



The City of Lee's Summit

Final Agenda

Community and Economic Development Committee

Wednesday, July 11, 2018

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. Public Comments
5. Business
 - A. [2018-2123](#) Approval of the June 13, 2018 Community and Economic Development Committee Minutes
 - B. [2018-2143](#) Reorganization and Codification of the UDO into Chapter 33 of the City Code
Presenter: Joshua Johnson, AICP, Asst. Dir. of Plan Services
 - C. [TMP-0954](#) UDO Amendment for Reasonable Accommodation
Presenter: Joshua Johnson, AICP, Asst. Dir. of Plan Services
 - D. [2018-2145](#) Update and Discussion on Quality Housing Program
Presenter: Ryan Elam, Director of Development Services
Josh Johnson, Assistant Director of Plan Services
 - E. [2018-2146](#) Update and Discussion over 2018 Building Code Adoption process.
Presenter: Ryan Elam, Director of Development Services
 - F. [2018-2149](#) Status update of The Grove at Lee's Summit development
Presenter: Ryan Elam, Director of Development Services
6. Roundtable
7. Adjournment

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Packet Information

File #: 2018-2123, **Version:** 1

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

Wednesday, June 13, 2018

4:00 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

1. Call to Order

2. Roll Call

Present: 5 - Vice Chair Diane Forte
Councilmember Fred DeMoro
Liaison Donnie Funk
Councilmember Craig Faith
Chairperson Beto Lopez

Absent: 1 - Alternate Bob Johnson

3. Approval of Agenda

A motion was made by Vice Chair Forte, seconded by Councilmember DeMoro, to approve the June 13, 2018 CEDC agenda. The motion carried unanimously.

4. Public Comments

There were no public comments.

5. Business

A. [2018-2113](#) Approval of March 21, 2018 Action Letter

A motion was made by Vice Chair Forte, seconded by Councilmember DeMoro, to approve the March 21, 2018 CEDC Action Letter. The motion carried unanimously.

B. **2018-2107** Review of Velocity Lee's Summit programs, services, and funding and AN ORDINANCE APPROVING A PUBLIC SERVICE AGREEMENT BY AND BETWEEN VELOCITY LEE'S SUMMIT, INC. AND THE CITY OF LEE'S SUMMIT, MISSOURI FOR SERVICES TO BE PROVIDED TO THE CITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY.

A motion was made by Councilmember Faith, seconded by Councilmember DeMoro, to recommend approval of the ordinance, to the City Council - directing staff to amend the agreement to one year as opposed to a three year plan. The motion carried unanimously.

C. [2018-1985](#) Application #PL2018-088 UNIFIED DEVELOPMENT ORDINANCE (UDO) Amendment #67, Article 5 Zoning Districts, Article 8 Accessory Uses, Article 9 Uses with Conditions, and Article 10 Special Use Permits to Allow Massage Therapist In-Home as a Conditional Use for a Home Occupation; City of Lee's

Community and Economic Development Committee

Action Letter

June 13, 2018

Summit Applicant

A motion was made by Councilmember DeMoro, seconded by Vice Chair Forte, to forward UDO Amendment #67 to the Planning Commission. The motion carried unanimously.

- D. [2018-2037](#)** Application PL#2018-089 UNIFIED DEVELOPMENT ORDINANCE (UDO) Amendment #68 Article 5 Zoning Districts and Article 9 Uses Permitted with Conditions to allow Indoor Climate Controlled Self Storage Facilities as a "C" Conditional Use in CP-2, Planned Community Commercial, CS, Commercial Service, and AZ, Airport Zoning districts and Municipal Fire Stations as a "C" Conditional Use in all zoning districts; City of Lee's Summit Applicant

A motion was made by Vice Chair Forte, seconded by Councilmember DeMoro, to forward UDO Amendment #68 to the Planning Commission. The motion carried unanimously.

- E. [TMP-0928](#)** UNIFIED DEVELOPMENT ORDINANCE (UDO) Amendment #69 Sidewalk Payment in Lieu of Construction.

A motion was made by Vice Chair Forte, seconded by Councilmember DeMoro, to forward UDO Amendment #69 to the Planning Commission. The motion carried unanimously.

- F. [2018-2108](#)** Presentation and overview of Targeted Planning Areas of the Economic Development Incentive Policy.

Chairperson Lopez requested staff prepare and present a status report of the Grove Project at the next CEDC meeting.

6. Roundtable

Chairperson Lopez expressed his appreciation for patience regarding the change of format in the meeting. Chairperson Lopez thanked Council Member Forte for her support.

7. Adjournment

A motion was made by Councilmember Faith, seconded by Councilmember DeMoro, that this meeting be adjourned at 6:33 pm. The motion carried unanimously.

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Packet Information

File #: 2018-2143, **Version:** 2

Reorganization and Codification of the UDO into Chapter 33 of the City Code

Issue/Request:

To send the reorganized UDO to the Planning Commission and City Council for adoption.

Proposed Committee Motion:

I move to recommend to City Council that the reorganized UDO be adopted.

Background:

The existing UDO is referenced in Chapter 33 of the City Code but the content is located outside the overall City Code. A company called Municode curates the rest of the Code of Ordinances for the City. Staff contracted with Municode to bring the existing UDO into the same format as the rest of the City Code and administer future amendments and codification. While no content has changed, staff has reordered the ordinance chapters to lead prospective customers through the necessary steps to develop property in the City.

Joshua Johnson, AICP, Asst. Dir. of Plan Services

Recommendation: Staff recommends the UDO be forwarded to the Planning Commission and City Council.

Committee Recommendation: [Enter Committee Recommendation text Here]

UNIFIED DEVELOPMENT ORDINANCE

OF THE

CITY OF

LEE'S SUMMIT, MISSOURI

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municode

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Unified Development Ordinance

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UNIFIED DEVELOPMENT ORDINANCE

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ARTICLE 1.

GENERAL PROVISIONS

- Sec. 1.010. Short title; introduction to chapter.
- Sec. 1.020. Authority.
- Sec. 1.030. Jurisdiction.
- Sec. 1.040. Purpose.
- Sec. 1.050. General provisions.
- Sec. 1.060. Relationship to other provisions of the code.
- Sec. 1.070. Relationship to comprehensive plan and other policies.
- Sec. 1.080. Administrative delay of development applications.
- Sec. 1.090. Relationship to private restrictions.
- Sec. 1.100. Prohibitions.
- Sec. 1.110. Adequate public facilities and services.
- Sec. 1.120. Zoning of annexed lands.
- Sec. 1.130. Effective date.
- Sec. 1.140. Development under prior regulations.
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Sec. 1.010. Short title; introduction to chapter.

- A. This chapter shall be known and may be cited as the Unified Development Ordinance of the City of Lee's Summit, Missouri and may be abbreviated as "UDO."
- B. This chapter repeals, replaces, augments and revises Unified Development Ordinance No. 5209 of the Lee's Summit Municipal Code in existence on the effective date of this chapter.

Sec. 1.020. Authority.

This chapter is adopted pursuant to the authority granted to the City by the Lee's Summit, Missouri Charter and by Chapters 89 and 445 of the Revised Statutes of the State of Missouri; pursuant to the City's nuisance powers, including, but not limited to those granted by RSMo 71.780 and 305.575; and pursuant to the City's police powers.

Sec. 1.030. Jurisdiction.

This chapter shall be effective throughout the corporate limits of the City and on property owned by the City outside the corporate limits of the City. Except where otherwise indicated, the provisions of this chapter shall apply to the City and all of its agencies. Nothing herein shall be construed to preclude the City from adopting and enforcing extraterritorial zoning, planning, subdivision and building regulations pursuant to RSMo 89.144, and amendments thereto.

Sec. 1.040. Purpose.

The purpose of this chapter is to regulate and control the development of land and matters relating thereto within the City to promote the public safety, health, and general welfare of the community and to implement the Comprehensive Plan as now in effect and as it may be amended from time to time. The provisions of this chapter are designed to promote:

- A. A strong and positive civic image and identity, based on a high quality living and working environment, an attractive physical setting, safety from fire, flood, crime and other dangers and responsive City services and programs;
- B. A living environment that supports the local population, is adaptable to market demands for diverse types and styles of residential

living, accommodates future growth, is affordable for all segments of the population, and maintains and improves the overall quality and character of the City;

- C. A system of quality retail and commercial development that provides local residents with needed goods and services and enhances the City's tax base;
- D. Quality employment opportunities for all segments of the population;
- E. A physical relationship between employment opportunities, residential living and goods and services that allow for reduced dependence on the automobile;
- F. A balanced transportation system that provides for safe and efficient movement of vehicles and pedestrians while re-enforcing surrounding land development patterns and that enhances and complements regional transportation facilities;
- G. A park and open space system that satisfies the recreational and leisure needs of local residents, preserves the natural environment and enhances the quality and character of the City;
- H. A balance between the natural and man-made environments that preserves and protects natural features while promoting development and redevelopment;
- I. The protection and preservation of existing properties and values from adverse or non-harmonious adjacent property uses;
- J. Public facilities and services adequate to meet the needs generated for such facilities and services by development; and
- K. The protection and preservation of historic properties, structures, landmarks and districts.

Sec. 1.050. General provisions.

- A. Purpose. This section describes the specific uses to which land and structures may be put in the various zoning districts, and includes special requirements in order for certain uses or structures to be allowed. District regulations such as

lot size, lot width, building setbacks, density or floor area ratio and structure height are also included.

B. Zoning map.

1. Official zoning map adoption.

- a. The boundaries of the various zoning districts are shown on a map entitled "Zoning Districts Map, Lee's Summit, Missouri" adopted on the date of adoption of this chapter, and as amended thereafter from time to time.
- b. The "Zoning Districts Map, Lee's Summit, Missouri" is adopted as the Official Zoning Map and is hereby made a part of this chapter, and all notations, references and other information shown on it shall be a part of this chapter.
- c. The Official Zoning Map, as adopted by the Governing Body and subsequently amended from time to time by its action, shall be maintained by the Director.

2. Changes to official zoning map.

- a. Changes due to map amendment. No changes of any nature shall be made to the Official Zoning Map except in conformity with amendments to the map approved by the Governing Body.
- b. Changes due to annexation. Where city limit boundaries change by virtue of annexation, the following provisions shall apply:
 - (1) Land area incorporated through annexation shall retain its existing zoning classification until an application for rezoning is submitted to the Director.
 - (2) Any application for a building permit or development plan shall be processed in the customary manner as it would have been prior to annexation.
- c. Changes due to right-of-way vacation. Whenever any street, alley or public way is vacated by an official action of the Governing Body, the zoning district adjoining each side of such vacated land

shall be automatically extended to the center of the land vacated and all land included in the vacation shall then be subject to the regulations and restrictions of that particular district.

