



The City of Lee's Summit
Final Agenda
Community and Economic Development Committee

Wednesday, May 10, 2017

4:00 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF ACTION LETTER
 - A. [2017-1125](#) Approval of the March 8, 2017 Community and Economic Development Committee meeting minutes.
5. PUBLIC COMMENTS
6. BUSINESS
 - A. [2017-1023](#) Jackson County Environmental Health Division - Request for support of public aquatic regulations and inspection program.
 - B. [2017-1116](#) Proposed UDO Amendment #62 Article 8 Accessory Uses and Structures - Adding Photography Studio as a Home Occupation and Modifying Photographic Studio from Prohibited Home Occupations on less than 1 Acre with Certain Conditions
 - C. [TMP-0482](#) AN ORDINANCE AMENDING CHAPTER 17, ARTICLE IV OFFENSES AGAINST PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY ENACTING A NEW SECTION 17-94 TO PROHIBIT IDENTITY THEFT AND REPEALING, SECTION 17-81 DEFINITIONS AND ENACTING IN LIEU THEREOF A NEW SECTION 17-81 DEFINITIONS, OF LIKE NUMBER AND SUBJECT.
7. ROUNDTABLE
8. ADJOURNMENT

For your convenience, City Council agendas, as well as videos of City Council and Council Committee meetings, may be viewed on the City's Internet site at "www.cityofls.net".

Packet Information

File #: 2017-1125, **Version:** 1

Approval of the March 8, 2017 Community and Economic Development Committee meeting minutes.

Issue/Request:

Approval of the March 8, 2017 Community and Economic Development Committee meeting minutes.



The City of Lee's Summit
Action Letter - Draft
Community and Economic Development Committee

Wednesday, March 8, 2017

4:30 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

1. CALL TO ORDER

2. ROLL CALL

Present: 3 - Chairperson Diane Forte
Vice Chair Trish Carlyle
Councilmember Phyllis Edson

Absent: 2 - Councilmember Chris Moreno
Alternate Diane Seif

3. APPROVAL OF AGENDA

A motion was made by Vice Chair Carlyle, seconded by Councilmember Edson, that the agenda be approved. The motion carried unanimously.

4. APPROVAL OF ACTION LETTER

A. [2017-1024](#) Approval of the February 8, 2017 Community and Economic Development Committee meeting minutes.

A motion was made by Councilmember Edson, seconded by Vice Chair Carlyle, that the minutes be approved. The motion carried unanimously.

5. PUBLIC COMMENTS

6. BUSINESS

A. **2017-1020** The 2017-18 CDBG Annual Action Plan

A motion was made by Vice Chair Carlyle, seconded by Councilmember Edson, to recommend staff prepare an ordinance approving the 2017-18 CDBG Action Plan and forward to City Council as recommended and presented with said amounts being adjusted by percentage based on final CDBG amount granted.

Community and Economic Development Committee

Action Letter - Draft

March 8, 2017

7. ROUNDTABLE

Chairperson Forte mentioned concern expressed with vehicles being towed from a private parking lot in the downtown area and requested signage be reviewed for compliance.

Asst. City Manager Dunning informed the Committee information regarding a proposed aquatics venue program would be provided to the Committee well in advance of the next CEDC meeting to provide members adequate time to review the proposal.

8. ADJOURNMENT

For your convenience, City Council agendas, as well as videos of City Council and Council Committee meetings, may be viewed on the City's Internet site at "www.cityofls.net".

Packet Information

File #: 2017-1023, **Version:** 1

Jackson County Environmental Health Division - Request for support of public aquatic regulations and inspection program.

Issue/Request:

Jackson County Environmental Health Division - Request for support of public aquatic regulations and inspection program.

Key Issues:

Deb Sees, Jackson County Environmental Health Administration is seeking City Council support for Jackson County to adopt regulations pertaining to public aquatic venues and implement an inspection program related to these public aquatic venues. Ms. Sees will be present to provide the Community and Economic Development Committee (CEDC) with a brief presentation and answer any questions pertaining to this initiative.

City staff felt it would be beneficial to bring this proposal forward through the CEDC for consideration and to provide a recommendation to the full City Council. If desirable to move forward to the full City Council, staff would prepare a resolution of support for the City Council to consider.

Background:

Please see attached information provided by the Jackson County Environmental Health Division.

Jackson County Environmental Health Division provides food service and hotel/motel regulatory services for the City of Lee's Summit through an agreement with Jackson County. Should a public aquatic venue program be implemented by the County, the existing agreement would need to be amended to incorporate this program for the City of Lee's Summit. The City would not be responsible for enforcement of these regulations should they be adopted by the Jackson County Legislature.

The Lee's Summit Parks and Recreation Department has collaborated with the Jackson County Environmental Health Division and is supportive of the proposed regulations as they relate to facilities that the Parks and Recreation Department owns and operates (see attached memorandum).

Presenter:

Deb Sees, Jackson County Environmental Health Administrator

Committee Recommendation:

If in favor of forwarding this matter on to City Council for consideration and approval:

I move to direct staff to prepare a resolution of support for City Council consideration for the public aquatic venue ordinance and inspection program proposed by the Jackson County Environmental Health Division.

January 23, 2017

City of Lee's Summit
220 SE Green Street
Lee's Summit, MO 64063

City Council Members;

Jackson County Environmental Health has enjoyed the working relationship we have with the city of Lee's Summit. We provide a food service sanitation program and hotel and motel sanitation services as indicated in the Health and Environmental Services Agreement with Jackson County. In our endeavors to protect the public from health concerns we are proposing an ordinance to regulate aquatic venues. As defined in 192.092 RSMo and 19 CSR 20-3.020 an aquatic venue would include public swimming pools, hot tubs, spray grounds, and pools where the public, members and their guests, customers and patrons would have reasonable access. This would include home owner's association pools, apartment complexes, hotels and motels, clubs, schools, gyms, hospitals and workplaces. We are proposing an annual permit fee of \$150.00 to cover actual costs of performing the services. Seasonal venues would be inspected at least twice a year with an initial inspection before the pool opens and indoor venues at least 3 times a year. Regulating swimming pools is a health department service that is provided in several jurisdictions including Kansas City, Independence, Clay County, Cass County, and Platte County.

The code we are proposing addresses safety issues and helps to control Recreational water illnesses (RWIs) through inspection and chemical testing. RWIs include a wide variety of infections, such as gastrointestinal, skin, ear, respiratory, eye, neurologic, and wound infections. The most commonly reported RWI is diarrhea. Diarrheal illnesses are caused by germs such as *Crypto* (short for *Cryptosporidium*), *Giardia*, *Shigella*, *norovirus* and *E. coli* O157:H7. With RWI outbreaks on the rise, Jackson County Environmental Health Division needs to take an active role in helping to protect and prevent the spread of germs to the general public.

In the past two decades, there has been a substantial increase in the number of RWI outbreaks associated with swimming. *Crypto*, which can stay alive for days even in well-maintained pools, has become the leading cause of swimming pool-related outbreaks of diarrheal illness. From 2004 to 2008, reported *Crypto* cases increased over 200% (from 3,411 cases in 2004 to 10,500 cases in 2008).

Although *Crypto* is tolerant to chlorine, most germs are not. Keeping chlorine at recommended levels is essential to maintain a healthy pool. However, a 2010 study by the Center for Disease Control found that 1 in 8 public pool inspections resulted in pools being closed immediately due to serious code violations such as improper chlorine levels.

In our endeavors to continue to protect the general public from health concerns we are proposing an ordinance to regulate aquatic venues, similar to other County agencies nationwide. We have collaborated with local parks and recreation departments to create the attached ordinance. A meeting was held that all hotels, apartment complexes, Home Owner Association pools, and pool maintenance companies were invited to discuss the ordinance. Before we move forward we would like to know that we have your support. Please review the attached documents and ordinance, at this time we are requesting a letter from the city stating your support for ordinance regulating aquatic venues. Please mail your response to the mailing address below or dsees@jacksongov.org. In the event Jackson County moves forward with the aquatic venue program the Agreement for Environmental Services will need to be updated.

Thank you,

A handwritten signature in cursive script that reads "Deb Sees". The signature is written in black ink and is positioned above the printed contact information.

