet northwesterly as measured at right angles to Route 160 center line station 73+71.37; thence south 47 degrees 32' west for a distance of 116.37 feet to a point 130 feet northwesterly as measured at right angles to Route 160 center line station 72+55; thence north 16 degrees 28' 29" west for a distance of 89.79 feet to a point

94.15 feet easterly of Route Y center line station 538+00; thence south 86 degrees 07' 37" east for a distance of 111.56 feet to the point of beginning.

ALSO, all of the following described real estate lying east of Highway Y and north of Highway 160, in the City of Doniphan, Missouri, described as follows: A tract of land in the southwest quarter of the northwest quarter of Section 23 and the southeast quarter of the northwest quarter of Section 23, all in Township 23 North, Range 2 East, Ripley County, being more particularly described as follows: Commencing at a point which is north 4 degrees 34' west a distance of 1,325.7 feet from the common corner of Sections 22, 23, 26 and 27, Township 23 North, Range 2 East; thence north 47 degrees 32' east for a distance of 1,894.9 feet to a point; thence north 42 degrees 28' west for a distance of 100 feet to the point of beginning, said point is 100 feet northwesterly as measured at right angles to Route 160 center line station 74+00; thence north 86 degrees 07' 37; inch west for a distance of 65.86 feet; thence north 37 degrees 49' west for a distance of 71.44 feet; thence right on a curve (chord bearing north 30 degrees 36' 07" west) having a radius of 607.96 feet for an arc length of 153.11 feet; thence north 4 degrees 28' 40" east along the easterly right-of-way line of Route Y for a distance of 293.69 feet; thence south 5 degrees 27' 23" east for a distance of 87.72 feet; thence left on a curve (chord bearing south 16 degrees 23' 36" east) having a radius of 527.96 feet for an arc length of 230.37 feet; thence south 26 degrees 29' 57" east for a distance of 83.52 feet; thence south 37 degrees 49' east for a distance of 83.45 feet; thence north 47 degrees 32' east for a distance of 116.67 feet; thence north 58 degrees 09' 11" east for a distance of 162.79 feet to a point on the north right-of-way line of Route 160 located 100 feet northwesterly as measured at right angles to Route 160 center line station 77+00; thence south 47 degrees 32' west for a distance of 300 feet to the true point of beginning, said point is 100 feet northwesterly as measured at right angles to Route 160 center line station 74+00, containing 0.74 acre.

(Ord. No. 95-2, § 2, 3-7-95)

LC-1: Limited commercial district no. 1. A part of the north one-half of Section 27, left bank of Current River, Township 23 North, Range 2 East, that lies east of U.S. Highway 160, and north of the city road leading from Jefferson Street in the City of Doniphan, Missouri, to the Current River Bridge as they exist today, more specifically described as follows: Commencing at the quarter corner of Sections 26 and 27 of said Township, go north 01 degree 01 minute 57 seconds east 264.12 feet along the section line to its intersection with the centerline of said Jefferson Street, which is the point of beginning, thence continue north 01 degree 01 minute 57 seconds 421.05 feet along the section line to its intersection with the south right-of-way of Lee Street of said city, thence go south 89 degrees 45 minutes 13 seconds west 8.83 feet along said right-of-way to the west right-of-way of Second Street of said city, thence go north 01 degree 10 minutes 57 seconds east 140.37 feet along the right-of-way, thence go north 87 degrees 42 minutes 37 seconds west 167.70 feet along a fence to an iron stake at the fence corner, thence go along the fence a chord bearing and distance north 15 degrees 49 minutes 26 seconds west 295.18 feet, thence continue along the fence north 24 degrees 10 minutes 23 seconds west 54.35 feet, thence continue along the fence north 11 degrees 43 minutes 47 seconds west 29.0 feet, thence go north 00 degree 48 minutes 23 seconds west 167.20 feet to the southwest corner of Block 6 of Walnut Grove Addition to said city, thence go north 01 degree 01 minute 57 seconds east 56.45 feet along the west boundary of said block to a fence, thence go south 88 degrees 50 minutes 27 seconds west 398.29 feet along the fence to a fence corner, thence go south 01 degree 34 minutes 51 seconds west 190.10 feet along a fence and its prolongation to an iron stake, thence go north 74 degrees 41 minutes 02 seconds west 95.69 feet to an iron stake, thence go north 47 degrees 45 minutes 40 seconds west 264.13 feet to an iron stake, thence go north 34 degrees 19 minutes 46 seconds west 258.14 feet to the east right-of-way to U.S. Highway 160; thence go south 57 degrees 08 minutes 21 seconds west 63.57 feet along said right-of-way to a right-of-way marker; thence go south 51 degrees 58 minutes 32 seconds west 309.37 feet along said right-of-way; thence go south 54 degrees 26 minutes 29 seconds west 59.9 feet along said right-of-way to its intersection with the centerline of the city road coming from Jefferson Street in said city; thence go along the centerline of said road southeasterly 2,001.94 feet back to the point of beginning. In the City of Doniphan, Missouri.

The following special restrictive area and use requirements apply to the aforementioned limited commercial district no. 1:

(a) The route of the existing natural drainage ditch shall not be changed without the approval, by resolution, of the board of aldermen; and

(b) No improvements shall be constructed or erected in or upon LC-1 within 100 feet of the following line: Commencing at the quarter corner of Sections 26 and 27 of Township 23 North, Range 2 East, go north 01 degree 01 minute 57 seconds east 264.12 feet along the section line to its intersection with the centerline of said Jefferson Street, thence continue north 01 degree 01 minute 57 seconds east 421.05 feet along the section line to its intersection with the south right-of-way of Lee Street of the City of Doniphan, Missouri, thence go south 89 degrees 45 minutes 13 seconds west 8.83 feet along said right-of-way to the west

right-of-way of Second Street of said city, thence go north 01 degree 01 minute 57 seconds east 140.37 feet along the right-of-way to the point of beginning of the said line, thence go north 87 degrees 42 minutes 37 seconds west 167.70 feet along a fence to an iron stake at the fence corner, thence go along the fence a chord bearing and distance north 15 degrees 49 minutes 26 seconds west 295.18 feet, thence continue along the fence north 24 degrees 10 minutes 23 seconds west 54.35 feet, thence continue along the fence north 11 degrees 43 minutes 47 seconds west 29.0 feet; thence go north 00 degree 48 minutes 23 seconds west 167.20 feet to the southwest corner of Block Six of Walnut Grove Addition to said city, thence go north 01 degree 01 minute 57 seconds east 56.45 feet along the west boundary of said Block Six to a fence and there terminate said line.

In all other respects the regular commercial district area and use requirements shall apply to limited commercial district no. 1.

(Ord. No. 83-8, § 1, 5-3-83)

R: Residential district. All that part of the city not defined above as commercial or industrial districts.

(Ord. No. 79-6, § 1, 5-1-79; Ord. No. 79-8, § 1, 6-5-79; Ord. No. 82-12, §§ 1, 2, 10-5-82; Ord. No. 83-8, § 1, 5-3-83)

Editors Note: Ord. No. 82-12, § 2, adopted Oct. 5, 1982, repealed subsection LC-1, Limited Commercial district No. 1, of § III of App. A; provisions similarly designated were set out by Ord. No. 83-8, § 1, enacted May 3, 1983.

Section IV. Application of zoning district regulations.

A. The regulations pertaining to each zoning district establish the character of the zoning district, and the regulations shall be applied uniformly within the zoning district.

B. The uses permitted or prohibited in each zoning district shall include but shall not be limited to those uses enumerated as being permitted or prohibited within the respective zoning districts.

C. When a use is proposed for a zoning district that is not explicitly permitted or prohibited within the zoning district, the planning and zoning commission shall determine whether said use is compatible (i.e., in character) and if it so finds that it is, authorize said use to be established. The planning and zoning commission shall decide each application on its merits, taking into consideration such factors as existing uses, access, location, major streets, plans, etc. The planning and zoning commission may impose conditions under which a use may be permitted in order to ensure compatibility. The finding of a use to be compatible in one location does not mean the same use is compatible at another location, even within the same zoning district.