- d. Notification upon amendment. Following the approval of a zoning map amendment by the Governing Body, the City Clerk shall transmit a copy of the amendment to the Director. If the action was to rezone property, the Director shall cause the Official Zoning Map to be amended to show the change.

3. Interpretation of boundaries.

- a. The boundaries of the districts as shown on the Official Zoning Map shall be determined on the basis of the legal descriptions associated with approved zoning petitions, or, lacking such legal descriptions, on the basis of the location of the boundary as depicted on the Official Zoning Map.
- b. Where uncertainty exists with respect to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
 - (1) Unless otherwise indicated, the district boundary lines are center lines of streets or railroads or such lines extended, property lines or such lines extended, a line lying in the center of a stream or drainage way, or the City limits of Lee's Summit.
 - (2) Where a district boundary line parallels a street right-of-way or discernible topographic feature but no dimension is given, the distance shall be scaled from the Official Zoning Map.
 - (3) Where a district boundary line divides a lot that is of single ownership at the time of the effective date of this chapter, the zoning classification of the larger portion may be interpreted to extend into the smaller portion for a distance of no more than ten feet.

- (4) In the event the exact location of a boundary cannot be determined by the foregoing methods, the Board of Adjustments shall, upon application, determine the location of the boundary.

C. General requirements applicable to all zoning districts.

1. Use limits. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose other than as permitted in the zoning district in which it is situated or as permitted in the approved final development plan.
2. Height or area limits. Except as otherwise specifically provided, no building or structure shall be erected, constructed, reconstructed, moved or altered to exceed the height or area limits established in the zoning district in which it is situated.
3. Reduction of yards/increase in densities. Except as otherwise specifically provided, no lot area shall be reduced or diminished so that the yards or other open spaces will be smaller than prescribed, nor shall the density be increased in any manner that exceeds the applicable district standards or approved development plan.

D. Development plan and allowable modifications.

1. Statement of objectives. The Governing Body may approve a development plan to:
 - a. Permit the use of more flexible land use regulations,
 - b. Provide latitude in the location of buildings, structures, open spaces, play areas, parking, roads, drives and variations in setback and yard requirements,
 - c. Facilitate use of the most advantageous techniques of land development,
 - d. Encourage the combination and coordination of architectural styles, building forms and relationships, and
 - e. Limit specific uses within the underlying zoning district to a particular develop-

ment plan when it is deemed more appropriate and/or compatible to surrounding uses, proposed or future uses or when deemed to be in the best interest of the community to limit the uses based on existing and/or proposed traffic conditions and/or concerns.

2. Harmony with existing regulations. A development plan shall establish regulations and restrictions that are in harmony with the general purpose and intent of this chapter, but in a manner that allows such regulations to differ in one or more respects from the zoning regulations that are generally applicable to the underlying zoning districts.
3. Modifications to district requirements. (See Section 2.350.E.)

Sec. 1.060. Relationship to other provisions of the code.

- A. Cross-references. The use of buildings and land within the City is subject to all other applicable provisions of the City Code as well as this chapter, whether or not the other provisions of the City Code are specifically cross-referenced in this chapter. Cross-references to other provisions of the City Code in this chapter are for the convenience of the reader, and the lack of a cross-reference should not be construed as an indication that other provisions of the City Code do not apply.
- B. Chapter provides minimum requirements. In interpreting and applying the provisions of this chapter, each provision shall be construed to be the minimum requirements necessary for the promotion of public health, safety or the general welfare. Whenever this chapter requires a lower height of a building or lesser number of stories, or requires a greater percentage of the lot to be left unoccupied, or imposes more restrictive standards than are required pursuant to any other statute or local regulation, this chapter shall govern.

Sec. 1.070. Relationship to comprehensive plan and other policies.

It is the intention of the City that this chapter implement the planning policies adopted for the City as

reflected in the Comprehensive Plan, as amended, and other planning documents. While the City reaffirms its commitment that this chapter and any amendment thereto be in conformity with adopted planning policies, the City hereby expresses its intent that neither this chapter nor any amendment thereto may be challenged merely on the basis of an alleged nonconformity with the Comprehensive Plan or other planning policy.

Sec. 1.080. Administrative delay of development applications.

- A. Authority. The Governing Body, by resolution, may direct the Director, or other appropriate City staff, not to initiate or not to continue the processing of any development application authorized by this chapter; provided that, the Governing Body has previously directed City staff to prepare, or obtain consultant assistance in the preparation of, chapter text amendments contemplated by Section 2.250 of this chapter, or planning policies.
- B. Procedure. The Governing Body, in the resolution, shall establish the types and nature of development applications with respect to which processing shall be delayed. This decision shall be based upon the likelihood that the proposed chapter text amendment or planning policy may have an impact on the content and submission requirements and/or consideration of a certain type and/or nature of development applications. The resolution may delay the processing of certain types or nature of, or all, development applications within the entire City or a defined geographic area of the City, if it determines that development applications related to property within the defined geographic area covered by the resolution will be impacted by the proposed chapter text amendment or planning policy.
- C. Effective period. The resolution shall establish the period of time within which processing of development applications shall be delayed or discontinued. The period of time set shall not exceed one year from the date of adoption of the resolution; provided that, in no event shall the period set extend beyond the date upon which the Governing Body makes a final decision in its consideration of the chapter text amendment or

planning policy that it has directed City staff to prepare. If the Governing Body determines that a good faith effort is being made to prepare and make a final decision on the chapter text amendment or planning policy, but that no final decision has been made, it may extend the period of time set in the initial resolution for an additional period, not to exceed one year.

- D. Purpose. This section is designed to preserve the status quo while consideration is given to a chapter text amendment or planning policy, and to prevent the establishment of a new nonconforming situation that will undermine the effect of the chapter text amendment before it is adopted.

Sec. 1.090. Relationship to private restrictions.

The provisions of this chapter are not intended to affect any deed restriction, covenant, easement or any other private agreement relating to, or restricting, the use of land. Where the provisions of this chapter are more restrictive than any private restriction, the requirements of this chapter shall control. Where the provisions of any private restriction are more restrictive than the provisions of this chapter, the private restrictions shall control, if properly enforced by a person having the legal right to enforce the restrictions. Private restrictions shall not be enforced by the City.

Sec. 1.100. Prohibitions.

- A. No building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose except in accordance with the provision of this chapter and other relevant provisions of the City Code.
- B. No person may use, occupy, or sell any land or building or authorize or permit the use, occupancy, or sale of land or buildings except in accordance with all of the applicable provisions of this UDO.
- C. The density and yard requirements of this chapter are the minimum regulation for each and every building or structure constructed after the effective date of this chapter and for any building or structure hereafter constructed or structurally altered. No land required for yards or other open

spaces around an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.

- D. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Sec. 1.110. Adequate public facilities and services.

In order to prevent the premature development of land which might pose a threat to the health, safety or general welfare of the community at large, or the occupants of land in the particular area of the City, it shall be the policy of the City that no application for special use permit, preliminary or final development plan or preliminary or final plat shall be approved unless public facilities and services, which are adequate to serve the development, are either:

- A. Presently available, or
- B. Are to be provided as a condition of approval of the application, or
- C. Are planned to be available reasonably concurrent with the anticipated impacts of the proposed development as determined by the affected utility, agency or department.

Sec. 1.120. Zoning of annexed lands.

Unless land is rezoned at the time of its annexation into the City, the land shall retain its zoning classification under county or township zoning until the property is rezoned pursuant to the provisions of this chapter. The City shall have the authority to pursue remedies for violations of such county or township regulations to the same extent that it may pursue remedies for violation of this chapter pursuant to Section 1.170.

Sec. 1.130. Effective date.

The provisions of this chapter are hereby adopted and become effective on the 1st day of November 2001.

Sec. 1.140. Development under prior regulations.

- A. Previously existing regulations. Those regulations in effect immediately prior to the effective date of this chapter shall be referred to in this chapter as the "previously existing regulations." This chapter shall be referred to either as "these regulations" or the UDO.
- B. Administrative permits. All permits issued by an administrative official or body, or a legislative body acting in an administrative capacity, prior to the effective date of this chapter shall be valid until their expiration under the previously existing regulations. Applications for administrative permits submitted after the effective date of these regulations shall be reviewed and evaluated pursuant to the requirements of this chapter, except as further specified in Article 10.
- C. Subdivision. Complete applications for preliminary plat(s) submitted prior to the effective date of these regulations shall be processed under the previously existing regulations. Incomplete applications for preliminary plats submitted prior to the effective date of this chapter, and that are not submitted in a complete form until after the effective date of this chapter, shall be processed under this chapter. All applications for subdivision approvals submitted after the effective date of these regulations shall be reviewed pursuant to these regulations. Preliminary or final plat applications, approved under the previously existing regulations, that are allowed to lapse or expire will be subject to reapplication under these regulations.
- D. Zoning.
 1. Existing uses may continue either in compliance with these regulations or as legal non-conforming uses subject to the requirements of Article 10.
 2. Existing lots that do not comply with the requirements of these regulations may be developed pursuant to the requirements of Article 10.
 3. Applications for proposed new uses submitted after the effective date of this chapter shall be considered pursuant to these regulations.

- E. Special use permits. The Director shall monitor all outstanding special use permits issued under the previously existing regulations and prior to expiration of an existing special use permit, the permit holder may, if required under this UDO, apply for a special use permit as set forth in Article 10 of this chapter.
- F. Nonconforming situations. All nonconforming situations and uses shall be governed by Article 10 of this chapter.

Sec. 1.150. Violations of prior regulations.

All violations under the previously existing regulations that exist within the City as of the effective date of this chapter, shall continue to be violations and shall not be considered to be legal, nonconforming situations under this chapter. The City shall have the authority to secure remedies for violations of those regulations to the same extent that it may secure similar remedies for violations of this chapter pursuant to Section 1.170.

Sec. 1.160. Violations.

If any building or structure is erected, constructed, reconstructed, altered, converted, moved or maintained, or any building, structure, or land is used in violation of this chapter or regulations made under its authority, a Code Enforcement Officer may institute any proper action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use; to restrain, correct or abate the violation; to prevent the occupancy or use of the building, structure, or land; or to prevent any illegal act, conduct, business or use in and to the premises.