Environmental Health Administrator

P.O. Box 160

Grain Valley, MO 64029

816-847-7070

1. CLASSIFICATIONS

1.1 Category I Aquatic Venue- shall consist of swimming pools, wading pools, spas, hot-tubs, whirlpool baths, and aquatic play features owned and/or operated by a municipality, other political subdivision, or any other government agency that are offered for use to the general public.

1.2 Category II Aquatic Venue- shall consist of swimming pools, wading pools, spas, hot-tubs, whirlpool baths, and aquatic play features operated by entities such as hotels, motels, rental apartments, athletic clubs, hospitals, rehabilitation centers, fraternal and social organizations, retirement centers, camps, schools, home associations (including, without limitation, subdivision, town home, planned unit development, and condominium associations), country clubs, day care centers, health spas and all other facilities not specifically included in Category I and Category II that are offering use to members, patrons, residents and guests of such establishments.

1.3 Category III Aquatic Venue- shall consist of spray grounds owned and/or operated by a municipality, political subdivision, any other government agency, hotels, motels, rental apartments, athletic clubs, hospitals, rehabilitation centers, fraternal and social organizations, retirement centers, camps, schools, home associations (including, without limitation, subdivision, town home, planned unit development, and condominium associations), country clubs, day care centers, health spas and all other facilities not specifically included in that are offering use to the general public, members, patrons, residents and guests of such establishments.

1.4 Category IV Aquatic Venue - shall consist of swimming pools, spas, hot-tubs, and whirlpool baths on the premises of a single-family residential dwelling.

2. DEFINITIONS

2.1 Aquatic Venue- Includes swimming pools, wading pools, aquatic play features, spray grounds, spas, hot-tubs, & whirlpool baths.

2.2 Aquatic Play Features –features that provide patron play and recreational activity. Aquatic play features include, but not limited to; water slides, lazy river rides, water course rides, water activity pools, interactive water features, water fountains that permit bathing and wave pools. Spray Grounds shall not be considered Aquatic Play Features.

2.3 Contamination Response Plan- written procedure for handling contamination from formed-stool, diarrheal-stool, vomit, and contamination involving blood.

2.4 Deep Area – the area of the Aquatic Venue which has, or can have, a water depth of five (5) feet or more.

2.5 Fecal/Vomit Accident – There are two types of fecal accidents, formed stool and diarrhea. Diarrhea must be reported. Vomit accidents are when the full contents of the stomach are emptied into the water. This does not include vomiting from swallowing too much water.

2.6 Licensed Aquatic Venue Operator- A person who has been formally trained in aquatic operations and safety and has received a license from that training. Licensing can be achieved by receiving certification from Certified Pool Operator, Aquatic Facility Operator, Association of Pool and Spa Professionals, or other courses with Public Health Official approval in aquatic operations and safety. License must be renewed upon expiration.

2.7 Lifeline – a continuous line of rope attached to opposite sides of the Aquatic Venue that divides shallow from deep water and serves as a barrier to prevent non-swimmers from venturing into deep water. The line of rope shall not be less than ¼ inch in diameter, supported by brightly colored buoys, not less than 12 inches apart and tight enough to support the weight of an adult.

2.8 Person – any individual, firm, partnership, association, corporation, company, municipality, political subdivision, governmental agency, lab, organization or other entity owning or operating an Aquatic Venue as defined herein.

2.9 Shallow Area – the area of the Aquatic Venue which has, or can have, a water depth of less than five (5) feet.

2.10 Spa, Hot-tub, & Whirlpool bath – a pool designed for relaxation, recreational, or therapeutic use where the user is sitting, reclining, or at rest and the pool is not drained, cleaned, or refilled for each user. The spa may include, but not be limited to, hydrojet circulation, hot water, cold water, mineral baths, or air induction bubbles or any combination.

2.11 Spray Feature- a device that creates a spray of water. This includes but not limited to fountains and waterfalls.

2.12 Spray Ground – a structure designed to allow for recreational activities with recirculated, filtered, and treated water, but having minimal collective water. Water from the interactive fountain type features is collected by gravity below grade in a collector tank or sump. The water is filtered, disinfected and then pumped to the feature spray discharge heads.

2.13 Swimming Pool – any artificial basin of water which has been wholly designed, modified, improved, constructed or installed for the purpose of swimming, diving, recreational activities, rehabilitation, or therapeutic exercising and shall include any and all accessory equipment.

2.14 Transition Point – the area of the floor of the Aquatic Venue where an abrupt change in slope occurs between the shallow and deep areas of the Aquatic Venue.

2.15 Wading Pool – any artificial pool of water equal to or less than 24 inches deep and intended for wading purposes.

3. OPERATING PERMIT

3.1 No person shall operate any Aquatic Venue classified under 1.1, 1.2 or 1.3 of these Regulations unless the facility holds a valid operating permit from the Public Health Official for each Aquatic Venue being operated.

3.2 All applicants for an operating permit of a Category I, II or III Aquatic Venue shall provide proof of the Licensed Aquatic Venue Operator that will supervise that facility.

3.3 Operating permits shall be issued for one year from the date of issuance.

3.4 Operating permits shall not be transferable.

3.5 Operating permit shall be conspicuously posted at the facility.

4. PLANS AND SPECIFICATIONS

4.1 No person shall begin construction, installation or structural renovation of any Category I, II or III Aquatic Venue without first having submitted plans to the Public Health Official for review.

4.2 Plans shall include the following:

- (a) Illustrations showing the Aquatic Venue, bathhouse and equipment room;
- (b) Specifications and layout of all treatment equipment;
- (c) Piping schematic;
- (d) Layout of chemical storage room;
- (e) Specifications for the water supply and wastewater disposal systems;
- (f) Certification by a professional engineer, architect or other professional.

4.3 No permit for operation of a Category I, II or III Aquatic Venue shall be issued until an inspection of the completed Aquatic Venue is made by the Public Health Official and compliance with the requirements herein is satisfied.

4.4 Existing Aquatic Venues constructed prior to the effective date of these regulations may continue in use so long as equipment, water quality, safety, supervision, operation and maintenance can comply with these regulations.

5. VARIANCES

5.1 Variances may be considered and granted by the Public Health Official if the variance does not jeopardize public health or safety.

5.2 Request for variance must be submitted in writing to the Public Health Official.

6. SHOWER ROOMS, SHOWERS, TOILETS, AND LAVATORIES

6.1 Shower facilities are required for all Category I Aquatic Venues. Showers shall be supplied with hot and cold running water from an approved source.

6.2 The number of showers, toilets, drinking fountains and lavatories shall comply with applicable building permit requirements.

6.3 At all venues, if shower rooms are provided, they shall be maintained in good repair, maintained in a clean condition at all times with sanitary supplies provided, and free from dirt, standing water, mold and algae.

6.4 If towels are furnished, they shall be thoroughly washed with detergent and water, rinsed, dried, and stored in a clean place.

7. LICENSED AQUATIC VENUE OPERATORS

7.1 Licensing shall be achieved by successfully completing a Public Health Official approved course, examination and payment of any applicable fees. License shall be valid for not more than five (5) years from the date of issuance.

7.2 License may be suspended or revoked by the Public Health Official if:

(a) The Aquatic Venue that the Licensed Aquatic Venue Operator is supervising is closed by the Public Health Official two or more times within a 365 day period;

(b) The Licensed Aquatic Venue Operator is not readily available, reachable by phone generally within 30 minutes, at the time of Public Health Official's inspection.

8. SUPERVISION

8.1 Every Category I, II or III Aquatic Venue shall be under the supervision of a Licensed Aquatic Venue Operator who shall be responsible for compliance with these regulations. The Licensed Aquatic Venue Operator is not required to be present on site at all times, but shall be readily available during all times the facility is open. The Licensed Aquatic Venue Operator's contact information must be posted in a conspicuous place at the facility. The Licensed Aquatic Venue Operator shall have his/her license readily accessible at the time of inspection. If an Aquatic Venue has a history of violations the Public Health Official may require the Licensed Aquatic Venue Operator be present on site during all times the Aquatic Venue is open.

8.2 All Category I Aquatic Venues must provide qualified lifeguards. When qualified lifeguards are used the staffing plan shall include diagrammed zones of patron surveillance for each aquatic venue such that:

1. The qualified lifeguard is capable of viewing the entire area of the assigned zone of patron surveillance.
2. The qualified lifeguard is able to reach the furthest extent of the assigned zone of patron surveillance within 20 seconds.
3. Identify whether the qualified lifeguard is in an elevated stand, walking, in-water, and/or other approved position.
4. Identifying any additional responsibilities for each zone, and
5. All areas of each aquatic venue are assigned a zone of patron surveillance.