D. No building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zoning district in which it is located.

E. No building or other structure shall hereafter be erected or altered:

(1) To accommodate or house a greater number of families;

(2) To occupy a greater percentage of lot area; or

(3) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of these regulations.

Section V. Residential district.

A. *Residential district (R).* This district is intended to provide for residential development of moderately spacious character, together with such public buildings, schools, churches, public recreational facilities, and accessory uses as may be necessary or normally compatible with residential surroundings.

B. *Permitted uses.*

1. Single-family dwelling.

2. Two-family dwelling.

3. Multifamily dwelling.
4. Churches and educational buildings.
5. Public parks, playgrounds, recreational buildings.
6. Existing farms, truck gardens, nurseries.
7. Schools, elementary and secondary.
8. Funeral homes.
9. Hospitals, health centers and government office buildings.
10. Boarding homes.
11. Nursing homes.
12. Doctor's office and clinics.

(Ord. No. 88-25, § 1, 11-22-88)

C. *Area requirements.*

1. Minimum lot area:

- a. Single-family, 8,400 square feet, provided that the minimum lot width shall be 50 feet.
- b. For each additional dwelling unit per structure, 1,800 square feet.

2. Setback requirements:

a.	Front....	25 feet
b.	Side....	7 feet
c.	Side (exterior)....	10 feet
d.	Rear....	25 feet

D. *Offstreet parking.*

1. Two offstreet parking spaces per each dwelling unit on the lot.
2. Churches. One parking space for each five seats provided in main sanctuary or meeting room.
3. Boarding homes and nursing homes. One parking space for each two occupants or boarders, when the boarding home or nursing home is at full capacity.

E. *Animals prohibited or restricted.*

1. Except for contiguous tracts or lots of land in the name of one owner of 2.0 acres or more in area as set forth in paragraph 2. hereof, no person shall be permitted to keep or maintain upon a tract or lot in a residential district any animal of the species of horse, mule, ass, cattle, sheep, swine, goat or rabbit; nor shall any person be permitted to keep or maintain upon a tract or lot of land in a residential district any hens, pullets, roosters, turkey hens, gobblers, ducks, drakes, pigeons, geese or other poultry or fowl except for birds kept exclusively inside a residential structure as household pets.

2. Owners of tracts or lots of land of 2.0 acres or more in area in a residential district may keep and maintain on said land animals of the species of horse, mule, ass, cattle, sheep, swine, goat and rabbit, as well as hens, pullets, roosters, turkey hens,

gobblers, ducks, drakes, pigeons, geese and other poultry and fowl, provided that the keeping and maintaining of said animals is not for commercial purposes and does not violate the nuisance ordinance of the city. Every pen, cage, outbuilding, barn or structure used to keep and maintain permitted animals shall have a setback of 50 feet from any residential structure.

3. In a residential district no person shall keep or maintain upon any lot more than five dogs. All outbuildings in a residential district in which dogs are kept or maintained shall be kept in a clean and sanitary condition so as not to permit the escape of noxious or offensive odors from the premises. No structure or pen housing any dog shall be permitted to be maintained, nor shall any dog be tied in such a manner as to be located within 25 feet of any residence except that of the dog's owner.

4. No person shall keep or maintain upon a tract or lot in a residential district any lion, tiger, leopard, ocelot, jaguar, cheetah, morgay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, coyote, or any deadly, dangerous or poisonous reptile. (Ord. No. 77-3, § 1, 2-17-77; Ord. No. 91-5, § 1, 7-2-91)

Penalty provision. Any person who shall violate the provisions of this ordinance [subsection E.] shall, upon conviction, be sentenced to imprisonment in the city jail for a term of not more than 90 days or sentenced to pay a fine of not less than \$25.00 nor more than \$500.00, or both such fine and imprisonment. Each day that a violation continues shall constitute a separate offense. (Ord. No. 91-5, § 2, 7-2-91)

Section VI. Commercial districts.

[(I) Commercial districts (C).]

A. *Intent.* The commercial districts are intended for the conduct of personal business services and the general retail business of the community. In addition, under special conditional use permits, a commercial district is intended for the conduct of light manufacturing. The districts are intended to provide adequate offstreet parking and unloading facilities and to meet the needs of the traveling public.

B. *Permitted uses.*

1. Retail establishments which sell such goods as groceries, drugs, variety merchandise, dry goods, and automobile parts.

2. Retail establishments selling goods such as hardware, feed, poultry, supplies, home building supplies, farm equipment, marine equipment (boats, trailers, etc.), etc.

3. Service establishments including banks, barbershops, beauty shops, motion picture theatres, new and used car sales, utility offices, and public buildings.

4. Eating establishments (cafes, restaurants).

5. Offices for professional and service people, including doctors, dentists, lawyers, realtors, television and radio service and repair [personnel].

6. Drive-in banks, savings and loan associations, etc.

7. Dry cleaning and laundry establishments.

8. Automotive service stations.

9. Automotive repairs and sales (new and used).

10. Warehousing, commercial.

11. Commercial recreation, [such] as bowling alleys, golf driving ranges, drive-in theatres, skating rinks, etc.

12. Automatic laundries (unattended).

13. Funeral homes.
14. Motels and motor hotels.
15. Places of public assembly.
16. Printing offices and plants.
17. Light manufacturing, if a special conditional use permit is obtained for each proposed light manufacturing use.
18. All uses permitted in residential districts.

(Ord. No. 97-5, § 2, 6-3-97)

C. *Area requirements.*

1. Setback requirements:

- a. Front, sufficient to provide for a sidewalk at least six feet in width.
- b. Side street (corner lot), sufficient to provide for a sidewalk of at least six feet in width, except where there is a loading dock, then a setback of at least 20 feet.
- c. Side (no street), one foot.
- d. Rear (from property line or alley if one exists), one foot.

(Ord. No. 01-11, § 1, 7-17-01)

2. On-lot parking:

- a. Motels, hotels (parking space per sleeping unit), one.
- b. Places of public assembly (space per seating capacity), one for five.

3. Maximum height:

- a. Stories, two.

4. On-lot parking spaces shall be provided for employees and customers.

5. When a commercial zoning district abuts a residential zoning district a minimum setback of 25 feet of any building in the commercial zone from the residential lot line is required.

D. *Restriction of residential use in certain commercial areas.* In commercial district no. 5 (downtown commercial district) no owner of a building:

- (a) Which is more than one story in height, and
- (b) Which is separated from another building of more than one story in height by:
 - (i) A common wall, or
 - (ii) A clear air gap of less than ten feet between building walls,

shall allow such building to be used for residential purposes; provided that the owner in fee simple of any such building, and his immediate family, may reside in said building, the prohibitions on residential use to the contrary herein notwithstanding.

E. *Special conditional use permits for light manufacturing in commercial districts.*

(a) In all commercial districts (but not in limited commercial districts), and in all existing commercial buildings qualifying as a prior nonconforming use, light manufacturing shall be a permitted use if, and only if, a special conditional use permit is applied for and obtained in advance of the proposed light manufacturing use. A special conditional use permit may only be issued by the planning and zoning commission under the conditions and procedures hereinafter specified.

(b) Any owner of real estate who desires to use commercial property for light manufacturing shall make written application therefor to the city clerk. An application fee of \$100.00 shall be submitted with the application to cover the costs of publication of notice [notice] of a public hearing on the application. The city clerk shall notify the city attorney and the chairman of the planning and zoning commission of the receipt of such application. The chairman of the planning and zoning commission shall schedule a hearing on the application before the planning and zoning commission within 30 days after receipt of the application. Notice of the hearing describing the proposed light manufacturing use shall be published at least once in a newspaper of general circulation published in Ripley County, Missouri, at least five days prior to the hearing.

(c) On the date scheduled for the public hearing on the application, or upon any subsequent date to which the planning and zoning commission adjourns, the applicant shall, in person or by attorney, present the application to the planning and zoning commission. Any other person may then submit oral or written comments on the application to the planning and zoning commission. The planning and zoning commission shall then review the application and the comments received thereon.