Sec. 1.170. Penalty for violations and civil remedies.

- A. Civil citations. If the Code Enforcement Officer determines that a violation of this chapter or regulations made under its authority has occurred, the Code Enforcement Officer may issue the violator a civil citation, which shall be proceeded upon in accordance with the provisions herein. The civil citation shall be issued to the violator by the Code Enforcement Officer upon a uniform municipal infraction form provided by the clerk of the municipal court, which shall include a

notice or summons to answer the charges against him within the time specified on the form for hearing before the municipal court. Upon issuance of a civil citation, the Code Enforcement Officer shall provide a copy of the notice or summons to the clerk of the municipal court.

- B. Plea and fines. Any person issued a civil citation for a violation of this chapter or regulations made under its authority, for which payment of a fine may be made to the municipal court, shall have the option of paying the fine in the sum and within the time specified in the civil citation upon entering a plea of guilty and upon waiving an appearance in court. It shall be the duty of the municipal court to accept payment of a fine. The payment of a fine to the municipal court shall be deemed an acknowledgment of conviction of the alleged offense and the court, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment. Any person issued a civil citation may, in the alternative, enter a plea of not guilty, and upon the entry of a plea of not guilty, shall be entitled to a trial as authorized by law.

- C. Fines for violations. Violations of any provision of this chapter are hereby declared to be public offenses and, pursuant to the authority of RSMo 89.120, misdemeanors. The owner or general agent of a building or premises where a violation of any provision of the regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where a violation has been committed or exists, or the owner, general agent, lessee or tenant of any part of the building or premises in which a violation has been committed or exists, or the general agent, architect, builder, contractor or any other person who commits, takes part in or assists in any violation or who maintains any building or premises in which any violation exists shall be guilty of a misdemeanor punishable by a fine of not less than \$10.00 and not more than \$250.00 for each and every day that such violation continues, or by imprisonment for ten days for each and every day the violation continues, or by both fine and imprisonment, in the discretion of the court. For the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less

than \$100.00 or more than \$500.00 for each and every day that the violation shall continue, or by imprisonment for ten days for each and every day that the violation shall continue, or by both fine and imprisonment in the discretion of the court.

- D. Penalty after notice of violation. Any person who, having been served with an order to remove a violation, shall fail to comply with the order within ten days after the service or shall continue to violate any provision of this chapter in the same manner as stated in the order shall also be subject to a civil penalty of \$250.00.
- E. Civil lawsuits. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this chapter and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected, constructed, altered, converted, moved or maintained in violation of this chapter, or any building, structure or land is proposed to be used in violation of this chapter, the City Attorney, or other appropriate authority of the City may, in addition to any other remedies, institute injunction, mandamus or any other appropriate actions or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

Sec. 1.180. Severability.

It is the City's intention that the sections, subsections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any section, subsection, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the unconstitutionality or invalidity shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses or phrases of this chapter since the same would have been enacted without the incorporation into this chapter of the unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase. The Council

hereby declares that it would have passed the ordinance that adopted this chapter and each section, subsection, paragraph, sentence, clause and phrase hereof irrespective of the fact that any one or more section, subsection, paragraph, sentence, clause or phrase be declared unconstitutional.

Sec. 1.190. Fees.

- A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, subdivision plat approval, zoning amendments, variances and all other applications covered by this chapter. The amount of the administrative fees charged shall be established by the City of Lee's Summit Schedule of Fees and Charges, as amended.
- B. Fees established in accordance with this section shall be paid upon submission of a signed application or notice of appeal.

Sec. 1.200. Applicability to public facilities.

- A. The zoning regulations contained in this chapter are not applicable to the State of Missouri, its lawfully designated subdivisions or agencies, or property of the state or its subdivisions or agencies. Public property is subject to the provisions and procedures of this chapter with regard to police power regulations regulating health, safety and welfare. Review of the location, extent and character of the proposed development of public property is permissible to the extent provided in Article 2 of this chapter.
- B. The zoning regulations contained in this chapter are applicable to the City and all of its agencies, except where otherwise indicated. From and after the date that the City has adopted a comprehensive plan of the municipality or any part thereof, no street or other public facility, or no public utility, whether publicly or privately owned, and, the location, extent and character thereof having been included in the recommendations and proposals of the plan or portions thereof, shall be constructed or authorized in the municipality until the location, extent and character thereof has been submitted to and approved by the Commission.

PROOFS

ARTICLE 2.

APPLICATIONS AND PROCEDURES

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DIVISION I. GENERAL APPLICATIONS AND PROCEDURES

Sec. 2.010. Who may apply; applications.

- A. An amendment to the Unified Development Ordinance text may only be initiated by the Governing Body, City Administrator or the Director.
- B. An application for rezoning and/or preliminary development plan approval may only be filed by the property owner, the property owner's agent or by the City Administrator, at the direction of the Governing Body.
- C. An application for an appeal to the Board may be filed by any person or persons jointly or severally aggrieved, any neighborhood association as defined in RSMo 32.105, or any officer, department, board or bureau of the City affected by any decision of an official administering the provisions of this chapter.
- D. All other applications provided for in this chapter may only be filed by the property owner or the property owner's agent.
- E. All applications shall be made on forms provided by the City.

Sec. 2.020. Applications—Proof of ownership and/or authorization of agent.

- A. All applications shall require the signature of the property owner, or the agent of the property owner, on the application. Applications without the proper signatures shall be deemed incomplete and shall not be processed.
 - 1. Where an application has been filed by the property owner, proof of ownership shall be submitted to the City in the form of an affidavit.
 - 2. Where an application has been filed by an agent of the property owner, an affidavit signed by the property owner shall be submitted to the City, establishing the agent's authorization to act on behalf of the property owner.
- B. The affidavits required by this section shall be on forms prescribed by the City or in such form as is acceptable to the Director, and shall be submitted at the time of filing the application.

Sec. 2.030. Pre-application conference.

A pre-application conference shall be coordinated through the Director or his/her designee and any other city representatives he/she deems appropriate prior to submission of any application for rezoning, special use permit, preliminary development plan, or preliminary plat. The purpose of the pre-application conference is to:

- A. Acquaint the applicant with the procedural requirements of this chapter;
- B. Provide for an exchange of information regarding applicant's proposed development and the regulations, restrictions and requirements of this chapter, the Comprehensive Plan and other development requirements;
- C. Advise the applicant of any public sources of information that may aid the application; identify policies and regulations that create opportunities or pose significant restraints for the proposed development;
- D. Review proposed concept plans and provide the applicant with opportunities to enrich the development plan in order to mitigate any undesirable project consequences;
- E. Review the compatibility with adjacent land uses, either proposed or existing;
- F. Provide general assistance by City staff on the overall design of the proposed development.

Sec. 2.040. General application requirements

- A. Application requirements. Unless otherwise indicated in this chapter or by the Director, all applications for rezoning, special use permit, preliminary development plan, and final development plan approval shall contain the following items and materials:
 - 1. Date prepared;
 - 2. Name, address and telephone number of the applicant and the name, address and telephone number of the landowner if different than the applicant;
 - 3. Affidavit testifying to proof of ownership or of authorization of agent pursuant to Section 2.020, if applicable;

4. Name, address and telephone number of all persons preparing any technical studies, maps, drawings and documents submitted with the application;
 5. Accurate legal description, accompanied by a legal description closure report for metes and bounds descriptions, of the property for which the application is submitted;
 6. Any technical studies that may be required by the Director pursuant to Section 2.060;
 7. If the application contains a request for approval of a single-family residential development, a statement regarding the compatibility of the proposed development with proposed or existing adjacent development pursuant to Section 2.050.
- B. Plan submission requirements. Unless otherwise indicated in this chapter or by the Director, each plan submitted with an application for rezoning, special use permit, preliminary development plan, or final development plan approval shall contain the following:
1. Date prepared;
 2. Name, address and telephone number of the person who prepared, or person responsible for preparing, the plan;
 3. Graphic, engineering scale not to exceed 1:100. All plans shall be drawn to a standard engineer's scale of 1:50 or 1:100, unless a different scale is specifically approved by the Director;
 4. Plan size maximum of 24 inches by 36 inches with one inch border;
 5. North arrow; plan shall be oriented so north is to the top or to the right side of sheet;
 6. Vicinity map with north arrow indicating the location of the property within the City.
- C. Preliminary and Final Plat submission requirements. (See Article 7.)
- Sec. 2.050. Adjacency compatibility for single-family, detached residential development.**
- A. Submission requirement. All single-family detached residential development submissions including applications for rezoning, preliminary development plan and preliminary plat approval shall contain a statement regarding the compatibility of the proposed development with adjacent proposed or existing development that addresses the following considerations:
1. Street separation between the proposed development and the adjacent development;
 2. Density of development, measured in dwelling units per acre;
 3. Restrictions on types of fencing, parking of specific vehicles, dog runs and outbuildings;
 4. Similarity of architectural style and character of structures, including front elevations, exterior materials and roof pitch;
 5. Classification and mixture of building types, including ranch, raised-ranch, split-level, multi-level, earth contact and two-story structures;
 6. Green space or common area, including areas, structures and amenities for the exclusive use and maintenance of homeowners of a subdivision;
 7. Streetscape, including distinctive and aesthetic features of special street signage, street lighting fixtures, street trees, and other landscaping;
 8. Lot width;
 9. Lot depth;
 10. Setbacks;
 11. Square footage of homes measured by total finished floor area;
 12. Lot area;
 13. Minimum floor areas proposed and existing;
 14. Entrance monumentation; and
 15. Street layout and lot configuration.
- B. Consideration of compatibility with proposed adjacent development. Only proposed adjacent development for which a preliminary development plan or preliminary plat has been approved shall be considered in a statement regarding adjacency compatibility submitted pursuant to Subsection A. of this section.

Sec. 2.060. Submission of technical studies.**A. Technical studies required by Director.**

1. The Director may require applicants for rezoning, special use permits, preliminary or final development plans or preliminary plats to submit any technical studies that the Director deems necessary to enable the Commission or Governing Body to fully evaluate the application. Examples of technical studies that may be required shall include, but not be limited to, traffic studies, engineering studies, geologic or hydrogeologic studies, flood studies, environmental impact assessments, noise studies, photometric plans (for outdoor lighting) or surface water management/drainage studies.
2. The persons or firms preparing the studies shall be acceptable to the Director. The applicant may appeal the Director's determination as to the requirement for a technical study to the Commission by filing a written notice of appeal with the Director within seven days after the Director's decision. The Director shall transmit the notice of appeal to the Commission, and the Commission shall hear the appeal at the next scheduled Commission meeting. If the Commission affirms the Director's determination, the applicant may appeal the decision of the Commission to the Governing Body by filing a written notice of appeal with the Director within seven days after the Commission's decision. The Director shall transmit the notice of appeal to the Governing Body, and the Governing Body shall hear the appeal at their next regularly scheduled meeting. The costs of all studies shall be borne by the applicant.