8.3 All Category II Aquatic are recommend to have lifeguard services but it is not required. The proper "WARNING – NO LIFEGUARD ON DUTY" signage shall be placed throughout the pool.

8.4 The minimum qualifications for a lifeguard shall be satisfactory completion and current certification from a nationally recognized lifeguard training program. Each lifeguard shall have current CPR and First Aid certification.

8.5 All lifeguards shall wear distinguishing swimsuits or emblems while on duty.

8.6 All Category I and Category II Aquatic Venues that have a water surface area in excess of 2,000 square feet and a depth of six feet shall

provide at least one elevated lifeguard chair or platform. One (1) additional elevated lifeguard chair or platform shall be provided for each additional 2,000 square feet of water surface area and a depth of six feet.

8.7 All Category II Aquatic Venues where lifeguard service is not required or continuously provided, shall provide a warning sign stating “WARNING – NO LIFEGUARD ON DUTY” in letters at least four (4) inches high and shall be conspicuously placed at the entrance to the swimming pool.

8.8 All Category I or II Aquatic Venues shall have “Pool/ Spa Rules” posted in a conspicuous place that shall contain, but not be limited to, the following:

- (a) No person with open cuts, sores, lesions, infections, obvious communicable disease or diarrhea shall use the swimming pool;
- (b) Animals are not allowed in or around the swimming pool, service animals as defined by the ADA must be allowed on pool decks and any other places the public is allowed to go. Service animals are not allowed in the water, on diving boards, on water slides, in floatation rafts, etc.;
- (c) Glass containers are not allowed in or around the swimming pool;
- (d) Children who are not toilet trained shall wear tight fitting plastic underwear or swim diapers that will prevent leakage;
- (e) No diving (at swimming pools without an approved diving well configuration);
- (f) Children, as defined by the aquatic venue, shall be accompanied by an adult.

The following only apply to spas, hot-tubs and whirlpool baths:

- (g) Due to high temperature and humidity the spa can be dangerous to your health. Consult your physician before use.
- (h) Observe reasonable time limits (no longer than 15 minutes); then leave the water and cool down before returning.

8.9 All Category III Aquatic Venues shall have “Spray Ground Rules” posted in a conspicuous place that shall contain, but not limited to the following:

- (a) No person with open cuts, sores, lesions, infections, obvious communicable disease or diarrhea shall use the spray ground;
- (b) Animals are not allowed in or around the spray ground;
- (c) Glass containers are not allowed in or around the spray ground;
- (d) Children who are not toilet trained shall wear tight fitting plastic underwear or swim diapers that will prevent leakage;
- (e) Spray features use recirculated water, **DO NOT DRINK THE WATER;**
- (f) Children shall be accompanied by an adult.

8.10 All Category I and Category II Aquatic Venues shall post their maximum design patron load and shall not permit more patrons than indicated. Patron load shall be calculated as follows:

- (a) 1 person per 20 square feet of water surface area for swimming pools and aquatic play features;
- (b) 1 person per 10 square feet of water surface area for spas, hot-tubs, and whirlpool baths.

9. SAFETY REQUIREMENTS

9.1 The following shall be provided at all Category I and Category II Aquatic Venues:

- (a) A life pole or shepherd’s crook 12 feet long or a reach beyond half the distance of the width of the pool;

(b) A ring buoy, Coast Guard approved or equivalent fitted with a $\frac{1}{4}$ inch-diameter line attached with a length of 1.5 times the maximum width of the swimming pool or 50 feet, whichever is less;

(c) A blanket;

(d) A first aid kit with the following minimum supplies:

- (1) Triangular bandages
- (2) One roll 1-inch tape
- (3) Plain gauze pads 3" X 3" and 4" X 4"
- (4) One roll 2-inch gauze bandage
- (5) One tube or bottle of antiseptic
- (6) First Aid Book
- (7) Scissors
- (8) Assorted band-aids

9.2 All life saving equipment shall be mounted in a conspicuous place, readily accessible, and in ready condition for use, except that the blanket and first aid kit may be kept in a designated place approved by the Public Health Official.

9.3 All Category I and II Aquatic Venues shall have a readily accessible emergency telephone or other means of emergency communication that is operational and only for emergency use. Directions to the emergency telephone shall be clearly posted. Emergency phone numbers along with the venue's address must be prominently posted.

9.4 All chemicals used in Aquatic Venue's maintenance shall be stored under conditions where they are only accessible to authorized persons and stored in a dry, well-ventilated storage room according to manufactures' instructions. The following additional requirements shall be followed:

(a) Chemicals shall be stored in their original containers and tightly closed. All chemical containers, drums, boxes, and bags shall be stored at least 6 inches off the floor or in a manor to eliminate contact with standing water. Overhead storage of chemicals is prohibited.

(b) Incompatible chemicals shall be stored away from each other in specifically identified locations in the chemical storage room.

(c) "No Smoking" signs shall be posted in the chemical storage room;

(d) Swimming pool chemicals and test kit reagents shall be stored out of direct sunlight.

9.5 On all Category I and Category II Aquatic Venues the depth of the water shall be plainly marked at or above the water surface on the vertical wall of the Aquatic Venue, and on the edge of the deck next to the Aquatic Venue. Where depth markers cannot be placed on the vertical walls above the water level, other means shall be used so that markings will be plainly visible to persons in the Aquatic Venue. Markers shall be at least 4 inch high numbers and of a color contrasting with the background. Depth markers shall be:

(a) located at the points of maximum and minimum depths;

(b) On both sides and both ends of the Aquatic Venue;

(c) Spaced so that the distance between adjacent markers is not greater than 25 feet when measured peripherally;

(d) At appropriate points as to denote water depth in diving areas, if the swimming pool is designed for diving (swimming pools without an approved diving well configuration shall also have "NO DIVING" included in the posted pool rules).

9.6 The point of transition in the slope between the deep and the shallow areas shall be identified by a buoyed lifeline that separates the deep area from the shallow area and be located 2 feet toward the shallow end from the point of transition or a line of contrasting color on the floor and walls of the pool must be present at the point of transition.

9.7 If night swimming is provided, deck and underwater lighting shall be provided to illuminate all underwater areas so that water clarity requirements will be maintained.

9.8 Electrical equipment and wiring in or adjacent to Aquatic Venues shall meet the requirements of the National Electric Code (NEC 70), Article 680 and any additional local requirements.

9.9 Steps, ladders, stairs or ramps shall be provided at the shallow and deep ends of the Aquatic Venue. If the Aquatic Venue is over 30 feet wide steps, ladders, stairs or ramps shall be installed on each side. Ramps shall not exceed a slope of 1:12. Handrails shall be provided for use with all ladders, steps and stairs. Handrails shall be maintained in sound working condition.

9.10 All steps, ramps and diving boards are to be of non-slip construction or be covered with non-slip materials.

9.11 The Aquatic Venue shall be immediately closed and the swimmers removed from the water when any of the following occurs. Closure resulting from an inspection will require a re-inspection before the aquatic venue begins operating again.

- (a) Failure to meet required disinfectant concentrations;
- (b) Failure to meet water clarity requirements;
- (c) The grate on the main drain is missing or broken;
- (d) Failure to meet lifeguard requirements;
- (e) A recirculation or filter pump is non-operational;
- (f) The water temperature exceeds 104° Fahrenheit;
- (g) A fecal or vomit accident (documentation of the accident and measures taken must be documented and submitted to the health officer.);
- (h) The presence of an electrical storm for outdoor venues;
- (k) Readily accessible emergency telephone/communications device is inoperable.

9.12 All Aquatic Venues shall be in compliance with all current and any future state and federal regulations. This includes but not limited to the

Virginia Graeme Baker Pool and Spa Safety Act and the Americans with Disabilities Act (ADA).

9.13 The Public Health Official shall be notified as soon as possible in the event of a drowning that result in a death or fecal/vomit accident. Each Aquatic Venue shall have and follow an approved *Contamination Response Plan* for dealing with fecal, blood and vomit contamination. The Aquatic Venue shall document all fecal, blood and vomit accidents. Documentation of fecal, blood and vomit accidents shall be retained for at least one (1) year after the accident.