(d) The planning and zoning commission shall not approve the application unless the following conditions are met:

(i) The proposed use will be on premises which have sufficient on-lot parking spaces to provide parking space for each employee of the business.

(ii) The proposed use has facilities for on-lot loading and unloading of trucks or other vehicles.

(iii) The loading and unloading facilities on the premises of the proposed use adjoin city streets capable of handling the weights of all commercial vehicles serving the proposed use.

(iv) The proposed use shall not require the installation of three-phase electric service to premises not already wired for such service.

(v) The proposed use shall not contain any boilers in excess of 50-gallon liquid capacity or any incinerators, industrial furnaces or heavy machinery on the premises.

(vi) The proposed use shall not require the storage of materials, supplies or inventory outside of the structures on the premises.

(vii) The proposed use shall not generate noise levels at the property lines of the premises higher than ambient levels measured at the nearest city street prior to the commencement of the proposed use.

(viii) The proposed use shall not allow manufacturing activity to take place outside of the structures on the premises.

(ix) The proposed use does not generate hazardous waste as defined by the solid waste ordinances of the city.

(x) The proposed use will comply with the building code, the plumbing code, the electrical code and the fire prevention code of the city.

If the planning and zoning commission approves the application, the foregoing conditions shall be contained in the special conditional use permit issued to the applicant. The planning and zoning commission may adopt additional conditions relating to traffic flow, parking and loading of vehicles, generation of solid waste, noise abatement, etc., which the planning and zoning commission determines necessary to protect the public health, safety and welfare.

(e) A special conditional use permit for light manufacturing on commercial premises shall be issued only upon approval by a majority of the entire membership of the planning and zoning commission. If the application is so approved, the chairman of the planning and zoning commission shall issue and deliver to the applicant a written special conditional use permit for the premises of the proposed use. The permit shall contain the name of the applicant, the legal description of the premises and the conditions of use thereof. A special conditional use permit is not transferable by the applicant or owner of the real estate and shall expire immediately upon termination of the original proposed use.

(f) If the holder of a special conditional use permit violates any of the conditions of said permit he shall, upon conviction, be fined \$500.00. Each day such violation exists shall constitute a separate offense.
(Ord. No. 89-26, § 1B, 9-5-89)

Editors Note: Ord. No. 89-26, § 1B, adopted Sept. 5, 1989, amended App. A by adding provisions designated as § VI E. The subsections within said paragraph VI E have been renumbered in order to conform to Code format.
(Ord. No. 87-14, § 1, 6-2-87; Ord. No. 89-26, § 1B, 9-5-89)

[(II) Limited commercial district (LC).]

[A. *Permitted uses.*] A limited commercial district shall have as permitted uses all uses permitted in commercial districts.

[B. *Area requirements.*] A limited commercial district shall have the same area requirements as a commercial district, provided, that in addition to the area requirements pertaining to a commercial [district], any property tract designated limited commercial may have such further restrictions imposed thereon, either as to use or area requirements, as may appear proper to the board of aldermen.
(Ord. No. 80-8, §§ 1, 2, 6-17-80)

Section VII. Industrial districts.

A. [*Intent.*] Industrial districts are intended for general manufacturing and industrial activities, and for the bulk storage of goods.

1. The industrial district (I) represents the industrial park areas. This district is intended for those operations carried on within the structure, with adequate land area for parking and landscaping.

B. *Permitted uses.*

1. Industrial district.

a. Manufacturing, compounding, processing, packaging, and/or assembling of products which, by the nature of the operation, does not produce noise, dust, odor, or vibration that is detrimental or dangerous to the health, safety, or general welfare of the community.

b. Storage of bulk materials when it is found that the specific location and the safeguards provided will so reduce the danger from fire and explosion as not to be dangerous to the health, safety or general welfare of the community.

2. All uses permitted in residential or commercial districts.

(Ord. No. 97-5, § 3, 6-3-97)

C. *Area requirements.*

1. Industrial district.

a. Lot coverage: Structures shall not cover more than 66 2/3 percent of the lot area.

b. Setbacks: All structures shall be built at least 75 feet from the front property line and 25 feet from all other property lines.

- c. On-lot parking: Adequate on-lot parking space shall be provided for all employees and visitors.
- d. On-lot parking loading and unloading facilities: Each structure or use shall provide on-lot loading and unloading facilities which shall not block a street, alley or other public way.
- e. Storage: All bulk storage must be within the confines of structures.

Section VIII. Mobile homes.

A. *Mobile home park.* All mobile homes shall be located in mobile home parks which shall conform to the following requirements:

1. The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
2. Mobile home spaces shall be provided consisting of a minimum of 2,450 square feet for each space and shall be at least 35 feet wide and clearly defined.
3. Mobile homes shall be so placed on each space [so] that there shall be at least 15 feet clearance between mobile homes.
4. All mobile home spaces shall abut a driveway of not less than 20 feet in width, which shall have unobstructed access to a public street.
5. At least one vehicle parking space of 200 square feet shall be provided on each mobile home space.
6. A mobile home park shall be no less than three acres in total area.
7. An electrical outlet and water and sanitary sewer connections shall be provided to each mobile home space.

Section IX. General regulations.

A. *Annexed areas.*

1. All territory which may hereafter be included within the zoning jurisdiction of Doniphan by annexation shall be governed by and subject to the requirements of district (R) residential, until such time as the zoning district shall have been amended to zone such territory otherwise, or unless the landowner proposing an annexation by the city, or the board of aldermen by resolution, requests and obtains an advance determination from the city prior to the completion of the annexation process in the manner hereinafter set forth.

2. Any developer or landowner outside the city limits who has requested in writing that the city annex their real estate may, with such request, ask for a predetermination of zoning district classification prior to completion of the annexation process. The written request shall specify which zoning district classification is requested for each parcel and shall be accompanied by a fee of \$50.00. the board of aldermen may, by resolution, when considering the advisability of an annexation, ask for a predetermination of zoning district classification prior to completion of the annexation process. The board of aldermen's request shall specify which zoning district classification is requested for each parcel and shall require no fee. Upon receipt of any such request, the city clerk shall transmit the application to the planning and zoning commission which shall schedule the same for a public hearing before the commission not less than 30 days and not more than 90 days from the date of filing. The commission shall publish a notice of the time and place of the public hearing on the proposed determination in zoning district classification, which notice shall be published at least once, not less than 15 days preceding the date of such hearing, in an official paper or a paper of general circulation in Doniphan; said notice shall contain description of the property and the proposed zoning district classification if the annexation is completed. The planning and zoning commission shall give or cause to be given such additional notice of such hearing to interested persons and organizations as it shall deem feasible and practicable.

3. The planning and zoning commission shall conduct the public hearing on the proposed zoning classification for the areas to be annexed.

4. Following the public hearing, the proposed zoning classification may be approved as presented or in modified form by a majority vote of the planning and zoning commission and recommended for adoption by the board of aldermen, with reasons for such recommendation stated in writing. If the classification proposed by the developer or landowner is denied or modified by the commission, the developer or landowner may withdraw the entire annexation request at any time up to the time of final action by the board of aldermen.

5. The board of aldermen may, by ordinance, adopt the recommended zoning district classification submitted by the planning and zoning commission. If the board of aldermen does not concur with the recommendation of the planning and zoning commission, the board of aldermen shall return the recommendation to the planning and zoning commission for further study and report. After re-submission of the recommendation, the board of aldermen may, by ordinance, accept, reject, or modify the recommendation pertaining to the proposed zoning classification. The ordinance approving the proposed zoning district classification may be made a part of the ordinance approving the annexation of the property in question.

6. If the planning and zoning commission disapproves a proposed annexation or of the proposed zoning classification in the area to be annexed, notice of disapproval with the reasons for such disapproval shall be given in writing to the petitioner within 15 days from the date of the decision.