- B. Technical studies required by Commission or Governing Body.** Notwithstanding the fact that the Director did not require submission of a technical study in support of an application, either the Commission or the Governing Body may require the submission of a technical study prior to taking action on the application.

Sec. 2.070. When applications deemed complete.

- A.** No application for a rezoning, special use permit, preliminary or final development plan or preliminary

or final plat shall be deemed complete until all items required to be submitted in support of the application have been submitted to the Department in the form and containing the information required by this chapter. Upon receipt of a complete application, the Department shall note the filing date on the application and shall make a permanent record thereof.

- B.** If the applicant fails to submit the above required elements for the development approval that the applicant is requesting, the application will not be considered complete, the application shall not be processed. The filing, notification and advertising process established by this chapter will not begin until all required elements have been submitted in the form required by this article.

Sec. 2.080. Application and submission deadlines.

The Director or the Commission may administratively provide for submission deadlines for materials required in support of any application provided for in this chapter. These deadlines shall be provided to the applicant at the pre-application conference required by Section 2.030. Compliance with these deadlines is required before the application will be placed on an agenda to be heard by the Commission or the Governing Body. At the discretion of the Director, non-agenda items may be brought before the Commission or the Governing Body for hearing; provided that, the Commission or the Governing Body, at the sole discretion of each, may refuse to hear non-agenda items.

Sec. 2.090. City staff review.

- A. General review.** The City staff shall review all applications, plans, information and data submitted in support of an application by the applicant. After reviewing the information, the City staff shall prepare a staff report discussing the submitted data. This report shall be provided to the applicant and appropriate City officials and be available for public review. The report shall discuss the submitted information, the actual site area, the proposed development, suggested or required conditions of approval of the proposed development, and any other pertinent data. The

staff report may contain a recommendation for approval, approval with conditions, continuation or denial.

- B. CPTED Review (Crime Prevention Through Environmental Design). All development applications shall be reviewed by the CPTED Review Committee in accordance with adopted CPTED principles and standards set forth in Article 8, Division I and conditions of approval set forth in Article 6, Division II of this chapter. The CPTED Review Committee shall use the adopted principles and standards in making recommendations for consideration by the Commission and City Council in their review of the development application.

Sec. 2.100. Conditional approvals.

In the consideration of any application authorized by this chapter, the recommending and the approving authority may stipulate that the recommendation or approval, as the case may be, is subject to compliance with certain specified conditions, including, but not limited to limitations on permitted uses, time of performance requirements, limitation on hours of operation, and provision of services and/or facilities to ensure that adequate public services and facilities are available to meet the need for such services and facilities generated by the development proposed by the application under consideration.

Sec. 2.110. Written findings.

Unless otherwise specifically required by this chapter or by other applicable laws, written findings are not required for a final decision on any application. However, any decision may be expressly made subject to the subsequent adoption of written findings and, if expressly made subject to written findings, the decision shall not be final until the findings are adopted. Where an appeal of any quasi-judicial decision has been filed in the Circuit Court of Jackson or Cass County, in cases where written findings have not been adopted, written findings shall be adopted by the approving authority within 45 days of service of the appeal on the City and thereafter shall be certified to the Circuit Court as part of the administrative record. The 45-day time period for adoption and certification of findings may be extended with the permission of the Circuit Court.

Sec. 2.120. Final decision where ordinance required.

- A. In the case of a decision to approve a Unified Development Ordinance text amendment, rezoning, preliminary development plan, special use permit, final plat or other application, where adoption of an ordinance is required, the decision shall be final on the date that the Governing Body adopts the ordinance approving the application.
- B. A decision to deny a Unified Development Ordinance text amendment, rezoning, special use permit, final plat or other application is final when:
1. The Governing Body votes to deny the application;
 2. An ordinance with respect to such application fails to receive number of votes required by law; or
 3. The Mayor vetoes a decision by the Governing Body to approve the application, and such veto is not overturned by the Governing Body.

Sec. 2.130. Appeals of final decisions.

Except where this chapter provides for an appeal to another body, any person, official or agency who is aggrieved by a final decision on an application provided for in this chapter, and who desires to appeal the decision, shall file the appeal in the county in which the property is located, within 30 days after the decision is made.

Sec. 2.140. Inactive application.

Should any application remain inactive for a period of 12 months, it shall be considered withdrawn unless the applicant provides written reasons why the application has remained inactive, including a schedule indicating when the application will again be active.

DIVISION II. PUBLIC HEARINGS AND NOTICES**Sec. 2.150. Public hearings****A. When required.**

1. Two hearings required. The following applications require public hearings before the Commission and the Governing Body:
 - a. Unified Development Ordinance Text Amendments;
 - b. Rezoning;
 - c. Special use permit;
 - d. Conceptual Development Plan;
 - e. Preliminary Development Plan;
 - f. Street name change, except as provided below; and
 - g. Vacation of right-of-way.
2. Commission hearing only. The following applications require a public hearing before the Commission only:
 - a. Comprehensive Plan;
 - b. Comprehensive Plan amendment;
 - c. Capital Improvements Plan;
 - d. Preliminary Development Plan for public facilities of the state, its lawfully designated subdivisions or agencies (including public school facilities).
3. Not required. Public hearings are not required for:
 - a. Preliminary plat;
 - b. Final plat;
 - c. Vacation of easement;
 - d. Sign application;
 - e. Street name change, where there is no objection to the proposed change by any affected property owner;
 - f. Administrative items. The following items may be reviewed and approved administratively by City staff:
 - (1) Final Development Plan that contains minor or no changes to an approved Preliminary Development Plan;

(2) Minor plat.

- B. Purpose. The purpose of a public hearing is to provide the applicant, adjacent property owners, and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application, and to rebut evidence presented by others.

Sec. 2.160. Publication notices.

All public hearings required by this chapter shall be published in one issue of an official City newspaper or a newspaper of general circulation in the City. At least 15 days shall elapse between the date of the publication and the date set for hearing. Where the hearing is for consideration of changes in the text of this chapter or a general revision of the boundaries of zoning districts, the notice shall contain a statement regarding the proposed changes in the Chapter or in the boundaries of the zone or district. Where the hearing is for an application that relates to specific property, the property shall be identified by general location description or street address. The notice shall contain a general statement regarding the purpose of the application and a statement that public comment shall be heard.

Sec. 2.170. Notice to surrounding property owners.

Notice to surrounding property owners shall be required for rezoning, special use permit, conceptual development plan, preliminary development plan, street name change and vacation of right-of-way applications. The notice shall be given as follows:

- A. Time of mailing. The applicant shall mail all notices at least 15 days prior to the hearing, notifying the property owner of the opportunity to be heard.
- B. Mailed notice requirements. Mailed notice shall be sent, by regular mail, to the last known record owner of all property within 185 feet from the boundaries of the property for which the application is being considered. The notice shall state the time and place of the hearing, and include a general description of the proposal, a location map of the property, the general street location of the property subject to the proposed change, and a statement explaining that the public

will have an opportunity to be heard at the public hearing. Failure to receive mailed notice shall not invalidate any action taken on the application.

- C. Notice of right to protest. In cases of applications for which protest petitions may be submitted, the notice shall also contain a statement explaining that property owners within an area determined by lines drawn parallel to and 185 feet from the boundaries of the district to be changed, shall have the opportunity to submit a protest petition. The petition shall be in conformance with this article.
- D. Proof of notification. A copy of the mailed notice and a list of notified property owners with their addresses, along with an affidavit, shall be filed with the City prior to the public hearing certifying that notice has been sent in accordance with this section.

Sec. 2.180. Posting of notice signs.

- A. Posting of notice sign requirement. Applications for rezoning, special use permit, conceptual development plan, preliminary development plan, street name change and vacation of right-of-way shall have a sign posted on their premises, by the applicant at least 15 days prior to the date of the hearing informing the general public of the time and place of the public hearing. The City shall furnish the sign to the applicant for posting. The applicant shall make a good faith effort to place and maintain the sign on the property for at least 15 days immediately preceding the date of the hearing, through the hearing, and through any continuances of the hearing. The sign shall be placed within five feet of the street right-of-way/property line, or as close thereto as possible, in a central position on the property that is the subject of the hearing. The sign shall be readily visible to the public. If the property contains more than one street frontage, one sign shall be placed on each street frontage so as to face each of the streets abutting the land. The sign may be removed at the conclusion of the public hearing(s) and must be removed at the end of all proceedings on the application or upon withdrawal of the application.

- B. Sign protection. It shall be a violation of this chapter for any person to remove, deface or destroy any sign provided for in Subsection A. of this section.

Sec. 2.190. Public hearing procedures.

- A. Rules of procedure. The Governing Body, Commission and Board may adopt rules of procedure for public hearings by ordinance, resolution or bylaws.
- B. Written summary. An accurate written summary of the proceedings shall be made for all public hearings.
- C. Continuances:
1. One continuance as of right. Any applicant or authorized agent shall have the right to one continuance of a public hearing before the Commission, Governing Body or Board, provided that a written request for continuance is filed with the Director prior to opening the public hearing. The applicant shall make every reasonable attempt to notify all persons previously notified by mail of the continuance.
 2. Additional continuances. In addition to the procedure provided for in Subsection 1. of this section, the Commission, Board or the Governing Body may grant a continuance. A majority vote of those members of the official body present at the meeting shall be required to grant a continuance. The record shall indicate the reason for the continuance and any stipulations or conditions placed upon the continuance. If the Commission, Governing Body or Board agrees to a continuance of the public hearing, it may direct the applicant to re-notify property owners within 185 feet of the subject property, if such notification was required in the first instance, and provide proof of said re-notification to the Governing Body.
 3. Treatment of continuance and notice requirements. If an item that is subject to a public hearing is continued or otherwise carried over to a subsequent date and the public hearing has been opened, the public hearing shall not be deemed concluded until the

date on which the hearing is formally closed. If a continuance provides the date on which the matter will be heard, re-publication of notice is not required. If a continuance does not specify a date on which the matter will be heard, public notice pursuant to this article, as applicable, shall be provided prior to the date on which the matter is heard.