9.14 The water supply for all Aquatic Venues shall be from a water source approved by the Public Health Official. No piping arrangements shall exist which, under any conditions, will permit sewage or waste water to enter the Aquatic Venue's water system or water from the Aquatic Venue to enter the make-up water supply.

9.15 Because of serious safety considerations the use of gas chlorine is not recommended and may not be approved. When used, the operation must be in compliance with all state and federal safety requirements.

10. WATER QUALITY OF SWIMMING POOLS

10.1 The water shall have sufficient clarity at all times so that either a black disc six (6) inches in diameter is readily visible in the deepest portion of the swimming pool or the bottom drain at the deepest point is clearly visible.

10.2 The water shall be free of all scum and floating matter on the surface and dirt and other material on the floor of the swimming pool.

10.3 Disinfection shall be provided by mechanical feeders. The water in all parts of the swimming pool shall have a minimum free available chlorine (FAC) content of at least 1.0 ppm, but shall not exceed 10.0 ppm.

(a) Bromine used as a disinfectant shall be maintained at a residual of not less than 2.0 ppm but shall not exceed 10.0 ppm.

(b) Other disinfecting materials or methods must be approved by the Public Health Official.

10.4 If cyanuric acid or chlorinated isocyanurates are used, the concentration of cyanuric acid in the water should ideally be at least 30 ppm to 50 ppm and shall not exceed 1000 ppm and the free available chlorine (FAC) shall be at least 2.0 ppm.

10.5 The water shall be maintained at a pH of not less than 7.2 and not over 7.8.

10.6 The total alkalinity shall be maintained within the range of 60 ppm to 180 ppm.

10.7 No harsh or irritating chemical in concentrated form shall be added manually and directly to the water of any swimming pool while any person is present in the water. When chemicals are added, use of the swimming pool shall be stopped until such time as the chemical is completely dissolved and is thoroughly diffused throughout the swimming pool water.

10.8 The water in a swimming pool shall be continuously recirculated. The circulation system for swimming pools shall achieve a turnover rate of six (6) hours or less. The circulation system for wading pools shall achieve a turnover rate of two (2) hours or less. All Category I and Category II swimming/wading pools shall have a flow meter installed that is capable of measuring from $\frac{1}{2}$ to at least 1-1/2 times the designed flow of the circulation system.

11. SPAS, HOT-TUBS, AND WHIRLPOOL BATHS

11.1 Maximum water depth shall be four (4) feet measured from the water line. The maximum depth of any seat or sitting bench shall be two (2) feet measured from the water line.

11.2 The water shall be clear at all times, be free of scum and floating matter on the surface and dirt and other material on the floor.

11.3 Water temperature controls shall be provided to prevent the water temperature from exceeding 104° F.

(a) A thermometer shall be available to monitor water temperature.

11.4 Spas, hot-tubs and whirlpool baths shall be equipped with a 15-minute timer controlling the hydrotherapy jets and blower operation.

11.5 Spas, hot-tubs and whirlpool baths shall be equipped with an emergency shut-off switch to stop all circulation. Shut-off switch shall be visible from the spa, hot-tub or whirlpool bath.

11.6 Spray features shall be prohibited in all spas, hot-tubs and whirlpool baths.

11.7 Disinfection shall be provided by mechanical feeders and water shall have a minimum free available chlorine (FAC) content of 3 ppm but shall not exceed 10 ppm and a maximum combined chlorine level of 0.5 ppm. For bromine disinfection the minimum total bromine level shall be 4.0 ppm but shall not exceed 10 ppm.

(a) Other disinfecting materials or methods must be approved by the Public Health Official.

(b) The water shall be maintained at a pH of not less than 7.2 and not over 7.8.

(c) The total alkalinity shall be maintained within the range of 60 to 180 ppm.

(d) The calcium hardness shall ideally be maintained within the range of 150 to 250 ppm but not exceed 1000 ppm.

11.8 The water in a spa, hot-tub or whirlpool bath shall be continuously recirculated. The circulation system for spas, hot-tubs, and whirlpool baths shall achieve a turnover rate of 30 minutes or less. All Category I and Category II spas, hot-tubs, and whirlpool baths shall have a flow meter installed that is capable of measuring from ½ to at least 1-1/2 times the designed flow of the circulation system.

11.9 All spas, hot-tubs and whirlpool baths shall have posted in a conspicuous place the "Spa Rules" for the facility.

11.10 All spas, hot-tubs and whirlpool baths not drained weekly shall superchlorinate water and filtering system to a level of 10 ppm at least once a week.

11.11 Spas, hot-tubs and whirlpool baths shall be drained and refilled as needed to maintain proper water quality.

11.12 No harsh or irritating chemical in concentrated form shall be added manually and directly to the water of any spa, hot-tub or whirlpool bath while any person is present in the water. When chemicals are added, use of the spa, hot-tub or whirlpool bath shall be stopped until such time as the chemical is completely dissolved and is thoroughly diffused throughout the spa, hot-tub or whirlpool bath water.

11.13 All spas, hot-tubs and whirlpool baths shall be closed immediately and the patrons removed from the water when any health or safety hazard exists. Closure resulting from an inspection will require a re-inspection before the aquatic venue begins operating again.

- (a) Failure to meet required disinfectant concentrations;
- (b) Failure to meet water clarity requirements;
- (c) The grate on the main drain is missing or broken;
- (d) Failure to meet lifeguard requirements;
- (e) A recirculation or filter pump is non-operational;
- (f) The spa water temperature exceeds 104° Fahrenheit;
- (g) A fecal, blood or vomit accident;
- (h) The presence of an electrical storm at an outdoor venue;
- (i) Readily accessible emergency telephone/communications device is inoperable.

12. SPRAY GROUNDS

12.1 Disinfection shall be provided by mechanical feeders and water shall have a minimum free available chlorine (FAC) content of 2 ppm but shall not exceed 10 ppm.

(a) Other disinfecting materials or methods must be approved by the Public Health Official.

(b) The water shall be maintained at a pH of not less than 7.2 and not over 7.8.

(c) The total alkalinity shall be maintained within the range of 60 to 180 ppm.

12.2 All spray grounds shall have posted in a conspicuous place the "Spray Ground Rules" for the facility.

12.3 The water in a spray ground shall be continuously circulated, filtered and disinfected.

12.4 The spray pad shall be adequately cleaned and flushed daily.

12.5 All spray grounds shall be closed immediately and the patrons removed from the spray ground when any health or safety hazard exists, such as:

(a) Failure to meet required disinfectant concentrations;

(b) The grate on the main drain is missing or broken;

(c) A reported fecal, blood or vomit accident;

(d) The presence of an electrical storm; (A sign may be posted warning of danger during electrical storms in unattended areas.)

(e) Readily accessible emergency telephone/communications device is inoperable.

12.6 All spray grounds shall be fenced to prevent access by animals.

13. AIR CIRCULATION FOR INDOOR AQUATIC VENUES

13.1 All indoor Aquatic Venues constructed after these rules and regulations go into effect shall meet the ventilation standards established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE).

14. POOL AND SPA HEATERS

14.1 All heaters shall be installed per the American National Standards Institute guidelines: ANSI Standard 2223.1 and comply with all applicable local codes.

15. OPERATING RECORDS

15.1 All Category I, II and III venues shall maintain records showing:

- (a) Disinfectant residuals – a minimum of two times daily or as often as needed to maintain the water quality as indicated in Sections 11, 12 and 13;
- (b) pH reading – a minimum of two times daily or as often as needed to maintain the water quality as indicated in Sections 11, 12, and 13;
- (c) Chemicals used during the operation period;
- (d) Cyanuric acid level – at least once a week;
- (e) Alkalinity – at least once a week;
- (g) Record of fecal, blood and vomit accidents;

15.2 Additional records for spas, hot-tubs and whirlpool baths shall be:

- (a) Dates of superchlorination;
- (b) Temperature reading – a minimum of every 3 hours of operation;
- (c) Calcium Hardness- at least once a week;

(d) Dates of drain and refill.