7. Following disapproval of a proposed annexation or of the proposed zoning classification by the planning and zoning commission, the petitioner may appeal such disapproval to the board of aldermen, provided that the petitioner states specifically in writing to the city clerk why he considers the planning and zoning commission's findings and decisions to be in error. Such appeal shall be filed with the city clerk within 15 days of receipt of notice of the planning and zoning commission's action. The board of aldermen may, thereafter, by ordinance, accept, reject, or modify the recommendation pertaining to the proposed zoning classification. Following disapproval of a proposed annexation or of a proposed zoning classification recommended by the board of aldermen to the planning and zoning commission, the board of aldermen may nevertheless, by ordinance, adopt such proposed zoning classification as the board of aldermen shall deem proper for the development of the city.

B. *Completion of existing buildings.*

1. Nothing herein contained shall require any change in plans, constructions, or designated use of a building actually under construction at the time of effective date of these regulations.

C. *Occupations permitted in residential structures utilized for residential purposes in the residential zone (home occupation).*

1. An occupation may be carried on in a residential structure in the residential district only when it:
 - a. Does not require the use of more than 20 percent of the floor area of the dwelling unit.
 - b. Does not require the use of an accessory building or yard space or an activity outside the main structure not normally associated with residential uses.
 - c. Does not have a sign in excess of four square feet in area to denote the business, occupation, or profession, and such sign must be attached to the structure.
 - d. Does not involve the display of goods and services outside the home.
 - e. Does not generate onstreet parking.

D. *Lot of record.*

1. On any lot of record in the residential district, a one-family structure may be erected even though the lot be of less area or width than required by the regulations of the residential area in which the lot is located, provided all other area requirements and setback requirements are met.

E. *Nonconforming.*

1. Nonconforming use of land or nonconforming use of structures may be continued if the following are complied with:
 - a. A nonconforming use of land shall not be changed unless changed to a conforming one.
 - b. The area devoted to a nonconforming use of land cannot be enlarged beyond the lot area so used on February 18, 1975.
 - c. A nonconforming use of structure may be changed to another use in the same zoning classification as the original use provided the planning and zoning commission finds that such change of use is as compatible for the area as the original nonconforming one.
2. A nonconforming structure may be enlarged with the approval of the planning and zoning commission, but in no event shall the enlargement of the structure be in violation of the existing area requirements for the zoning district in which the structure is located.
3. A nonconforming structure may not be rebuilt or reestablished if said structure is damaged in excess of one-half of its fair market value immediately prior to damage.
(Ord. No. 97-5, § 1, 6-3-97)

Section X. Board of zoning adjustment.*

* **Cross References:** Administration, ch. 2.

- A. *Designation, organization and meetings of board.*
 1. The board of zoning adjustment, hereafter referred to as the board, shall consist of members appointed by the city council of the City of Doniphan.
 2. The board shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedures and keep a public record of all findings and decisions.
 3. Each session of the board shall be a public meeting with public notice of said meeting and business to be carried out and published in a newspaper of general circulation in the city, at least one time, seven days prior to the meeting.
- B. *Appeals from decision of zoning officer.* The board may hear appeals from the decisions of the zoning officer in respect to the enforcement and application of this ordinance; and may affirm or reverse, in whole or in part, said decision of the zoning officer.
- C. *VariANCES.* The board may hear request[s] for variances from the literal provisions of the zoning ordinance in instances where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance. The board shall not permit as a variance any use in a zone that is not permitted under the ordinance. The board may impose conditions in the granting of a variance to ensure compliance and to protect adjacent property.
- D. *Fees.* The appellant or applicant shall be required to pay to the city clerk a filing fee of \$5.00 to cover such other costs as may be incurred in connection with such appeal or application.
- E. *Appeal from decisions of board.* Decisions of the board in respect to appeals from the decisions of the zoning officer and requests for variances shall be subject to appeal only to a court of record having jurisdiction.

Section XI. Amendment to text of regulations.

- A. The city council may recommend to the planning and zoning commission amendments to the text of these regulations, or the planning and zoning commission may on its own motion initiate amendments.

B. Proposed amendments to the text shall be advertised in a paper of general circulation at least 15 days in advance of a public hearing to be conducted by the planning and zoning commission. After the public hearing, the planning and zoning commission shall make a report and recommendation to the city council pertaining to the proposed amendment to the text. The city council action on the report and recommendation shall be final.

Section XII. Change in zoning district classification.

A. Initiation and procedures for change in zoning classification.

1. A proposed change in a zoning district classification may be initiated by a letter of request by one or more owners or lessees of property within the area proposed to be changed. Such a letter shall be addressed to the planning and zoning commission and shall be filed with the secretary of the planning and zoning commission not less than 48 hours prior to a regular monthly meeting.

2. The applicant for the change shall file an application for a change in zoning classification on forms provided by the planning and zoning commission, which shall schedule the same for a public hearing before the commission not less than 30 days and not more than 90 days from the date of filing. The commission shall publish a notice of the time and place of the public hearing on the proposed change in zoning district classification, which notice shall be published at least once, not less than 15 days preceding the date of such hearing, in an official paper or a paper of general circulation in Doniphan; said notice shall contain description of property and change proposed. The planning and zoning commission shall give or cause to be given such additional notice of such hearing to interested persons and organizations as it shall deem feasible and practicable.

3. The planning and zoning commission shall conduct the public hearing on the proposed change in zoning classification.

4. Following the public hearing, the proposed change in zoning classification may be approved as presented or in modified form by a majority vote of the planning and zoning commission and recommended for adoption by the city council, with reasons for such recommendation stated in writing.

5. The city council, by majority vote, may by ordinance adopt the recommended amendment submitted by the planning and zoning commission. If the city council does not concur with the recommendation of the planning and zoning commission, the city council shall return the recommendation to the planning and zoning commission for further study and report. After resubmission of the recommendation, the city council may, by majority vote, accept, reject, or modify the recommendation pertaining to the proposed change in zoning classification.

6. If the planning and zoning commission disapproves a proposed change in zoning classification, notice of disapproval with the reasons for such disapproval shall be given in writing to the petitioner within 15 days from the date of the decision.

7. Following disapproval of a proposed change in zoning classification by the planning and zoning commission, the petitioner may appeal such disapproval to the city council, provided that the petitioner states specifically in writing to the city clerk why he considers the planning and zoning commission's findings and decisions to be in error. Such appeal shall be filed with the city clerk within 15 days of receipt of notice of the planning and zoning commission's action.

B. *Resubmission of application.* No application for change of zoning for a given property may be resubmitted within 12 months from the date of the action by the planning and zoning commission unless the planning and zoning commission finds that a substantial reason exists for waiving this limitation.

C. *Fee.* Applications shall be accompanied by a filing fee of \$10.00 to assist in defraying general expenses in connection with the application for a change in zoning.

Section XIII. Enforcement.

A. The provisions of this ordinance shall be administered by an enforcement officer approved by the council.

B. A building permit will be issued only when the application has been approved by the enforcement officer as meeting requirements of this ordinance. All applications for building permits shall be accompanied by a plan in duplicate drawn to scale, showing the building to be erected and its location on the lot, and such other information as may be necessary to provide for the

enforcement of this ordinance. A record of such application and plats shall be kept by the enforcement officer and [such record and plats] are subject to review by the planning and zoning commission.

Section XIV. Penalty for violation.

A. Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$100.00. Each day such violation is permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this ordinance shall be placed, or shall exist, and any architect, builder, contractor, agent, persons, or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined as hereinbefore provided.

Section XV. Severability.

A. The provisions of this ordinance are hereby declared to be severable. If any section, paragraph, sentence, or clause of this ordinance shall be held invalid, the invalidity of such section, paragraph, sentence, or clause shall not affect the validity of the remainder of the said ordinance.

Section XVI. [Effective date.]

This ordinance shall be in full force and effect from and after its passage and approval.

APPENDIX B

SUBDIVISIONS*

* **Editors Note:** Printed herein is the subdivision ordinance, as adopted by the board of aldermen on December 16, 1975. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.