- D. Action by Commission. A vote either for or against an application by a majority of all of the Commissioners present shall constitute a recommendation of the Commission. If a motion for or against an application fails to receive a majority vote, the Commission may entertain a new motion. A tie vote, or the failure to obtain a majority vote on any motion, shall constitute a "failure to recommend." The Commission recommendation to approve, approve with conditions, disapprove or failure to recommend shall be submitted to the Governing Body, accompanied by a written summary of the hearing. A recommendation or failure to recommend and summary thereof shall constitute the final report of the Commission pursuant to RSMo 89.070.
- E. Governing Body action upon Commission recommendation. The recommendation of the Commission is advisory. When the Commission submits a recommendation to the Governing Body, the Governing Body, after holding a public hearing thereon after notification pursuant to this article, may take such action as it deems appropriate, including approval, approval with conditions, disapproval, amendment of the application and adoption as amended, or the Governing Body may return the application to the Commission for further consideration.
- F. Applications returned to Commission. Upon receipt of an application returned by the Governing Body, the Commission may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. If the Commission fails to deliver its recommendation to the Governing Body within ten days after receipt of the Governing Body's returned application, the Governing Body may consider this inaction on the part of the Commission as a resubmission of the original recommendation and proceed with its consideration. For purposes

of this subsection, the "receipt" of an application returned by the Governing Body shall be deemed to occur on the date of the first Commission meeting on which the returned item is placed on the agenda for consideration.

- G. Reconsideration by the Governing Body. Upon receipt of the Commission's recommendation after reconsideration, or if the ten-day period has elapsed following the Commission's receipt of the Governing Body's returned application, the Governing Body may take the action that it deems appropriate, including approval, approval with conditions, or disapproval. The Governing Body also may return the application to the Commission for further consideration. Unless the Governing Body returns the application to the Commission for further consideration or continues its consideration of the matter, the Governing Body's action on the application shall constitute a final decision.

Sec. 2.200. Protest petition procedures.

- A. Protest petitions. Rezoning, special use permit and preliminary development plan applications are subject to protest petitions in accordance with the following:
1. A protest petition may be filed with the City Clerk at any time prior to the commencement of the public hearing by the Governing Body. To be considered a valid protest, a protest petition must be timely filed and duly signed and acknowledged by the owners of 30 percent or more either of the areas of the land (exclusive of streets and alleys) included in such application or within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the property included in the application, as the case may be.
 2. Once a valid protest petition has been filed with the City Clerk, it may only be withdrawn if those requesting withdrawal reduce the land area requirement to less than 30 percent.
- B. Adoption where protest filed. Where a valid protest petition has been filed, an ordinance approv-

ing the application shall not become effective except by the favorable vote of two-thirds of all members of the Governing Body.

DIVISION III. UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENTS AND COMPREHENSIVE PLAN AMENDMENTS

Sec. 2.210. Unified Development Ordinance text amendments.

- A. Public hearing required. Consideration of Unified Development Ordinance text amendments shall require public hearings before the Commission and Governing Body following publication notice as provided in this article.
- B. Approval by ordinance. All Unified Development Ordinance text amendments shall be approved by ordinance.

Sec. 2.220. Comprehensive Plan, Comprehensive Plan Amendment and Capital Improvement Plan.

- A. Public Hearing required. Consideration of a Comprehensive Plan, an amendment to the Comprehensive Plan, or a Capital Improvement Plan, shall require a public hearing before the Commission, following publication notice as provided in this article.
- B. Approval by resolution. The Comprehensive Plan of the City and all amendments to the Comprehensive Plan, and the Capital Improvement Plan, shall be approved by Resolution of the Commission.

Sec. 2.230. Preliminary development plan for public facilities of the state, its lawfully designated subdivisions or agencies (including public school facilities).

- A. Public hearing required. Consideration of a Preliminary Development Plan for a public facility of the state, its lawfully designated subdivisions or agencies (including public school facilities) shall require a public hearing before the Commission, following publication notice as provided in this article.

- B. Submission requirements. The following items shall be submitted in support of an application for rezoning:

1. All general application requirements contained in Section 2.040.A.
2. All plan submission requirements contained in Section 2.040.B.
3. The submission requirements contained under "Preliminary Development Plans; applications — contents and submission requirements" in this article shall be used as a guide. The Commission's decision shall be limited to making a determination as to the location, extent and character of the proposed facility.

- C. Approval or denial. Approval or denial of public facilities of the state, its lawfully designated subdivisions or agencies (including public school facilities) shall be by vote of the Commission. Any appeal of the Commission's action shall be as provided for under RSMo 89.380.

DIVISION IV. REZONING, PRELIMINARY DEVELOPMENT PLAN, FINAL DEVELOPMENT PLAN, CONCEPTUAL PLAN, SIGN APPLICATION, AND STREET NAME CHANGE

Sec. 2.240. Rezoning; application—Contents and submission requirements.

The following items shall be submitted in support of an application for rezoning:

- A. All general application requirements contained in Section 2.040.A.
- B. All plan submission requirements contained in Section 2.040.B.
- C. Rezoning map, showing the following:
 1. Boundaries of the property to be rezoned;
 2. Legal description;
 3. Existing and proposed zoning district(s) of the property to be rezoned;
 4. Zoning, land use, and ownership of all parcels within 185 feet of the property to be rezoned.

- D. A preliminary development plan or a conceptual development plan, as required by this article, shall be submitted with every application for rezoning, except that a preliminary development plan need not be submitted for any rezoning to the AG, RDR, RLL, or R-1 District if the applicant does not propose the modification of any regulation contained in this chapter pursuant to this article.
- E. Rezoning to the R-1 District shall require a preliminary plat submittal concurrent with the rezoning application.
- F. A phasing plan, indicating the proposed date of commencement and completion of each phase.
- G. An adjacency compatibility study for single family residential development, pursuant to Section 2.050.

Sec. 2.250. Consideration of rezoning.

- A. Public hearing required. Consideration of rezoning applications shall require public hearings before the Commission and Governing Body following publication notice, notice to surrounding property owners, and posting of notice signs as provided in this article.
- B. Approval by ordinance. All rezoning applications shall be approved by ordinance.

Sec. 2.260. Criteria for considering rezoning, Preliminary Development Plan, and Conceptual Plan Applications.

- A. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to preserve features of historical significance; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a

view to conserving the values of buildings and encouraging the most appropriate use of land throughout such municipality.

- B. Criteria for considering rezoning applications. In considering any application for rezoning, the Commission and the Governing Body may give consideration to the criteria stated below, to the extent they are pertinent to the particular application. The Commission and Governing Body may also consider other factors that may be relevant to a particular application.
 1. The character of the neighborhood.
 2. The existing and any proposed zoning and uses of adjacent properties, and the extent to which the proposed use is compatible with the adjacent zoning and uses.
 3. The extent to which the proposed use facilitates the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
 4. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.
 5. The length of time, if any, the property has remained vacant as zoned.
 6. The extent to which the proposed use will negatively affect the aesthetics of the property and neighboring property.
 7. The extent to which the proposed use will seriously injure the appropriate use of, or detrimentally affect, neighboring property.
 8. The extent to which the proposed use will adversely affect the capacity or safety of the portions of the street network impacted by the use, or present parking problems in the vicinity of the property.
 9. The extent to which the proposed use will create excessive storm water runoff, air pollution, water pollution, noise pollution or other environmental harm.
 10. The extent to which the proposed use will negatively affect the values of the property or neighboring properties.
 11. The extent to which there is a need for the use in the community.

12. The economic impact of the proposed use on the community.
 13. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to this chapter.
 14. The extent to which public facilities and services are available and adequate to meet the demand for facilities and services generated by the proposed use.
 15. The gain, if any, to the public health, safety and welfare due to approval of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
 16. The conformance of the proposed use to the Comprehensive Plan, the Major Street Plan, the Capital Improvements Plan, and other adopted planning policies.
 17. The recommendation of professional staff.
 18. The consistency of the proposed use with the permitted uses and the uses subject to conditions in the district in which the proposed rezoning or special use is located.
- C. Criteria for considering preliminary development plan applications. The Commission and Governing Body shall use the applicable zoning district regulations as a guide for review of the preliminary development plan. If the Commission and/or Governing Body imposes conditions or restrictions on a preliminary development plan, it may designate specific requirements that must be met before an applicant may submit a final development plan application. The Governing Body, in establishing conditions of approval, may require the applicant to execute a "development agreement" that is acceptable to both the applicant and the City. Such "development agreement" shall become part and parcel to the ordinance approving the rezoning of the property for which the development plan represents. In considering any preliminary development plan application, the Commission and the Governing Body may give consideration to the criteria stated in Subsection A. above and may also consider the following criteria:
1. Development is designed, located and proposed to be operated so that the public health, safety and welfare will be protected;
 2. Development will not impede the normal and orderly development and improvement of the surrounding property; and
 3. Development incorporates adequate ingress and egress and an internal street network that minimizes traffic congestion.
- D. Criteria for preliminary development plan applications for non-residential uses allowed by right in residential districts. In considering any preliminary development plan application that proposes non-residential uses in residential districts, the Commission and the Governing Body may give consideration to the criteria stated in Subsection A. above and may also consider the following:
1. The capability of the site to accommodate the building, parking and drives with appropriate open space and safe and easy ingress and egress.
 2. The degree of harmony between the architectural quality of the proposed building and the surrounding neighborhood.
 3. The appropriateness of the minimum dimensions and areas of lots and yards contained in the applicable zoning district regulations may be considered and increased.
- E. Criteria for considering conceptual development plan applications. The Commission and Governing Body shall review the conceptual development plan pursuant to Subsection A. above. If a rezoning of the property is requested, the conceptual development plan shall be considered simultaneously with the rezoning of the property. Approval of a conceptual development plan shall become part of the ordinance that amends the zoning ordinance. Approval of the conceptual development plan does not constitute approval of a preliminary development plan for any phase shown on the conceptual development plan. By approving the conceptual development plan, the Governing Body is preserving to itself full legislative discretion to review a preliminary development plan for each phase shown on the conceptual development plan, or for the entire property, as may be applicable, including review and consideration of all criteria governing preliminary development plans as set forth in this chapter.

Sec. 2.270. Rezoning for lesser change.