15.3 All records shall be retained for at least one (1) year.

16. TESTING EQUIPMENT

16.1 The following test equipment shall be present at each swimming pool, wading pool, spa, hot-tub or whirlpool bath:

(a) A DPD chlorine tester or bromide tester, capable of measuring residuals in the range of 0 to 10.0 ppm. When chlorine is used, the test equipment shall be capable of measuring both free available chlorine and total combined chlorine;

(b) A pH tester capable of measuring pH between 6.8 and 8.2;

(c) An alkalinity tester capable of measuring the range of 50 to 200 ppm;

(d) A cyanuric acid test kit (where applicable);

(e) A calcium hardness tester capable of measuring the range of 150 to 500 ppm. (required for spas, hot-tubs and whirlpool baths recommended for all Aquatic Venues)

17. FENCES/ENCLOSURES/SAFETY COVERS

17.1 All Category I, II, III and IV Aquatic Venues shall be protected by a fence, wall, building or other enclosure or any combination thereof which completely encloses the Aquatic Venue area such that all the following conditions are complied with:

(a) Constructed so as to afford no external handholds or footholds;

(b) Constructed of durable materials;

(c) A four (4) foot minimum height is provided entirely around the Aquatic Venue;

(d) The horizontal space between vertical members of the enclosure shall not exceed four (4) inches;

(e) The height of any opening under the bottom of the enclosure shall not exceed two (2) inches; and

(f) Where no lifeguards are present, all gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms which shall be located as high as possible and comply with the Americans with Disabilities Act (ADA) requirements.

17.2 If a safety cover is used it must meet ASTM standard F1346-91 Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs.

18. WASTEWATER DISPOSAL

18.1 All wastewater from Category I, II, III and IV Aquatic Venues shall be disposed of in a manner which will not create a nuisance and is in accordance with applicable local regulations.

19. GENERAL MAINTENANCE

19.1 All Category I, II, III and IV Aquatic Venues must be maintained in such a way not to create a nuisance or public health risk.

20. INSPECTIONS

20.1 The Public Health Official shall conduct such inspections as often as deemed necessary to ensure compliance with all the provisions of these regulations and he/she shall have right of entry at any reasonable time to the Aquatic Venue, records and accompanying facilities.

20.2 Upon investigation or inspection of an Aquatic Venue, the Public Health Official determines that conditions exist that warrant the closing of the facility, the Public Health Official shall issue a written closing order to the owner or operator of the Aquatic Venue, noting the violations. A “notice of closure” sign shall be conspicuously placed at the entrance to the facility. It shall be unlawful for any person to remove a “notice of closure” sign unless authorized to do so by the Public Health Official. The owner or

operator, thereafter, shall be responsible for prohibiting any person from using the facility until the violations have been abated. If the Public Health Official notes violations, which do not warrant closing the facility, a written notice shall be provided to the owner or operator with reasonable times for compliance. If the noted violations are not abated within the time set forth in the notice, the facility shall then be automatically closed unless the Public Health Official, upon good cause, extends the time for compliance.

20.3 The following violations shall warrant immediate closure by the Public Health Official. Closure resulting from an inspection will require a re-inspection before the aquatic venue begins operating again.

- (a) Any hazardous condition that may create an immediate danger;
- (b) Failure of the Aquatic Venue's equipment or structure that may jeopardize the health or safety of the persons using or operating it;
- (c) Failure to meet required disinfectant concentrations;
- (d) Failure to meet water clarity requirements;
- (e) The grate on the main drain is missing or broken;
- (f) Failure to meet lifeguard requirements;
- (g) The spa water temperature exceeds 104° Fahrenheit;
- (h) Readily accessible emergency telephone/communications device is inoperable;
- (i) Failure to have all entrances equipped with self-closing and self-latching door/gate;
- (j) Lack of required safety equipment;
- (k) Failure to meet the Licensed Aquatic Venue Operator requirement;
- (l) Repeat violations from previous inspection(s);

(m) If the Aquatic Venue has been linked to a recreational water illness outbreak confirmed by a licensed physician.

20.4 The Public Health Official shall conduct a follow-up inspection to insure all violations from the initial investigation(s)/inspection(s) have been abated. Fees shall apply for all follow-up inspections.

20.5 If violation(s) are corrected at the time of the initial investigation/inspection a follow-up inspection will not be required.

20.6 Closing orders shall be repealed once all violations that warranted the closing order have been abated and inspected by the Public Health Official.

20.7 Aquatic Venues built prior to 2017 will have six months from the initial inspection to be compliant with this ordinance.

21. FEES

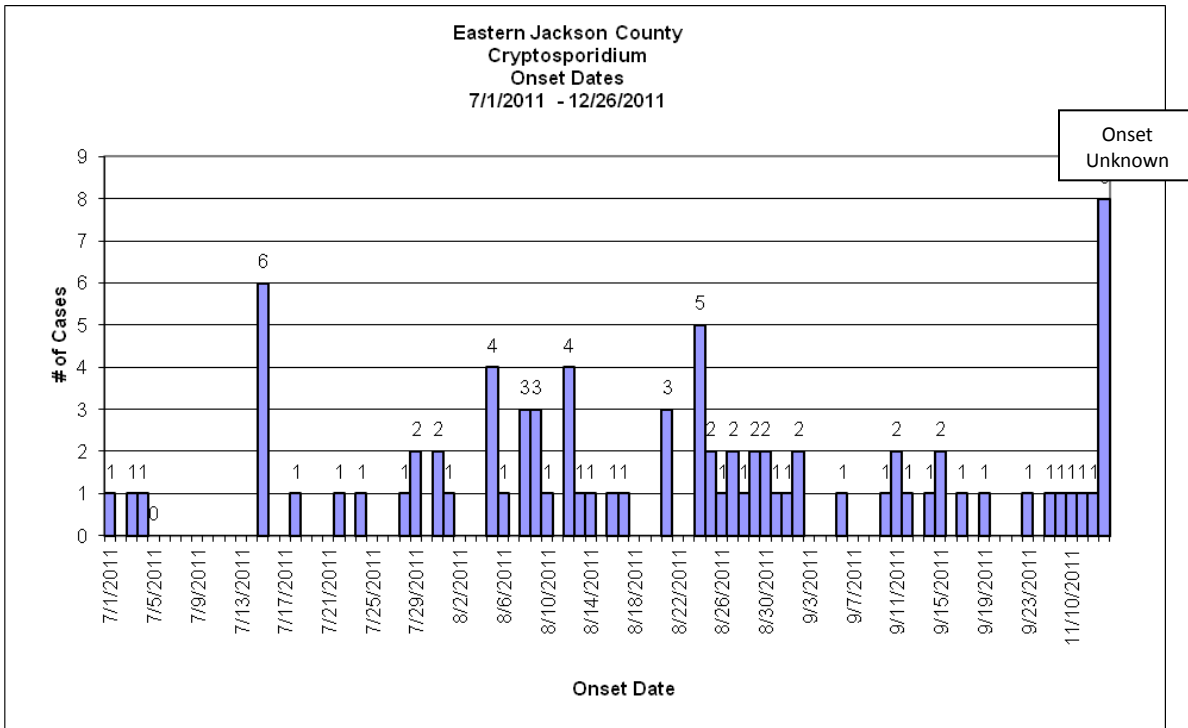
22. PENALTIES

23. NONCONFLICT OF LAWS

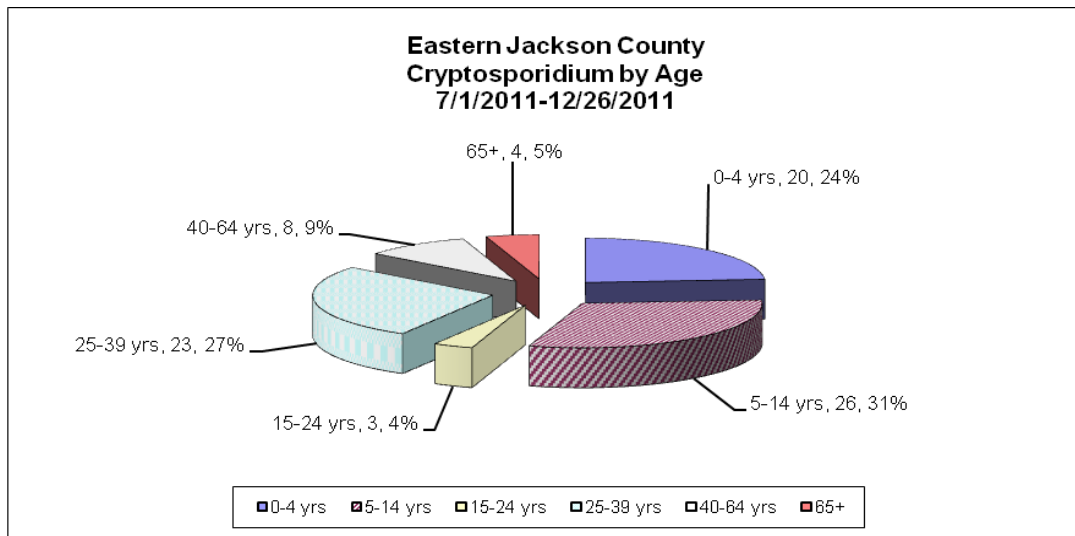
23.1 Nothing contained in these regulations numbered 1 – 23 shall be deemed to be in conflict with any other rule, regulation, and statute or law whether federal, state or local. In all cases the more restrictive provision shall govern.