Cross References: Electricity, ch. 46; health and sanitation, ch. 54; parks and recreation, ch. 74; planning and development, ch. 82; plumbing, ch. 86; sewers, ch. 94; streets and sidewalks, ch. 102; utilities, ch. 118; zoning, app. A; floodplain management, app. C.

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- Sec. 1. Definitions.**
 - Sec. 2. Application of ordinance.**
 - Sec. 3. Submission and approval of sketch plats.**
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 - Sec. 5. Sketch plat details.**
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 - Sec. 14. Modification.**
 - Sec. 15. Violation and penalty.**
 - Sec. 16. Repealing ordinances.**
 - Sec. 17. Development of areas to be annexed to city.**

AN ORDINANCE SETTING FORTH REGULATIONS GOVERNING THE SUBDIVISION OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF DONIPHAN, MISSOURI

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DONIPHAN, MISSOURI, AS FOLLOWS:

Section 1. Definitions.

The following words or phrases, when used in this ordinance, shall have the meaning given to them in this section, except where the context clearly indicates a different meaning:

- (a) *Alley*. A minor way, dedicated to public use, when it is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.
- (b) *Block*. A piece or parcel of land surrounded by public highways, streets, streams, railroad rights-of-way, or parks, etc., or a combination thereof.
- (c) *Commission*. The city planning and zoning commission of the City of Doniphan, Missouri.
- (d) *Council*. The city council (board of aldermen) of the City of Doniphan, Missouri.
- (e) *Cul-de-sac*. A street having one end open to traffic and being permanently terminated by a vehicle turnaround.
- (f) *Easement*. A grant by the property owner to the public, a corporation or persons, of the use of a strip of land for specific purposes.
- (g) *Floodplain ordinance*. Regulations and requirements concerning land use in floodplain areas as set forth in Ordinance No. 75-6, City of Doniphan, Missouri.
- (h) *Improvements*. Street pavement with curbs, sanitary and storm sewers, permanent monuments, water mains and other appropriate items.
- (i) *Lot*. A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.
- (j) *Plat, final*. A complete and exact subdivision plat, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.
- (k) *Plat, sketch*. An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings and the general layout of the proposed subdivision, as further defined in section 5.
- (l) *Right-of-way*. The land opened, reserved or dedicated for a street, walk, drainage or other public purpose.
- (m) *Street*. A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel, which may be used to provide space for sewers, public utilities, trees and sidewalks.
- (n) *Street, arterial*. A street or road of considerable continuity which serves or is intended to serve as the principal trafficway between separated areas or districts and which is the main means of access to the primary street system or highways.
- (o) *Street, major*. Streets which, in addition to serving abutting properties, intercept minor streets, connect with community facilities and carry neighborhood traffic to the major arterial street system.
- (p) *Street, marginal access*. A minor street which is generally parallel to and adjacent to major highways or railroad rights-of-way and which provides access to abutting properties and protection from through traffic.
- (q) *Street, minor*. Streets used primarily to provide access to abutting properties.

(r) *Subdivider.* The registered owner or the authorized agent of the owner of a subdivision.

(s) *Subdivision.* A division of a lot, tract or parcel of land into two or more lots for the purpose of transfer of ownership or development, whether immediate or future, including all changes in street, alley or lot lines; provided, however, that where all new lots directly abut an existing public street along one entire side of each new lot and no new streets, alleys or easements of access are involved, such division shall not be considered a subdivision under this ordinance, unless the same divides an existing lot, tract or parcel into more than three new lots, tracts or parcels at one time or over a period of time as a common plan of development.

(t) *Subdivision, minor.* Any subdivision fronting on an existing street and not involving any new street or road.

(u) *Subdivision, major.* Any subdivision not classified as a minor subdivision.

(Ord. No. 94-14, § 1, 10-18-94)

Section 2. Application of ordinance.

Any plat, hereafter made, for each subdivision or each part thereof lying within the city limits of Doniphan, Missouri, shall be prepared, presented for approval and recorded as herein prescribed. The regulations contained herein shall apply to the division of a lot, tract or parcel of land into two or more lots for the purpose of transfer of ownership or development, whether immediate or future, including all changes in street, alley or lot lines; provided however, that where all lots directly abut an existing public street along one entire side of each new lot and no new streets, alleys or easements of access are involved, such division shall not be considered a subdivision under this ordinance, unless the same divides an existing lot, tract or parcel into more than three new lots, tracts or parcels at one time, or over a period of time as a common plan of development.

(Ord. No. 94-14, § 2, 10-18-94)

Section 3. Submission and approval of sketch plats.

(a) Each subdivider of a major or minor subdivision shall transmit three copies of a sketch plat to the zoning officer. The zoning officer shall transmit one copy of the plat to the planning and zoning commission for its review.

[(b)] Such sketch plats will be considered as submitted for informal and confidential discussion between the subdivider and the planning and zoning commission. Submission of a subdivision sketch plat shall not constitute formal filing of a plat with the city. As far as may be practical on the basis of a sketch plat, the commission will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards required by city ordinance, and will discuss possible modifications necessary to secure conformance.

Section 4. Submission and approval of final plat.

(a) *Application.* Each subdivider of all subdivisions shall submit to the commission two reproducible drawings and three prints of the proposed subdivision. Final plats shall have the scale of at least one inch equals 100 feet.

(b) *Fees, filing and inspection.* The final plats submitted to the commission shall be accompanied by a minimum fee of \$5.00 plus \$0.25 per lot but in no case shall exceed a total of \$25.00.

(c) *Review.* The secretary of the planning and zoning commission upon receipt of final plat shall [transmit] the two reproducible drawings and one print to the zoning officer, and one print to the planning and zoning commission.

(d) *Required improvements or guarantee prior to final approval.* Prior to approval of the final plat by the planning and zoning commission, the subdivider shall complete, or agree in writing to complete, all improvements required by section 8. If the improvements are not completed at the time of submission of the final plat for approval, the subdivider shall post a bond, secured by [cash] or other securities, in an amount equal to the cost of completing such improvements, as determined by the zoning officer. Such bond shall be payable to the City of Doniphan, Missouri, and shall be conditioned upon the final completion of and approval by the zoning officer of the improvements required in section 8.

(e) *[Public hearing; approval or disapproval.]* Within 45 days of filing of the complete information required for approval of the final plat, the commission shall hold a public hearing on said plat. The commission shall approve or disapprove the plat and indicate its approval by signing the plat, or its disapproval by stating its reasons in writing to the subdivider.

Upon approval, the commission shall submit the final plat to the council for their action. The council may alter any submitted final plat, may specify changes or modifications therein which it deems necessary, and may make its approval subject to such alterations. The action of the council shall be by ordinance, which ordinance shall include approval of the final plat for recording.

Upon approval by the council, by ordinance duly passed and approved by the mayor, such approval shall be endorsed on one drawing on tracing cloth and on two black and white linen prints of the plat under the hand of the city clerk and the seal of the city.

(f) *Filing.* Following the passage of the ordinance, the three drawings of the final plat thereof shall be filed by the city clerk, within a reasonable time after the effective date of the ordinance approving the plat, with the recorder of deeds, and two of these tracings shall be returned to the city clerk, of which one tracing shall be transmitted to the city engineer within a reasonable time. The subdivider shall bear all expenses in connection with the filing of the final plat and the city clerk shall not be required to file [the] plat until the subdivider shall provide the expense of filing thereof. Three copies of the agreement in writing required under section 4, subparagraph (d), shall be filed with the recorder of deeds at the time of filing [of the] final plat referred to herein and two copies of this agreement in writing shall be returned to the city clerk, of which one copy of the agreement in writing shall be transmitted to the city engineer within a reasonable time. The subdivider shall bear all expense in connection with filing of the agreement in writing and the city clerk shall not be required to file the agreement in writing until the subdivider shall provide the expense of filing thereof.

Section 5. Sketch plat details.

The data to be furnished in a sketch plat shall be determined by the subdivider, but shall include at least the following information:

- (1) Tract boundaries;
- (2) North point;
- (3) Vicinity map showing the subdivision relationship to surrounding areas and especially street connections;
- (4) Significant topographical map of physical features;
- (5) Proposed general street layout;
- (6) Proposed general lot layout;
- (7) Location by section, township, range, county and state.