The Commission may recommend and the Governing Body may adopt a rezoning that is a lesser change than the rezoning requested by the applicant, provided that the type of zoning district (residential, commercial or industrial) to which the property is rezoned by the Governing Body is the same type of zoning district requested in the rezoning application. In no case may a rezoning to a residential district be approved if the application is for a commercial or industrial district, and in no case may a commercial district be approved if the application is for an industrial district. In no case may a rezoning to any district other than the PMIX district be approved if the application is for a PMIX district. The Commission also may recommend and the Governing Body may adopt a rezoning that covers less area than the area described in the publication notice for the public hearing.

Sec. 2.280. Dual applications.

In an instance where an applicant seeks approval of two different requests simultaneously for the same parcel, such as a rezoning and a special use permit, the applicant shall submit all necessary documents, plans, maps and other required information in accordance with the provisions relating to both of the submitted applications and pay all appropriate fees for both applications.

Sec. 2.290. Limitation on successive rezoning applications.

- A. No application for rezoning shall be accepted if any application for rezoning for substantially the same property has been filed within the preceding 60 days.
- B. For purposes of Subsection A. of this section, the preceding 60-day period shall be determined as follows:
 - 1. If there was final action (either approval or denial) on the prior application, the 60-day period shall run from the date of the action.
 - 2. If the prior application was withdrawn after being advertised for public hearing, the 60-day period shall run from the date the application was withdrawn.

- C. The Director shall determine if an application concerns "substantially the same property" as a prior application. The property owner may appeal any such determination to the Governing Body.
- D. The Governing Body may waive the limitation in this section for good cause shown.

Sec. 2.300. Preliminary development plans; when required.

- A. A preliminary development plan application shall be submitted for the following situations:
 - 1. The rezoning of a property to any district except districts AG, RDR, RLL and R-1. A preliminary development plan shall be submitted and reviewed by the Commission and Governing Body simultaneously with the rezoning of the property, except as provided under "Conceptual Development Plan; when permitted;"
 - 2. The development of any vacant property in a planned district;
 - 3. The redevelopment of any property;
 - 4. A change in the primary use of property that negatively impacts traffic circulation or significantly intensifies traffic generation necessitating the formation and approval of a development agreement by and between the developer and the Governing Body for identified traffic improvements;
 - 5. The development of a non-residential use in the AG, RDR, RLL and R-1 districts;
 - 6. The request of any modification of this chapter;
 - 7. A substantial change to an approved preliminary development plan as defined by this article;
 - 8. A preliminary development plan may be required for a request for a special use permit per Article 6, Division III.
- B. A preliminary development plan is not required for the following situations:
 - 1. The rezoning to the AG, RDR, RLL or R-1 districts or for any residential development

- in the AG, RDR, RLL or R-1 districts provided no modifications of any regulation contained in this chapter are requested; or
2. The development of any property in the CS and PI districts provided no modifications of this chapter are requested; or
 3. A City initiated rezoning of any property; or
 4. A building addition onto an existing building that did not require a preliminary development plan, provided that a substantial change would not be created per this article; or
 5. A rezoning to any planned district if the property to be rezoned is fully developed and no substantial changes to existing building(s) or site improvements are planned.

Sec. 2.310. Preliminary development plans; applications—Contents and submission requirements.

The following items shall be submitted in support of an application for preliminary development plan:

- A. All general application requirements contained in Section 2.040.A.
- B. All plan submission requirements in Section 2.040.B.
- C. Contents. The proposed preliminary development plan shall also include the following:
 1. A legal description which accurately describes the limits of the property.
 2. Approximate total acreage.
 3. The plan shall include the following information on the existing conditions for the proposed site and within 185 feet of the property:
 - a. Location and limits of the one percent annual chance flood, as set forth on the current FEMA maps with reference to the panel number. Elevations shall be provided if shown on the FEMA map.
 - b. Existing streams, bodies of water, and surface drainage channels.
 - c. Location, massing and pattern of existing vegetation.
 - d. Topography with contours at two-foot intervals. In areas where grades are gentle, the Director may require a lesser contour interval.
 - e. Location of all oil and gas wells, whether active, inactive, or capped.
 - f. Special features (such as ponds, dams, steep slopes or unusual geology) or unusual historical features (such as former landfills, fill areas or lagoons) must be identified by the applicant. The applicant, at the Director's discretion, may be required to provide professional analysis of these conditions to address health, safety and general welfare questions related to the proposed subdivision.
 - g. The location and size of retention basins, detention basins and drainage structures, such as culverts, paved or earthen ditches or storm water sewers and inlets.
 - h. Location, width and name of any existing or platted street, alley or any other dedicated rights-of-way.
 - i. Location, width and dimensions of existing utility easements, with document reference if dedicated by separate document.
 - j. Existing and proposed buildings, which exist on plans on file with the City. Single- and two-family buildings may be shown in approximate location and general size and shape.
 - k. Location and size of all existing utility lines and storm water management/detention facilities.
 - l. Names of abutting subdivisions and owners of abutting parcels of unsubdivided land.
 - m. Surrounding land uses and zoning districts of adjacent properties.
4. The plan shall include the following information on the proposed development:
 - a. Layout, number and approximate dimensions of lots and approximate lot areas.

- b. Name, location, width, radii, centerline, and grade of proposed streets and alleys, both public and private.
- c. Location and width of proposed sidewalks and public walkways.
- d. Location and width of proposed easements.
- e. Building setback lines from streets with dimensions.
- f. Location and approximate dimensions of culverts and bridges.
- g. Location of driveways, curb cuts, median breaks and turn lanes.
- h. The general location and approximate size of all proposed utility lines, including water, storm water, and sanitary sewers.
- i. A sanitary sewer impact statement that will address the proposed discharge into the existing sanitary sewer receiving system, if required by the City Engineer.
- j. Appropriate water service demand data (including, but not limited to, planned land usage, densities of proposed development, pipe sizes, contours and fire hydrant layout) to allow for the preliminary analysis of the demand for water service if required by the City Engineer.
- k. Information (proposed size, nature and general location) on all proposed storm water management facilities and detention facilities. A preliminary storm water report shall be submitted unless the requirement is waived by the City Engineer. All preliminary storm water reports shall include:
 - (1) Current and proposed land use assumptions,
 - (2) Identification of the watershed in which the project is located,
 - (3) Identification of offsite drainage areas,
 - (4) Surrounding property information,
 - (5) Any other pertinent information about the site which may influence storm water runoff,
 - (6) Proposed storm water facilities,
 - (7) The downstream effects of the development,
 - (8) Calculations for the 100 percent, ten percent and one percent storms. All calculations must be submitted with the report; a summary table is not acceptable,
 - (9) If the storm water report indicates that detention is not required, supporting calculations evaluating the downstream effects must be provided,
 - (10) All reports shall be signed and sealed by a professional engineer registered in the State of Missouri.
- l. Location and size of proposed open space for public use proposed to be dedicated or reserved and any conditions of such dedication or reservation; parks, playgrounds, churches, or school sites or other special uses of land to be considered for public use, or to be reserved by deed or covenant for the use of all property owners in the subdivision.
- m. Location, dimensions and area in square feet of all proposed buildings and structures.
- n. Location and dimensions of all parking spaces, accessible spaces, drive aisles, driveways, and curbs.
- o. Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan.
- p. General extent and character of proposed landscaping to include general species and size information.

- q. Proposed topography at two foot (2') intervals, including general drainage patterns.
 - r. Proposed exterior lighting, including parking lot lights and wall-mounted fixtures, including fixture type, location, height and intensity. Manufacturer's specification sheets shall be submitted.
 - s. Phasing of development.
 - t. Sight triangles (see Article 8, Division I).
5. Exterior building elevations.
- a. Preliminary building elevations of all sides depicting the general style, size and exterior construction materials and color schedule of the building proposed. In the event of several building types, a minimum of one elevation of each building type is required.
 - b. Building height.
6. Land use schedule. A land use schedule shall include the following, as applicable:
- a. Total floor area,
 - b. Number of dwelling units,
 - c. Land area,
 - d. Number of required and proposed parking spaces,
 - e. Impervious coverage,
 - f. Floor Area Ratio (FAR),
 - g. Dwelling units per acre, with and without common area,
 - h. The range of land uses to be permitted in each designated area of the development.
7. Statement of need for modification from district regulations. A narrative statement that explains the need for modification of the applicable zoning district regulations, as such modification is permitted pursuant to Article 4, shall be submitted in support of the application for the preliminary development plan approval.
8. Common Property Maintenance Plan. A written plan in such form as may be prescribed by the Director that demonstrates that all common property, if any, will be owned and maintained in accordance with Article 7, of this chapter, shall be submitted with the application for preliminary development plan approval.

Sec. 2.320. Consideration of preliminary development plans.

- A. Public hearing required. Consideration of preliminary development plan applications shall require public hearings before the Commission and Governing Body following publication notice, notices to surrounding property owners, and posting of notice signs as provided in this article.
- B. Approval by ordinance. All preliminary development plan applications shall be approved by ordinance.
- C. Modification of underlying district regulations. The Commission may recommend, and the Governing Body may approve, pursuant to the procedures set forth in this section, a preliminary development plan that modifies one or more of the restrictions or regulations found in this chapter, including, but not limited to, density and minimum lot size requirements, floor area ratios, building setback requirements, design standards, required minimum public improvements, building materials and color, maximum structure heights, parking, landscaping, buffering and tree protection requirements. Uses permitted as of right, uses permitted with conditions and special uses within each district, as set forth in Article 4, cannot be modified pursuant to this subsection. A preliminary development plan that contains proposed modifications from one or more of the restrictions or requirements of this chapter, as authorized by this subsection, may be recommended for approval or approved, as the case may be, if the Governing Body concludes, in addition to the criteria for approval set forth in Subsection D. of this section, that the development proposed by the preliminary development plan will provide sustainable value to the City, incorporates sound planning principles and de-

sign elements that are compatible with surrounding properties and consistent throughout the proposed project, effectively utilize the land upon which the development is proposed, and further the goals, spirit and intent of this chapter. No separate vote on proposed modifications is required by this subsection. It is the intent of this subsection that the Commission and the Governing Body evaluate the proposed preliminary development plan to determine if, as a whole, it is consistent with the approval criteria set forth herein and the purposes of this chapter.

- D. Preliminary development plan in rezoning ordinance. Any preliminary development plan submitted with a rezoning application shall become part of the ordinance that amends the zoning ordinance.
- E. Duration of validity. Preliminary development plan approval by the Governing Body shall not be valid for a period longer than 24 months from the date of such approval, unless within such period a final development plan application is submitted. The Governing Body may grant one extension not exceeding 12 months upon written request.