Community Cryptosporidium Outbreak Update Eastern Jackson County Cases Summer-Fall 2011

No common source was identified. Clusters appeared in a childcare center, in family units and public outdoor swimming pools. Based on the Centers for Disease Control and Prevention case definitions 24 cases were classified as confirmed and 46 as probable. At least 29 cases were epidemiologically linked to at least one other case.



Eastern Jackson County Cryptosporidium By Disease Classification Onset Dates: 7/1/2011-12/26/2011				
City	Classification			Total
	Confirmed	Probable	Suspect	
Blue Springs	9	10		19
Grain Valley	3	4		7
Grandview	3	6		9
Lee's Summit	11	24	1	36
Raytown	5	6		11
Sugar Creek		2		2
Grand Total	31	52	1	84



Sixty-two percent (55%) of the cases were under 15 years of age, 4% were ages 15-24 and 42% were age 25 or older. Fifty-eight percent (58%) were female and 42% were male.

Eastern Jackson County Residents, Cryptosporidium 2011 Disease Venues	
Venue	Total
American Inn, Blue Springs	1
Crown center 7/30, home pool	2
Crown Center Spray Park	1
Grain Valley pool, motel pool in St. Louis	1
Grandview Splash park	1
Home blow up pool 8/5/11, Pools at Winterset Valley and Winterset Park on various unknown dates.	1
Home pool, Lake of Ozarks	2
Lakewood neighborhood pool	1
Meadowmere Pool	1
Meadows of Winterset, Lees Summit neighborhood pool	1
New Longview neighborhood pool	3
Oasis Water Park, swam all summer until end of July	1
O'Fallon, MO community pool Ocoee River, TN	2
Raytown YMCA	1
Rosewood Hills, Grain Valley	1
Summer pass Oceans of Fun, Harrisonville community pool	4
Summit Wave 7/29/11, Lake of Ozarks	2
Summit Waves 3 times week from 7/12/11 to 8/12/11	1
Sycamore Hills School, Independence	1
The Paddock, neighborhood pool	1
Home pool, Blue Springs Apt. pool	1
Total	30
Of those interviewed, 36% indicated some form of water activity	

Eastern Jackson County Cryptosporidium by Age and Gender Onset Dates: 7/1/2011-12/26/2011			
Age in Years	Female	Male	Total
1	5	3	8
1.5	1		1
2		1	1
3	1	4	5
4	4	1	5
5	2	2	4
6		4	4
7	1	3	4
9	5	1	6
10	1		1
11	1	1	2
12		3	3
13	2		2
15	1		1
16		1	1
19		1	1
25	2		2
28		1	1
29	1	1	2
31	3	1	4
32	2		2
33	3		3
34	2	1	3
35	1	1	2
38	1		1
39	1	2	3
41	1		1
48	1		1
52		1	1
54		1	1
55	1		1
56	1		1
59	1		1
60		1	1
66	1		1
79	1		1
80	2		2
Total	49	35	84

MEMORANDUM



Date: December 27, 2016

To: Mark Dunning
Assistant City Manager, Development Services & Communications

From: Joe Snook, CPRP
Assistant Administrator of Parks and Recreation

Cc: J. Thomas Lovell, Jr., CPRP
Administrator of Parks and Recreation

Re: Jackson County Aquatic Inspection Program

Over the past several months Lee's Summit Parks and Recreation staff, several Jackson County municipal parks and recreation representatives, and one R7 representative have been working with the Jackson County Environmental Health Division on revisions to a proposed county aquatic inspection program. The proposed aquatic inspection program has been through several revisions with the most recent revision presented by County staff at an open meeting in December. In attendance were representatives from several parks and recreation departments (including Lee's Summit), one home owners association from Lee's Summit (Raintree Lake), at least two private aquatic management companies, and representation from at least one hotel.

The proposed aquatic inspection program presented at the December meeting addressed the concerns of Lee's Summit Parks and Recreation as it relates to Summit Waves and Legacy Park Community Center aquatic operations. At this time LSPR staff is supportive of the proposed aquatic inspection program regulating Category I and Category III facilities as outlined in the proposed inspection program. Category I and Category III facilities are defined as facilities owned and/or operated by a municipality, other political subdivision, or any other government agency that are offered for use to the general public.

This memo should in no way suggest LSPR's support or lack of support for the aquatic inspection program as it relates to Category II or Category IV aquatic venues as defined by the proposed aquatic inspection program. Requirements for Category II and Category IV facilities do not affect LSPR facilities and/or operations.

Packet Information

File #: 2017-1116, **Version:** 1

Proposed UDO Amendment #62 Article 8 Accessory Uses and Structures - Adding Photography Studio as a Home Occupation and Modifying Photographic Studio from Prohibited Home Occupations on less than 1 Acre with Certain Conditions

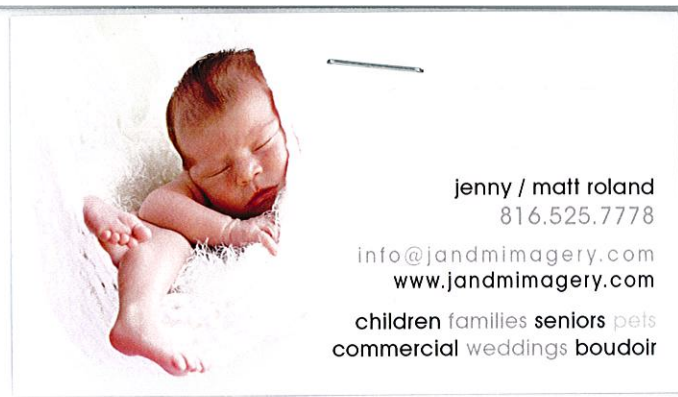
This request is being brought forward from a business owner that has scaled down their business and no longer have employees or the need for commercial space. Jenny Roland with J&M Imagery will be present to discuss her request for an amendment to the Home Occupation section of the UDO. Currently photographic studios are only allowed as a home occupation on properties with a minimum of 1 acre in size and that where access to a collector street from a residential driveway is no greater distance than one lot depth or 250 feet whichever is less.

This change would allow photographic studios inside single family neighborhoods with only the driveway and street frontage for parking. Staff has provided language that we feel is acceptable to achieve the desired results if the Committee feels compelled to authorize this request to move forward. The proposed changes alter the provision related to the prohibited home occupation except for the one acre requirement and related conditions but includes multiple employees. By adding this multiple employee provision the photo studio as a home occupation with only the owner and 1 employee would now be a "permitted" home occupation under the UDO home occupation Section provided they meet all conditions established therein.

Presenter: Robert McKay, Director of Planning and Development

February 9, 2017

Robert McKay
City of Lee's Summit
Director of Planning & Development
220 SE Green Street
Lee's Summit, MO 64063



Dear Bob,

I would like to ask that you initiate a request for a Unified Development Ordinance amendment with the CEDC to allow an in-home portrait studio on a parcel that is under 1 acre.

In the early 90's, when I first began my journey in photography I initiated and the City of Lee's Summit approved zoning for home based small business. There was no restriction on size of home, or parcel of land. I initiated this for a variety of business owners operating in their homes, because I wanted to operate a legal and professional business. It encompassed artists(including photographic artists), beauticians, tax preparers and a variety of other small businesses that do not require a commercial location to operate a business.

When my business expanded and had a staff of photographer's, I moved into and purchased a commercial building. I have scaled my business back, and no longer have any employees or need a commercial location. I do wish to be able to create portraits from an in-home studio once more. I create only custom (low-volume) portraits by appointment only. New-born children, HS senior, family, fitness/bodybuilding and business headshots. Most portraits are created for family members and some for commercial and marketing purposes.