Section 6. Final plat details.

The final plat shall show the following:

- (a) All streets and alleys which shall be cross-hatched on the plat.
 - (1) Names of streets within proposed subdivision.
 - (2) The location of survey monuments.
 - (3) Data sufficient to readily determine the location, bearing, length and width of every street, lot, boundary line and easement, and sufficient to locate such lines on the ground.
 - (4) Deed restrictions, if any.
 - (5) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision.
 - (6) Statement dedicating all easements.

- (7) Statement dedicating all streets, alleys and other public areas not previously dedicated.
- (8) A notarized affidavit that the applicant is the recorded owner of the land and that he approved of the plat.
- (9) Place for the signature of the zoning officer and the date of approval.
- (10) Certification by a registered engineer or surveyor that details of the plat are correct.
- (11) Certificate of approval with place for endorsement by the city clerk and showing the ordinance number and date of approval of the council.

(b) The commission may require supplementary information on [a] separate sheet or sheets including, but not limited to, the following information:

- (1) Information covering existing and proposed streets and utilities in or adjacent to the proposed subdivision.
- (2) Sites for multiple-family dwellings, shopping centers, churches, industry or other nonpublic uses, exclusive of one-family detached dwellings.
- (3) Topographic contours at such intervals as determined to be necessary by the commission.
- (4) Significant features including watercourses, marshes, rock outcrops and houses or barns.
- (5) The location of all water mains and fire hydrants or the location of all sewer mains and manholes, or the location of all gas mains and manholes or the location of all electric power lines and poles.

(Ord. No. 85-12, § 1(A, B), 10-15-85)

Section 7. Design standards.

(a) *Relation to adjoining street system.* The arrangement of streets in [a] new subdivision shall make provisions for the continuation of the principal existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided), insofar as they may be deemed necessary by the commission for public need. Offset streets should be avoided. The angle of intersection between minor streets and major streets should not vary by more than ten degrees from a right angle. Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked against duplication of other street names, and shall be subject to the approval of the commission. The widths and locations of major streets shall conform to the widths and locations designated on the comprehensive plan.

(b) *Specifications.* See Exhibit A. (Available for inspection and on file in the office of the city clerk.)

(c) *Character of development.* The commission shall confer with the subdivider regarding the type and character of development that will be permitted in the subdivision and may agree with the subdivider as to certain minimum restrictions to be placed upon the property. Such regulations shall be intended to protect the character and development of the platted subdivision as well as that of the surrounding development.

Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made by trust agreement, made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities.

(d) *Dedication for public lands.* All proposed subdivisions may be required to dedicate a reasonable area for public use as a park, recreation area, school or other public purpose sites. Such area so dedicated shall be in addition to all dedications for streets and thoroughfares. In determining the area to be so dedicated for public use, the commission shall give due consideration to present and anticipated population density within such subdivision and to the present and future requirement for such public needs. Such area so dedicated for the aforesaid purposes shall not be less than five percent and shall not be more than ten percent of the total land area within the subdivision.

(e) *Acquisition of land for public use.* In addition to any areas so dedicated according to the provisions of [subsection] (d) above, where a tract of land being subdivided includes lands proposed to be used for parks, schools or other public purposes under the duly adopted comprehensive plan of the city and environs, the subdivider shall not plat such lands as a part of the subdivision's plat; and shall confer with the appropriate public agency to acquire land. If no agreement has been reached upon the acquisition of the area within two years of the date of submission of the final plan, the subdivider may then plat the balance of the area.

(f) *Easements along streams.* Whenever any stream or important surface drainage course is located in an area which is being subdivided, the subdivider shall provide an adequate easement along each side of the stream for the purpose of drainage course.

(g) *Corner lots.* Corner lots shall have extra width to permit appropriate building setback from both streets or orientation to both streets. Lots abutting a pedestrian midblock crosswalk shall be treated as corner lots.

(h) *Floodplain or uninhabitable area.* Lands subject to flooding or otherwise deemed by the planning and zoning commission to be uninhabitable shall not be platted for residential purposes, or for uses that may in the judgment of the planning commission increase the danger to health, life, or property or increase the flood hazard. Such land within a subdivision shall be set aside for other uses, such as parks or other open space.

(i) *Lot frontage.* All lots shall front upon a publicly dedicated street. Variances may be permitted for approved large scale residential development.

(j) *Planting strips.* Planting strips may be required to be placed next to incompatible features such as highways, railroads, commercial or industrial uses to screen the view from residential properties. Such screens shall be a minimum of 20 feet wide, and shall not be a part of the normal roadway right-of-way or utility easement.

(k) *Easements.* Utility easements shall be of sufficient width to have at least a ten-foot interval between water and sewer lines. Where practicable, utility lines shall be placed in alleys or easements for same. The subdivider shall properly clear the easement area of tree stumps, roots and rocks and any other obstructions to the placing of utilities.

Section 8. Public improvements--Minimum requirements.

(a) *Permanent markers.* All subdivision boundary corners and the four corners of all street intersections shall be marked with permanent monuments. A permanent monument shall be concrete of at least four inches diameter, and extending to a depth of two feet below the ground surface, or steel pipe of at least one inch diameter firmly imbedded in concrete which extends two feet below the ground surface. Should conditions prohibit the placing of monuments on the line, offset marking will be permitted; provided however, that exact offset courses and distances are shown on the subdivision plat.

A permanent benchmark shall be accessibly placed and accurately noted on the subdivision plat, the elevation of such benchmark to be based on the USGS data.

(b) *Street improvements.* All streets and alleys shall be ditched and graded to their full platted width, including side slopes, and leveled to the grade of the surrounding lots. If the subdivider elects to pave any platted streets, the subdivider shall pave such street surfaces with concrete or with bituminous material to whatever depth is recommended by the planning and zoning commission. Such paving work shall be supervised and approved by the zoning officer prior to acceptance of the final plat by the governing body. If the subdivider elects not to pave a platted street, the subdivider shall include, as part of the final recordable plat and dedication of public streets, a covenant running with the land which affects all the lots in the subdivisions and which reads as follows:

The streets shown on the final subdivision plat of _____ will not be paved by or at the expense of the subdivider or at the expense of the City of Doniphan, Missouri. However, whenever the owners in fee simple of a majority of the lots in such subdivision shall, in writing, request the board of aldermen of the City of Doniphan, Missouri, to pave all of the platted streets in the subdivision, the board of aldermen may elect (but shall not be required) to pave such streets or to cause such streets to be paved, and to assess the expenses of such paving to all the lot owners of the subdivision as hereinafter specified. The election by the board of aldermen shall be by written resolution, filed for record in the deed records of Ripley County and delivered to the owner of record of each lot in the subdivision by certified mail. The resolution of the board shall describe the subdivision and recite the names of the lot owners who requested that the streets be paved. It shall authorize the paving by city employees or by contract with a private paving company and it shall list the total expenses incurred or to be incurred by the city in paving the streets in the subdivision. The resolution shall apportion to each lot its share of the total paving

expenses based upon the percentage of each lot's street frontage as compared to the total street frontage of all lots in the subdivision. From and after the recording of the resolution, the amount apportioned to each lot shall constitute a lien on such lot in favor of the City of Doniphan, Missouri, until the owner thereof shall pay the apportioned amount to the City of Doniphan. If any lot owner fails to pay the amount of paving expenses apportioned to the owner's lot within 180 days after the resolution of the board of aldermen is recorded in the deed records of Ripley County, the City of Doniphan shall bring an action and recover in the circuit court of Ripley County, Missouri, against the lot and the current owner thereof, the principle amount owed plus legal interest, attorney's fees and court costs. The city may proceed to pave the streets before all lot owners have paid their apportioned share of expenses, but it shall not be required to do so until the total expenses are paid in full. The mayor and the city clerk of the City of Doniphan are authorized and directed to file a notice of payment and release of lien on every lot whose owner has paid his apportioned share of paving expenses. The provisions above are to be construed as covenants running with the land and affecting all of the lots in the subdivision. Such provisions shall remain in effect for a period of 25 years from the date hereof or until the platted streets are once paved, whichever event is first to occur.