Sec. 2.330. Changes to preliminary development plans.

- A. Requirement. When a change is proposed to an approved preliminary development plan, the following shall govern the type of application required:
 1. Substantial changes. A new preliminary development plan application shall be submitted. Approval of the new preliminary development plan shall follow the procedures for approval of preliminary development plan applications as set forth in this article. In determining whether to approve an application for a substantial change to a preliminary development plan, the Commission or Governing Body shall apply the criteria set forth in this article. In the event that the application for the preliminary development plan is denied, the previously approved preliminary development plan will remain in effect.
 2. Minor changes. Minor changes to the approved preliminary development plan, as de-

finied in this section, may be approved by the Director as part of a final development plan application.

- 3. No changes. If there are no changes to an approved preliminary development plan, a final development plan shall be submitted for approval by the Director.
- B. Definition of substantial changes. For purposes of this section, "substantial changes" to the approved preliminary development plan shall mean any of the following:
 1. A change in the phases as originally specified in the preliminary development plan that would have a negative impact on the traffic circulation.
 2. Increases in the density or intensity of residential uses of more than ten percent.
 3. Increases in the total floor area of all nonresidential buildings covered by the plan of more than 25 percent.
 4. Increases of lot coverage of more than ten percent.
 5. Increases in the height of any building of more than 25 percent.
 6. Changes of architectural style that will make the project less compatible with neighboring uses.
 7. Changes in ownership patterns or stages of construction that will lead to a different development concept.
 8. Changes in ownership patterns or stages of construction that will impose substantially greater loads on streets and other public facilities.
 9. Decreases of any setback of more than ten percent.
 10. Decreases of areas devoted to open space of more than ten percent of such open space, or the substantial relocation of such areas.
 11. Changes of traffic circulation patterns that will negatively affect on-site and/or off-site traffic.

12. Changes of existing and/or proposed pedestrian walkways that will negatively affect pedestrian traffic.
 13. Modification or removal of conditions to the preliminary development plan approval.
 14. Changes to the water or sanitary sewer plans that impact these utilities outside the project boundaries.
- C. **Definition of minor changes.** For purposes of this section, "minor changes" to the approved preliminary development plan shall include, but not be limited to the following:
1. Increases in the density of residential uses up to and including ten percent.
 2. Increases in the total floor area of all nonresidential buildings covered by the plan up to and including 25 percent.
 3. Increases of lot coverage up to and including ten percent.
 4. Increases in the height of any building up to and including 25 percent.
 5. Decreases of any peripheral setback up to and including ten percent.
 6. Decreases of areas devoted to open space up to and including ten percent.
 7. Reconfiguration of buildings provided that no required setbacks are violated.
 8. Revised phasing plan that has no substantial impact upon traffic circulation or required street construction.
- Sec. 2.340. Limitation on successive applications for preliminary development plan.**
- A. No application for a preliminary development plan shall be accepted if any application for substantially the same property has been filed within the preceding 60 days.
 - B. For purposes of Subsection A. of this section, the preceding 60-day period shall be determined as follows:
 1. If there was final action (either approval or denial) on the prior application, the 60-day period shall run from the date of such action.
 2. If the prior application was withdrawn after being advertised for public hearing, the 60-day period shall run from the date the application was withdrawn.
 - C. The Director shall determine if an application concerns "substantially the same property" as a prior application. The property owner may appeal any such determination to the Governing Body.
 - D. The Governing Body may waive the limitation in this section for good cause shown.
- Sec. 2.350. Final development plans; when required.**
- A. A final development plan application shall be required in the following situations:
 1. The development of any property for which a preliminary development plan has been approved and no substantial changes, as defined in this article, are proposed;
 2. A building addition onto an existing building that did not require a preliminary development plan, provided that a substantial change would not be created per this article;
 3. An addition to an existing parking lot or change in configuration of an existing parking lot provided no modifications of this chapter are requested;
 4. The construction of a new parking lot provided no modifications of this chapter are requested;
 5. The development of any property in the CS, and PI districts provided no modifications of this chapter are requested;
 6. A swimming pool, commercial as identified in Article 6, Division 4 of this chapter.
 - B. No building permit shall be issued until a final development plan is approved.
- Sec. 2.360. Final development plans; applications—Contents and submission requirements.**
- A. All general application requirements contained in Section 2.040.A.

- B. All plan submission requirements in Section 2.040.B.
- C. Contents. The proposed final development plan shall also include the following:
1. A legal description which accurately describes the limits of the property.
 2. Area of land in square feet and acres.
 3. Location and limits of the one percent annual chance flood, as set forth on the current FEMA maps with reference to the panel number. Elevations shall be provided if shown on the FEMA map.
 4. Layout, number and approximate dimensions of lots and approximate lot areas.
 5. Name, location, width, radii, centerline, and grade of streets and alleys, both public and private.
 6. Location, width and limits of all existing and proposed sidewalks and public walkways.
 7. Location and width of proposed easements.
 8. Building setback lines from streets with dimensions.
 9. Location and approximate dimensions of culverts and bridges.
 10. Location of existing and proposed driveways, curb cuts, median breaks and turn lanes.
 11. The location and size of all utility lines, including water, storm water, and sanitary sewers.
 12. Final analysis of the capacity of the existing sanitary sewer receiving system.
 13. Final water and sanitary sewer plans.
 14. Appropriate water service demand data (including, but not limited to, planned land use, densities of proposed development, pipe sizes, contours and fire hydrant layout) to allow for the preliminary analysis of the demand for water service if required by the City Engineer.
 15. Final storm water collection, detention and erosion control plans.
 16. Information (proposed size, nature and general location) on all proposed storm water management facilities and detention facilities. A final storm water report shall be submitted unless the storm water report requirement was waived by the City Engineer or there are no required revisions to the preliminary storm water report. All storm water reports shall include:
 - a. Current and proposed land use assumptions,
 - b. Identification of the watershed in which the project is located,
 - c. Identification of offsite drainage areas,
 - d. Surrounding property information,
 - e. Any other pertinent information about the site which may influence storm water runoff,
 - f. Proposed storm water facilities,
 - g. The downstream effects of the development,
 - h. Calculations for the 100 percent, ten percent, and one percent storms. All calculations must be submitted with the report; a summary table is not acceptable,
 - i. If the storm water report indicates that detention is not required, supporting calculations evaluating the downstream effects must be provided,
 - j. All reports shall be signed and sealed by a professional engineer registered in the State of Missouri.
 17. Location and size of proposed open space for public use proposed to be dedicated or reserved and any conditions of such dedication or reservation; parks, playgrounds, churches, or school sites or other special uses of land to be considered for public use, or to be reserved by deed or covenant for the use of all property owners in the subdivision.
 18. Location and dimensions of all parking spaces, accessible spaces, drive aisles, driveways, and curbs.

19. Finished grades showing one-foot contours for the entire site (2-foot contour intervals may be allowed by the Director, depending on the site).
 20. All proposed and existing adjacent public street rights-of-way with centerline location.
 21. All proposed and existing adjacent public street and public drive locations, widths, curb cuts and radii.
 22. Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan.
 23. Location of all required building and parking setbacks.
 24. Location, dimensions, number of stories and area in square feet of all proposed buildings.
 25. The location of all oil and/or gas wells within the subject property.
 26. Limits, location, size and material to be used in all proposed retaining walls.
 27. Location and dimensions of all driveways, parking lots, parking stalls, aisles, loading and service areas and docks.
 28. Location, height, intensity and type of outside lighting fixtures for buildings and parking lots.
 29. Photometric diagram indicating the foot candle levels throughout the site and at the property lines.
 30. The manufacturer's specification sheets for proposed exterior lighting to include both parking lot pole mounted and wall mounted fixtures. The specification sheets shall indicate the exact fixture to be used.
 31. Location, size, and type of material to be used in all screening of ground mounted mechanical equipment.
 32. The manufacturer's specification sheets for proposed mechanical equipment to be used.
 33. Location, size, and type of material of all proposed monument or freestanding signs.
 34. The location of adjacent developments, alignment and location of existing public and private driveways and streets, medians, and public and semi-public easements.
 35. Locations of existing and proposed fire hydrants.
 36. Sight triangles. (See Article 8, Division I.)
- D. Exterior building elevations.
 1. Elevations of all sides of proposed buildings including notation indicating building materials to be used on exteriors and roofs.
 2. Location, size and materials to be used in all screening of rooftop mechanical equipment.
 3. A dashed line indicating the roof line and rooftop mechanical equipment.
 - E. Floor plan showing dimensions and areas of all floors within proposed buildings and structures.
 - F. Landscaping plans shall be submitted in accordance with Article III.
 - G. Land Use Schedule. A land use schedule shall include the following:
 1. Total floor area,
 2. Number of dwelling units,
 3. Land area,
 4. Number of required and proposed parking spaces,
 5. Impervious coverage, and
 6. Floor area ratio (FAR).
 - H. The following shall be submitted in support of the application for final development plan approval:
 1. Deeds of dedication for all rights-of-way or easements required as a result of preliminary development plan approval, if conveyance thereof is not to be made by plat.
 2. A copy of all proposed covenants and restrictions applicable to the development.
 3. A copy of the property owners association bylaws as evidence of the establishment of the agency for the ownership and maintenance of any common open space and all assurances of the financial and administrative ability of such agency.

4. Evidence of satisfaction of any conditions of the preliminary development plan approval that were conditions precedent to consideration of the final development plan.
5. An application for engineering approval pursuant to the Design and Construction Manual. All applications for engineering approval shall be accompanied by the number of copies of the following as required by the City Engineer:
 - a. Engineering drawings with the information required in the Design and Construction Manual;
 - b. Plans, profiles and details for streets, curb and gutters, sidewalks, storm and sanitary sewers, and water lines;
 - c. A written benchmark description and elevation;
 - d. A storm water Master Drainage Plan that contains detailed plans for storm drainage, storm water detention, and grading plans, as specified in the Design and Construction Manual.

Sec. 2.370. Consideration of final development plans.

- A. No changes. A final development plan that contains no changes to the approved preliminary development plan as authorized in this article, shall be approved by the Director upon a determination that all conditions of approval of the preliminary development plan, if any, have been satisfied by the applicant, and that all other submission requirements have been satisfied.
- B. Minor changes. A final development plan that contains minor changes to the approved preliminary development plan may be approved by the Director provided he/she determines that all other submission requirements including landscaping, tree preservation, buffering and screening plans have been satisfied. The phrase "minor changes" as used in this section shall be defined as that term is defined in this article.
- C. Substantial changes. When a final development plan contains substantial changes, as defined in this section, to the approved preliminary development plan, the applicant shall be required to

submit a new preliminary development plan application. Approval of the new preliminary development plan shall follow the procedures for approval of preliminary development plan applications as set forth in this article. In determining whether to approve an application for a substantial change to a preliminary development plan, the Commission or Governing Body shall apply the criteria set forth in this article. In the event that the application for the preliminary development plan is denied, the previously approved preliminary development plan will remain in effect.