Parking would not be an issue as 4 cars can fit in my drive, but would only envision 1 or 2 at most, which is less than most neighbors have on a daily basis. Hours of operation would be 10-6 Tuesday-Friday and Saturday 10-1 by appointment only.

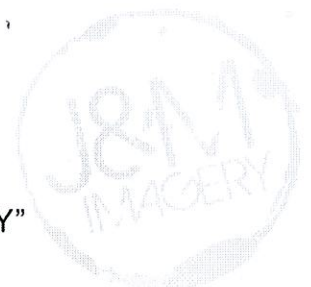
Thank you for your consideration,

God Bless,

Jenny Roland

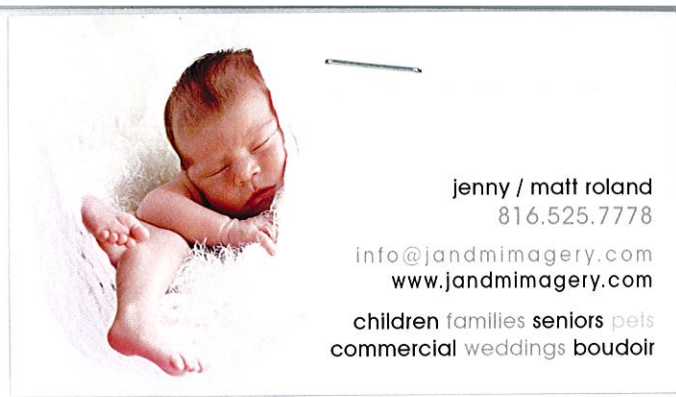
Lee's Summit, MO
816.525.7778

jandmimagery.com "THE ART OF PHOTOGRAPHY"



February 9, 2017

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City of Lee's Summit
Director of Planning & Development
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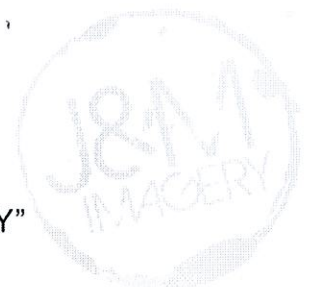
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Lee's Summit, MO
816.525.7778

jandmimagery.com "THE ART OF PHOTOGRAPHY"



9. Deliveries of materials to and from the premises in conjunction with the home occupation shall not require the use of vehicles other than parcel post or similar parcel service vehicles;
10. Noise, vibration, smoke, odors, heat or glare as a result of a home occupation, which would exceed that normally produced by a single residence, shall not be permitted;
11. The home occupation shall not utilize more than one private commercial vehicle limited to 1 ton capacity. The vehicle shall be capable of being parked or stored inside the garage and shall be required to be kept in said garage when not in use for the home occupation (Amend. #13);
12. Retail sales on the premises shall be secondary to the major operation of the home occupation;
13. The primary use of the building in which the home occupation is situated shall clearly be the dwelling used by the person as his/her private residence;
14. Home occupations shall maintain required licenses mandated by applicable local, state and/or federal laws;
15. Persons intending to operate a home occupation should notify the HOA, Home Owners Association, of their intent prior to beginning operations. Said notification is to provide the HOA with notice of intent only.

C. Permitted home occupations.

Home occupations shall be approved by the Director upon his/her determination that the requirements of this ordinance can be satisfied. In the event a home occupation is denied by the Director, the reasons for the denial shall be given to the applicant in writing. Such decision for denial may be appealed to the City Council within 14 days of the date on the letter from the Director.

D. Prohibited home occupations. The following uses by the nature of the investment or operation have a tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residential purposes. Therefore, the following uses shall be specifically prohibited as home occupations, except as further indicated below. (Amend. #16)

1. Sales to the public on the premises not secondary thereto;
2. Equipment rental;
3. Automobile and other motor vehicle repair services and/or sales;
4. Radio, television and similar electronic devices, small appliances and small engine repair services;
5. Physicians, dentists;
6. Chiropractor, except when located within a home on a lot that is a minimum of one acre in size and where access to a collector street from the residential driveway is no greater distance than one lot depth or 250 feet whichever is less. (Amend. #9)
7. Upholstery and furniture making;
8. Horse pasturing (does not include the accessory use of same)

9. Pet grooming, except when: (Amend. #17)
 - a. Only one (1) animal is groomed or kept on the premises at a time, except for pets owned by the groomer; and
 - b. Only one person shall perform grooming services on the premises; and
 - c. All grooming activities shall be by appointment only; and
 - d. No animal runs, kennels or cages shall be kept on the premises in conjunction with the grooming business except for portable kennels necessary to transport the animal to and from the grooming appointment; and
 - e. No more than five (5) animals shall be groomed per day.
 10. Animal grooming (except as provided in 8 above) (Amend. #17), boarding, and/or related services;
 11. Uses requiring storage or use of highly flammable, toxic or other hazardous materials;
 12. Printing and/or typesetting services;
 - ~~13. Photographic studio, with multiple employees in excess of the standard home occupation allowance, where photographs are taken on the premises, except when:
 - a. located within a home on a lot that is a minimum of one acre in size, and
 - b. where access to a collector street from the residential driveway is no greater distance than one lot depth or 250 feet whichever is less. (Amend. #9)(Amend. #62)~~
~~13.~~
 14. Massage therapy, (to be conducted in the Licensed Massage Therapist's home) unless specifically approved as a Special Use under Article 10 of this Chapter. (Amend. #16)
- E. Any proposed home occupation not specifically prohibited in this Section may be permitted provided that all conditions listed above are observed.

Section 8.110. Hospital – related accessory uses

The following uses are accessory uses within a hospital when located within the main hospital building and designed to serve hospital personnel, visitors or patients: residential quarters for staff and employees; nursing or convalescent quarters; storage and utility buildings; food service and vending machines; laundry and dry cleaning pickup and delivery; and flower and gift shops.

Heliports shall be allowed as an accessory use at a regional hospital, provided the following conditions are met:

- A. A heliport plan is submitted to the Director which includes all approach and departure paths as necessary to assure safe and adequate landing and take-off area and shall be supplemented by a favorable report by the local airport district office of the Federal Aviation Administration (FAA).
- B. Adequate safety provisions shall be provided and indicated by plans that control or restrict access to the landing and take-off areas by the general public.
- C. Landing and take-off areas shall be surfaced in such a manner as to avoid dust or dirt from blowing onto neighboring property.

Packet Information

File #: TMP-0482, **Version:** 1

AN ORDINANCE AMENDING CHAPTER 17, ARTICLE IV OFFENSES AGAINST PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY ENACTING A NEW SECTION 17-94 TO PROHIBIT IDENTITY THEFT AND REPEALING, SECTION 17-81 DEFINITIONS AND ENACTING IN LIEU THEREOF A NEW SECTION 17-81 DEFINITIONS, OF LIKE NUMBER AND SUBJECT.

Issue/Request

AN ORDINANCE AMENDING CHAPTER 17, ARTICLE IV OFFENSES AGAINST PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY ENACTING A NEW SECTION 17-94 TO PROHIBIT IDENTITY THEFT AND REPEALING, SECTION 17-81 DEFINITIONS AND ENACTING IN LIEU THEREOF A NEW SECTION 17-81 DEFINITIONS, OF LIKE NUMBER AND SUBJECT.

Key Issues:

With the passage of this bill, the City of Lee's Summit will have the ability to prosecute in the Lee's Summit Municipal Court identity theft cases involving theft amounts below \$750.00. Currently the City of Lee's Summit does not have an ordinance concerning identity theft and all cases are submitted to the State for prosecution. Due to high case loads at the State level, many identity theft cases that do not make the \$750 felony threshold amount are referred back to the City. Without an identity theft ordinance substantially similar to state law, the City is unable to prosecute lower level identity theft violations.

Section 17-94 states the offense of identity theft. Section 17-81 is the Definition section and the proposed ordinance provides updates to further define words used in the identity theft offense and offenses against property article.

Proposed City Council Motion:

I move to recommend passage to the City Council of AN ORDINANCE AMENDING CHAPTER 17, ARTICLE IV OFFENSES AGAINST PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY ENACTING A NEW SECTION 17-94 TO PROHIBIT IDENTITY THEFT AND REPEALING, SECTION 17-81 DEFINITIONS AND ENACTING IN LIEU THEREOF A NEW SECTION 17-81 DEFINITIONS, OF LIKE NUMBER AND SUBJECT.