(c) *Sidewalks.* Concrete sidewalks shall be constructed along both sides of every major street shown on the plat in accordance with applicable design standards. The governing body may require that concrete sidewalks be constructed along one side of every minor street shown on the plat in accordance with applicable design standards.

(d) *Water lines.* Each subdivision shall be connected with the city water system in accordance with all state and municipal requirements so as to provide water service to every lot within the subdivision. The layout of the water system, the size of the pipes and mains to be used in the various parts of water systems and all other details regarding the water system shall be determined by the City of Doniphan. The cost of all water pipes and mains used in the subdivision shall be paid for by the subdivider, and the subdivider shall receive no refund of any kind whatsoever. Provided however, the City of Doniphan shall pay [for] all fire hydrants and all water mains and pipes larger than six inches in diameter which would be required to serve future development beyond the boundaries of the subdivision.

(e) *Sanitary sewers.* The subdivider shall construct a sanitary sewer system and provide lateral connections for each lot where a public sanitary sewer main is available at the plat boundary or within a reasonable distance thereto. Where a sewer is not yet available but is planned for extension to the subdivision, the subdivider shall install sewer lines, including lateral connections, as may be necessary to provide adequate service to each lot when connection with the sewer system is made. The sewer lines shall be suitably capped at the street right-of-way line. When capped sewers are provided, onsite disposal facilities shall also be provided. A sewer shall be considered to be planned for extension to a given area any time after engineering and related studies have been completed and the construction of facilities adequate to serve the area containing the subdivision has been programmed for completion within a reasonable time.

If a public sanitary system is not available under the conditions stated above, the subdivision or area may be considered as one where it is necessary to construct a community disposal system or individual septic tanks. Any such system must receive approval by the health department and the city council.

If, in the opinion of the health department or the zoning officer, factors exist which would create a public health and sanitation problem if a certain area is platted, the commission will not approve the subdivision and platting of such area until such factors are corrected by an adequate sewer system, or other method acceptable to the health department and the zoning officer.

(f) *Storm sewers.* Where a storm drainage system is reasonably accessible, the subdivider shall connect with such storm drainage system and shall do all grading and provide all drainage structures that are necessary to properly carry the water to the storm drainage system.

Where a storm drainage system is not accessible, the subdivider shall do all grading and provide all drainage installations and structures that are necessary to properly carry the water to locations which are acceptable to the zoning officer. Surface water will not be permitted to cross the pavement at low spots. Inlets with connection pipe will be required to carry the surface water from one side to the other.

(g) *Reserved.*

(h) *Street signs.* Four-way street markers shall be installed at each street intersection by the City of Doniphan. The cost of material shall be paid by the subdivider.

(i) *Sidewalks.* Sidewalks in [the] street right-of-way shall be constructed so that their inner edge shall approximate as near as possible to the private property line.
(Ord. No. 85-12, § 1(C--E), 10-15-85)

Section 9. Maintenance guarantee.

An agreement signed by the subdivider or his contractor guaranteeing the minimum improvements against defects in workmanship and materials for a period of one year from the date of acceptance of such improvements shall be filed with the commission prior to the acceptance of the improvements by the city.

Section 10. Standards and specifications.

All improvements required under the provisions of the land subdivision regulations shall be constructed in accordance with the design standards and plan requirements of the land subdivision regulations, the standards and specifications of the city and, where applicable, the requirements and authorization of the appropriate state agency or utility company.

Section 11. Inspection.

A certificate of a registered professional engineer employed by the subdivider filed with the code enforcement officer certifying that the required improvements were inspected during actual construction by such registered professional engineer or some competent person acting under his direction and that such improvements have been constructed in accordance with the aforesaid plans and specifications [shall be required]. In the event the engineer employed by the subdivider is discharged before completion of the required improvements, an amendment to the existing bond naming the new registered professional engineer shall be filed with the city and approved before proceeding any further with the construction of the required improvements.

Section 12. Condition[s] of acceptance.

The city shall not have any responsibility with respect to any street or other improvement, notwithstanding the use of the same by the public, unless the street or other improvement shall have been accepted by the city.

The city shall, within 30 days after the public improvements have been offered for dedication to the city, accept the improvements, provided the improvements have been constructed in accordance with the requirements and conditions of this ordinance and the specifications of the city.

Section 13. Hardship.

(a) The subdivider has the right to appeal to the board of adjustment if any mandatory provisions [of] this ordinance are claimed by the subdivider to be unreasonable and cause undue hardship as they apply to his proposed subdivision. The board's decision shall be made in order that substantial justice be done and the public interest secured and provided that such variation will not have the effect of nullifying the intent and purpose of this ordinance.

(b) In granting variances and modifications, the board of adjustment may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

Section 14. Modification.

Whenever the tract to be subdivided is of such unusual size, shape or topography, or is surrounded by such development or unusual conditions, that the strict application of the requirements contained in this ordinance would result in real difficulties or substantial hardship or injustice, the board of zoning adjustments may vary or modify such requirements so that the subdivider may develop his property in a reasonable manner, but so that at the same time the public welfare and interest of the city and surrounding area are protected and the general intent and spirit of this ordinance preserved.

Section 15. Violation and penalty.

(a) No person shall be issued a building permit for any lot within the city before the plat of the subdivision in which the lot is located has been acknowledged and approved by the governing body and recorded as outlined in this ordinance.

(b) Any person who violates any of the provisions of this ordinance, or who sells or offers for sale any lot within any subdivision in the city prior to the final approval and recordation of the subdivision final plat, or who subdivides property and conveys title thereto to another by a conveyance which describes the property conveyed solely by metes and bounds instead of by lot number referenced to a subdivision plat with the intention to evade the provisions of this ordinance, shall be punished as provided for in section 1-8 of the Code of Ordinances of the City of Doniphan [Code of Ordinances, City of Doniphan, Missouri].

(c) The City of Doniphan may bring an action in the circuit court of Ripley County, Missouri, to enjoin the sale or offer for sale of any lot in any subdivision in the city prior to the approval and recording of the final plat of the subdivision as provided in this ordinance.
(Ord. No. 85-12, § 1, 10-15-85)

Section 16. Repealing ordinances.

All ordinances or parts [of] ordinances in conflict with this ordinance are hereby repealed.

Section 17. Development of areas to be annexed to city.

Any landowner or developer who owns land outside the limits of the city who makes application for annexation by the city may, in conjunction with his annexation request, submit a development plan to the planning and zoning commission as if the area to be developed had already been annexed into the city. Prior to or concurrently with the final approval of the annexation process the city shall, pursuant to all of the provisions of Appendix B, approve the subdivision plat submitted by the landowner or developer and, until such plat is approved to the satisfaction of the landowner or developer, the landowner or developer may withdraw the application for annexation by the city. The landowner or developer shall be subject to the same fees and to the same requirements in the approval of the development plat as if the area to be developed was already within the jurisdiction of the city. If no development plat is submitted along with the initial request for annexation, it shall be presumed that the proposed voluntary annexation request is without condition, and any subsequent annexation shall subject the annexed area to all of the requirements of the subdivision ordinance, Appendix B of the code of ordinances.
(Ord. No. 97-4, § 1, 6-3-97)

APPENDIX C

FLOODPLAIN MANAGEMENT*

* **Editors Note:** Printed herein is Ord. No. 01-10, Arts. One--Nine, as adopted by the board of aldermen on July 17, 2001. Said ordinance did not specifically amend this Code but was treated as amending the provisions of App. C in their entirety. At the discretion of the editor these ordinance provisions have been included as Arts. One--Nine to read as herein set out. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets. References to former chapter 20 have been changed to "chapter 82."

Cross References: Buildings, ch. 22; cemeteries, ch. 26; parks and recreation, ch. 74; planning and development, ch. 82; zoning, app. A; subdivisions, app. B.