Background:

[Enter text here]

Impact/Analysis:

The general penalty provision for ordinance violations will apply to the passage of an identify theft ordinance. The penalty will include a fine not more than \$500 and/or incarceration not more than 90 days.

Timeline:

Start: ____

Finish: ____

Other Information/Unique Characteristics:

[Enter text here]

Presenter: Major Mark Taylor

Recommendation: Staff recommends passage

Committee Recommendation: [Enter Committee Recommendation text Here]

PSAB approved a motion supporting passage of an identity theft ordinance during its April 2017 meeting.

Sec. 17-81. - 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:

Appropriate shall mean to take, obtain, use, transfer, conceal, retain or dispose.

Coercion shall mean

A. A threat, however communicated, to:

1. Commit any offense;
2. Inflict physical injury in the future on the person threatened or another;
3. Accuse any person of any offense;
4. Expose any person to hatred, contempt or ridicule;
5. Harm the credit or business reputation of any person;
6. Take or withhold action as a public servant, or cause a public servant to take or withhold action;
7. Inflict any other harm which would not benefit the actor.

B. A threat of accusation, lawsuit or other invocation of official action is justified and not coercion if the property sought to be obtained by virtue of the threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Credit device shall mean a writing, card, code, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

Customer shall mean the person in whose name a utility service is provided.

Debit device shall mean a writing, card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients.

Deceit or deceive shall mean making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind, or concealing a material fact as to the terms of a contract or agreement. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

Deprive shall mean to:

- A. Withhold property from the owner permanently;
- B. Restore property only upon payment of reward or other compensation;
- C. Use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Divert shall mean to change the intended course or path of electricity, water, gas, telephone, cable television or other utility service without the authorization or consent of the utility.

Means of identification shall mean anything used by a person as a means to uniquely distinguish himself or herself.

Of another shall refer to property or services of any person, including a church or school, other than the actor, who has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property shall mean anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

Receiving shall mean acquiring possession, control or title or lending on the security of the property.

Reconnection shall mean the commencement of utility service other than by the utility company, to a customer or other person after service has been discontinued by the utility.

Services shall mean and include transportation, telephone, electricity, gas, water, cable television services or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

Tamper shall mean to rearrange, damage, injure, destroy, alter, interfere with or otherwise prevent from performing normal or customary functions.

Utility service shall mean the provision of electricity, water, gas, telephone, cable television or other utility service.

(Code 1988, § 17-81)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar definitions, RSMo 570.010.

Sec. 17-81. - 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:

Appropriate shall mean to take, obtain, use, transfer, conceal, retain or dispose.

Coercion shall mean

A. A threat, however communicated, to:

1. Commit any offense;
2. Inflict physical injury in the future on the person threatened or another;
3. Accuse any person of any offense;
4. Expose any person to hatred, contempt or ridicule;
5. Harm the credit or business reputation of any person;
6. Take or withhold action as a public servant, or cause a public servant to take or withhold action;
7. Inflict any other harm which would not benefit the actor.

B. A threat of accusation, lawsuit or other invocation of official action is justified and not coercion if the property sought to be obtained by virtue of the threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Credit device shall mean a writing, card, code, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

Customer shall mean the person in whose name a utility service is provided.

Debit device shall mean a writing, card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients.

Deceit or deceive shall mean making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind, or concealing a material fact as to the terms of a contract or agreement. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

Deprive shall mean to:

- A. Withhold property from the owner permanently;
- B. Restore property only upon payment of reward or other compensation;
- C. Use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Divert shall mean to change the intended course or path of electricity, water, gas, telephone, cable television or other utility service without the authorization or consent of the utility.

Means of identification shall mean anything used by a person as a means to uniquely distinguish himself or herself.

Of another shall refer to property or services of any person, including a church or school, other than the actor, who has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property shall mean anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

Receiving shall mean acquiring possession, control or title or lending on the security of the property.

Reconnection shall mean the commencement of utility service other than by the utility company, to a customer or other person after service has been discontinued by the utility.

Services shall mean and include transportation, telephone, electricity, gas, water, cable television services or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

Tamper shall mean to rearrange, damage, injure, destroy, alter, interfere with or otherwise prevent from performing normal or customary functions.

Utility service shall mean the provision of electricity, water, gas, telephone, cable television or other utility service.

(Code 1988, § 17-81)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar definitions, RSMo 570.010.

17-94. – Identity theft.

A. A person commits the offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use.

B. This section shall not apply to the following activities:

1. A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;
2. A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;
3. A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
4. A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so;
5. A person is otherwise authorized by law to engage in the conduct that is the subject of the prosecution.

State Law reference -- Similar provisions, RSMo 570.223.

BILL NO. 17-

AN ORDINANCE AMENDING CHAPTER 17, ARTICLE IV OFFENSES AGAINST PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT, MISSOURI BY ENACTING A NEW SECTION 17-94 TO PROHIBIT IDENTITY THEFT AND REPEALING, SECTION 17-81 DEFINITIONS AND ENACTING IN LIEU THEREOF A NEW SECTION 17-81 DEFINITIONS, OF LIKE NUMBER AND SUBJECT.

WHEREAS, currently the City of Lee's Summit has no ordinance that deals with identity theft; and,

WHEREAS, the State of Missouri prosecutes mostly felony level identity theft cases but faces case load constraints when filing cases that do not meet the threshold for felony level cases and will often refer such cases back to the City; and,

WHEREAS, the City of Lee's Summit has the ability to effectively prosecute lower threshold level identify theft cases as municipal ordinance violations in the Lee's Summit Municipal Division of the Circuit Court of Jackson County with the passage of an ordinance; and,

WHEREAS, the City of Lee's Summit desires to adopt an ordinance which makes identity theft an ordinance violation to better protect the victims of identity theft within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Chapter 17, Offenses, Article IV Offenses Against Property is hereby amended by enacting a new section 17-94 Identity theft to read as follows:

17-94. – Identity theft.

A. A person commits the offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use.

B. This section shall not apply to the following activities:

1. A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;

2. A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;

3. A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;

4. A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so;

5. A person is otherwise authorized by law to engage in the conduct that is the subject of the prosecution.

State Law reference -- Similar provisions, RSMo 570.223.

SECTION 2. That Chapter 17, Offenses, Article IV, Offenses Against Property, Section 17-81 Definitions is hereby amended by repealing and enacted in lieu thereof a new Section 17-81 Definitions, of like number and subject matter to read as follows:

BILL NO. 17-

Sec. 17-81. - 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:

Appropriate shall mean to take, obtain, use, transfer, conceal, retain or dispose.

Coercion shall mean

- A. A threat, however communicated, to:
1. Commit any offense;
 2. Inflict physical injury in the future on the person threatened or another;
 3. Accuse any person of any offense;
 4. Expose any person to hatred, contempt or ridicule;
 5. Harm the credit or business reputation of any person;
 6. Take or withhold action as a public servant, or cause a public servant to take or withhold action;
 7. Inflict any other harm which would not benefit the actor.
- B. A threat of accusation, lawsuit or other invocation of official action is justified and not coercion if the property sought to be obtained by virtue of the threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Credit device shall mean a writing, card, code, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

Customer shall mean the person in whose name a utility service is provided.

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Deceit or deceive shall mean making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind, or concealing a material fact as to the terms of a contract or agreement. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

Deprive shall mean to:

- A. Withhold property from the owner permanently;
- B. Restore property only upon payment of reward or other compensation;
- C. Use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

BILL NO. 17-

Divert shall mean to change the intended course or path of electricity, water, gas, telephone, cable television or other utility service without the authorization or consent of the utility.

Means of identification shall mean anything used by a person as a means to uniquely distinguish himself or herself.

Of another shall refer to property or services of any person, including a church or school, other than the actor, who has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property shall mean anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

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Tamper shall mean to rearrange, damage, injure, destroy, alter, interfere with or otherwise prevent from performing normal or customary functions.

Utility service shall mean the provision of electricity, water, gas, telephone, cable television or other utility service.

(Code 1988, § 17-81)

Cross reference— Definitions and rules of construction generally, § 1-2.

State Law reference— Similar definitions, RSMo 570.010.

SECTION 3. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

SECTION 5. That this Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this ____ day of _____, 2017.

BILL NO. 17-

Mayor Randall Rhoads

ATTEST:

City Clerk Denise R. Chisum

APPROVED AS TO FORM:

Chief Counsel of Public Safety *Beth Murano*