Article One. [Statutory authorization; findings of fact; statement of purpose.]

Article Two. General provisions.

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Article One. [Statutory authorization; findings of fact; statement of purpose.]

A. *Statutory authorization.* The Legislature of the State of Missouri has in RSMo 89.020 et seq., delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Board of Aldermen of the City of Doniphan, Missouri, has enacted this ordinance.

B. *Findings of fact.*

1. *Flood losses resulting from periodic inundation.* The special flood hazard areas of the City of Doniphan, Missouri, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2. *General causes of the flood losses.* These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. *Methods used to analyze flood hazards.* The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.

a. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated September 15, 1989, as amended, and any future revisions thereto.

b. 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.

C. *Statement of purpose.* It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B1.; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(c) by applying the provisions of this ordinance to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;

2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and

3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

Article Two. General provisions.

A. *Lands to which ordinance applies.* This ordinance shall apply to all lands within the jurisdiction of the City of Doniphan, Missouri, identified as unnumbered and numbered A zones and AE Zones on the Flood Insurance Rate Map (FIRM) dated September 15, 1989, as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City of Doniphan, Missouri, or its duly designated representative under such safeguards and restrictions as 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 Four.

B. *Floodplain administrator.* The Director of the Department of Public Works of the City of Doniphan, Missouri, is hereby designated as the Floodplain Administrator under this ordinance.

C. *Compliance.* No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

D. *Abrogation and greater restrictions.* It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

E. *Interpretation.* In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

F. *Warning and disclaimer of liability.* The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of the City of Doniphan, Missouri, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

G. *Severability.* If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

Article Three. Administration.

A. *Floodplain development permit required.* A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article Two, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

B. *Designation of floodplain administrator.* The Director of the Department of Public Works of the City of Doniphan, Missouri, is hereby appointed to administer and implement the provisions of this ordinance.

C. *Duties and responsibilities of floodplain administrator.* Duties of the Director of Public Works of the City of Doniphan, Missouri, shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied; and
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required by federal, state, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the state coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the State Emergency Management Agency (SEMA);
6. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished; and
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;

8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;

9. When floodproofing techniques are utilized for a particular non-residential structure, the Director of the Department of Public Works of the City of Doniphan, Missouri, shall require certification from a registered professional engineer or architect.

D. *Application for floodplain development permit.* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;

2. Identify and describe the work to be covered by the floodplain development permit;

3. Indicate the use or occupancy for which the proposed work is intended;

4. Indicate the assessed value of the structure and the fair market value of the improvement;

5. Specify whether development is located in designated flood fringe or floodway.

6. Identify the existing base flood elevation and the elevation of the proposed development;

7. Give such other information as reasonably may be required by the director of public works;

8. Be accompanied by plans and specifications for proposed construction; and

9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

Article Four. Provisions for flood hazard reduction.

A. *General standards.*

1. No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any unnumbered or numbered A zones and AE zones, unless the conditions of this section are satisfied.

2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If flood insurance study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.

3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

4. All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. Construction with materials resistant to flood damage;

c. Utilization of methods and practices that minimize flood damages;

d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and

f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

(1) All such proposals are consistent with the need to minimize flood damage;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) All proposals for development, including proposals for manufactured home parks and subdivisions, greater than five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.

5. Storage, material, and equipment.

a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

6. Accessory structures. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

B. *Specific standards.*

1. In all areas identified as unnumbered and numbered A zones and AE Zones, where base flood elevation data have been provided, as set forth in Article Four, Section A2., the following provisions are required:

a. Residential construction. New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one and one-half feet above base flood level.

b. Non-residential construction. New construction or substantial-improvement of any commercial, industrial, or other non residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one and one half feet above the base flood level or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation 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 floodplain administrator as set forth in Article 3, Section C9.

c. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and 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:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and

(2) The bottom of all opening shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. *Manufactured homes.*

1. All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones and AE zones on the community's FIRM on sites:

a. Outside of a manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to an existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one and one half feet above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones and AE zones on the community's FIRM, that are not subject to the provisions of Article 4, Section C2. of this ordinance, be elevated so that either:

a. The lowest floor of the manufactured home is at one and one-half feet above the base flood elevation; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

D. *Floodway.* If a community determines there are areas of special flood hazard that may be defined as floodway, through the use of base flood elevation and floodway data available from a federal, state, or other source, including data developed pursuant to Article Four, Section A4.f.(4), and determines this data is suitable as criteria for requiring that new construction, substantial improvements, or other development in Zone A, the community must meet the standards below:

1) Adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

2) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

E. *Recreational vehicles.*

1. Require that recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days, or
- b. Be fully licensed and ready for highway use; or
- c. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this ordinance.

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.

Article Five. Floodplain management variance procedures.

A. *Establishment of appeal board.* The board of adjustment as established by the building codes, zoning ordinances and subdivision ordinances shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

B. *Responsibility of appeal board.* Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the director of the department of public works, the applicant may apply for such floodplain development permit or variance directly to the appeal board, as defined in Article Five, Section A. The board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the director of the department of public works in the enforcement or administration of this ordinance.

C. *Further appeals.* Any person aggrieved by the decision of the board of adjustment or any taxpayer may appeal such decision to the Circuit Court as provided in RSMo 89.110.

D. *Floodplain management variance criteria.* In passing upon such applications for variances, the board of adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. The danger to life and property due to flood damage;
2. The danger that materials may be swept onto other lands to the injury of others;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flood damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and 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 the flood waters, if applicable, expected at the site; and,
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

E. *Conditions for approving floodplain management variances.*

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items 2. through 6. below have been fully considered. As the lot size increases beyond the one-half 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, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.

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. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

F. *Conditions for approving variances for accessory structures.* Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article Five, Sections D. and E. of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).

2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article 4, Section A4.b. of this ordinance.

3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article 4, Section A4.a. of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article Four, Section A4.d. of this ordinance.

5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article Four, Section B1.c. of this ordinance.

6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article Four, Section E of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

7. Equipment, machinery, or other contents must be protected from any flood damage.

8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.

9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

Article Six. Penalties for violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute an offense. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be sentenced to the City Jail for a term of not more than 90 days and fined not more than \$500.00, or both such imprisonment and fine, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Doniphan, Missouri or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Article Seven. Amendments.

The regulations, restrictions, and boundaries set forth in this ordinance 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 of 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 Doniphan, Missouri. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.

Article Eight. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

100-year flood. See "base flood."

Accessory structure means the same as "appurtenant structure."

Actuarial rates. See "risk premium rates."

Administrator means the Federal Insurance Administrator.

Agency means the Federal Emergency Management Agency (FEMA).

Agricultural commodities means agricultural products and livestock.

Agricultural structure means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

Appeal means a request for review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.

Appurtenant structure means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of the structure having its floor subgrade (below ground level) on all sides.

Building. See "structure."

Chief executive officer or *chief elected official* means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Community means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated building means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible community or *participating community* means a community for which the administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing construction means 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 FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures".

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation determination means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain or *flood-prone area* means any land area susceptible to being inundated by water from any source (see "flooding").

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Floodway or regulatory floodway means 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 foot.

Freeboard means 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, as determined from data available from other sources, conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

Lowest floor means 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 ordinance.

Manufactured home means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market value or fair market value means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean sea level means, for purposes of the national flood insurance program (NFIP), the national geodetic vertical datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

(NFIP) means the National Flood Insurance Program (NFIP).

Participating community also known as an "eligible community," means a community in which the administrator has authorized the sale of flood insurance.

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state, and local governments and agencies.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Recreational vehicle means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation means to bring the structure or other development into compliance with federal, state, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Risk premium rates means 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 National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

Special flood hazard area. See "area of special flood hazard".

Special hazard area means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A or AE.

Start of construction includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, 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, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed

building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "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 that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

Article Nine. Certificate of adoption.

This Floodplain Management Ordinance for the City of Doniphan, Missouri, was adopted and approved after second reading by the board of aldermen of the city on this 17th day of July, 2001.