- D. Appeal. If the Director does not approve a final development plan, the decision may be appealed to the Governing Body. Any determination made by the Director under this subsection may be appealed to the Governing Body by the applicant within ten days after the date of the Director's determination. The Governing Body at its discretion may choose to consider the appeal at a public hearing. Such public hearings shall follow the publication notice provisions of this article. With respect to the appeals, the Governing Body shall act in accordance with the public hearing procedure specified in this article.

Sec. 2.380. Expiration of an approved final development plan.

Final development plan approval shall not be valid for a period longer than 12 months from the date of such approval, unless within the period a building permit is obtained and substantial construction is commenced and all additional building permits necessary to complete the project as approved in the final development plan schedule are obtained in a timely fashion, as determined by the Code Official. The Governing Body may grant one extension of no more than 12 months upon written request of the original applicant. An application for extension of a final development plan may be granted, if the application is filed before the final development plan expires. Upon granting an extension, the Governing Body has the authority to attach new conditions to the final development plan, as it deems appropriate.

Sec. 2.390. Abandonment of final development plans.

- A. A final development plan or a section thereof shall terminate and be deemed null and void if:
1. The property owner shall fail to commence development by failing to receive a building permit or failing to undertake substantial construction on the property after receiving a building permit within 12 months after receiving final development plan approval, or a longer period of time if an extension of the final plan has been granted by the Governing Body; or
 2. The property owner abandons the final plan or a section thereof and notifies the Director in writing of the abandonment.
- B. Whenever a final development plan or section thereof has been abandoned as provided in this section, no development shall take place on the property until a new final development plan has been approved.

Sec. 2.400. Conceptual Development Plan; when permitted.

- A. Statement of intent. A conceptual development plan is designed to allow review of developments or redevelopments, consisting of larger acreages or multiple uses, prior to review of one or more preliminary development plans for part or all of the property. A conceptual development plan is not intended to replace a preliminary development plan, but rather is designed to provide additional flexibility to review developments and redevelopments in the early stages of the process. A conceptual development plan provides a framework for which phases of the development will occur.
- B. When allowed. A conceptual development plan will be allowed for any multiple-use development. A conceptual development plan does not substitute for a preliminary development plan, but may be reviewed and approved prior to consideration of one or more preliminary development plans for the property.
- C. Submission requirements. All contiguous property under common ownership, common control or common option to purchase shall be shown

on the conceptual development plan, and the following materials and information shall be submitted with a conceptual development plan application:

1. All general application requirements contained in Section 2.040.A.;
2. All plan submission requirements in Section 2.040.B.;
3. Total number of dwelling units, if applicable;
4. Total square feet of commercial/retail development;
5. General street layout;
6. General lot and parcel layout including all structures;
7. Typical structure elevations including materials and colors;
8. Preliminary water and sanitary sewer availability calculations;
9. Conceptual landscape plan; and
10. Any other information as may be deemed necessary by the Director to provide adequate review of the application.

- D. Consideration of Conceptual Development Plans. The Commission and Governing Body shall consider the conceptual development plan at a public hearing pursuant to this article, with prior notice as set forth in this article. The Commission and Governing Body shall review the conceptual development plan using the standards and criteria set forth in this article. If a rezoning of the property is requested, the conceptual development plan shall be considered simultaneously with the rezoning of the property. Approval of a conceptual development plan shall become part of the ordinance that amends the zoning ordinance. Approval of the Conceptual Development Plan does not constitute approval of a preliminary development plan for any phase shown on the Conceptual Development Plan. By approving the Conceptual Development Plan, the Governing Body is preserving to itself full legislative discretion to review a preliminary development plan for each phase shown on the conceptual development plan, or for the entire property, as

may be applicable, including review and consideration of all criteria governing preliminary development plans as set forth in this chapter.

- E. Limitation on development. No development may occur on any property for which only a conceptual development plan has been approved. If the conceptual development plan is used, no construction may occur on any such property until one or more preliminary development plans and final development plans have been approved in accordance with this chapter.

Sec. 2.410. Planning Commission consideration of sign application.

- A. When required. Pursuant to Article 9, a sign application, which may include either a single sign or several signs, shall be submitted for any sign(s) that cannot be administratively approved, is not prohibited, and which may be approved by the Planning Commission.

A sign application shall not be submitted for any sign(s) that can be approved administratively or when another process is identified.

- B. Submission requirements. The following information shall be submitted with a sign application:
1. All general application requirements contained in Section 2.040.A.
 2. All plan submission requirements in Section 2.040.B.
- C. Consideration of sign application. See Article 9 for criteria that may be considered by the Commission.
- D. Action by Commission. The Commission shall consider and have the authority to grant final approval on the sign application. Upon obtaining Commission approval, the applicant shall apply for, and the Director shall approve, a sign permit, pursuant to the sign permit requirements in Article 9.

Sec. 2.420. Street name change; application—Contents and submission requirements.

The following items shall be submitted in support of an application for street name change:

- A. Name, address and telephone number of the applicant.

B. Names and addresses of all property owners directly impacted by the proposed street name change.

C. Signatures of all property owners directly impacted by the proposed street name change. If signatures of all property owners cannot be obtained, the application may proceed through the public hearing process for consideration.

Sec. 2.430. Consideration of street name change.

A. Community Development Committee. All proposed street name change applications where the affected property owners and city staff agree to the street name change, an ordinance shall be prepared for consideration by the Governing Body.

B. Public hearings. If there is any opposition to the proposed change, or if any affected property owners cannot be reached or, for whatever reason, fail to provide affirmative support for the change, consideration of the street name change shall require public hearings before the Commission and Governing Body following publication notice, notice to surrounding property owners, and posting of notice signs as provided in this article.

C. Approval by ordinance. All street name changes shall be approved by ordinance. The ordinance approving a street name change shall be recorded at the County Recorder of Deeds Office. The City shall notify all appropriate public agencies and utility companies of the street name change.

DIVISION V. SPECIAL USE PERMITS AND PLATTING

Sec. 2.440. Special use permits.

See Article 6, Division III.

Sec. 2.450. Platting.

See Article 7.

DIVISION VI. VACATION OF RIGHT-OF-WAY AND UTILITY EASEMENTS

Sec. 2.460. Vacation of right-of-way; application—Contents and submission requirements.

Any person owning any property adjoining or abutting any public highway, street, avenue, alley or public place or part thereof may apply for a vacation of right-of-way. The application shall be accompanied by a legal description and survey or such other drawing acceptable to the Director depicting the right-of-way sought to be vacated and the properties and property ownerships abutting said right-of-way.

Sec. 2.470. Consideration of vacation of right-of-way

- A. Public hearing required. Consideration of vacation of right-of-way applications shall require public hearings before the Commission and Governing Body following publication notice, notices to surrounding property owners, and posting of notice signs as provided in this article.
- B. Approval by ordinance. All vacation of right-of-way applications shall be approved by ordinance.
- C. Consideration. The Governing Body may approve the application if the applicant presents clear and convincing evidence and the Governing Body determines from the evidence that:
 1. Due and legal notice has been given by publication as required herein;
 2. No private rights will be injured or endangered by the vacation; and
 3. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.
- D. Objection to vacation. If, at the time of or before the hearing, a written objection to the application is filed with the Governing Body by any owner or adjoining owner who would be a proper party to the application but has not joined in the application, the vacation shall not be granted except upon a two-thirds vote of the Governing Body.

Sec. 2.480. Vacation of easement.

The property owner(s) of any property containing a utility easement, or any other public easement, may apply for a vacation of easement. The application for vacation of easement shall be filed with the Director. The application shall be accompanied by a legal description and survey, or such other drawing acceptable to the Director, depicting the easement sought to be vacated. The applicant shall obtain letters from representatives of any affected utility companies stating that the easement will not be needed by the service provider. All such letters shall be submitted to the Director prior to scheduling the proposed vacation for the Commission's consideration.

Sec. 2.490. Consideration of vacation of easement.

- A. Review of vacation of easement. The Director shall coordinate review and analysis of the vacation of easement application by the City Staff. The results of this analysis shall be compiled by the Director and a staff report prepared for the Commission's consideration.
- B. Action by Commission. The Commission shall consider and make a recommendation to the Governing Body on the vacation of easement application.
- C. Governing Body action upon Commission recommendation. Following review and recommendation by the Commission, the vacation of easement shall be transmitted to the Governing Body for final action. The actions of the Governing Body shall be by ordinance.

DIVISION VII. BOARD OF ZONING ADJUSTMENT

Sec. 2.500. Appeals of administrative decisions; applications—Contents and submission requirements.

- A. Who may appeal and process. An application for appeal to the Board from a decision of any officer administering the provisions of this chapter may be taken by any person or persons jointly or severally aggrieved, any neighborhood association as defined in RSMo 32.105, or by any officer, department, board or bureau of the municipality

affected by any decision of any officer administering the provisions of this chapter. The application for appeal shall be filed with the person whose decision is being appealed and the secretary of the Board within 30 days of the date of the decision. The officer whose decision is being appealed shall immediately, after being served with the notice of appeal, transmit all the papers constituting the record upon which the action appealed from was taken to the secretary of the Board. The application shall specify all grounds for the appeal. All grounds not specified in the application shall be deemed waived by the applicant.

- B. Stay on appeal. An appeal stays all proceedings in the furtherance of the action appealed from, unless the officer whose decision is being appealed certifies to the Board, after the notice of appeal is filed with the Board, that, by the reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In this case, proceedings shall not be stayed except upon issuance of a restraining order, which may be granted by the Board or by a court of record on by giving notice to the officer from whom the appeal is taken, and on due cause shown.

Sec. 2.510. Consideration of appeals by Board.

Consideration of appeals by the Board shall be at a public hearing, following publication notice as provided in this article. The Board shall make its determination within 30 days of the date the appeal was filed with the Board, unless a majority of all of the members of the Board shall determine that additional time is necessary. The Board shall reverse or modify a decision or determination made by the administrative official only when it is determined that a permit has been incorrectly issued or denied, or that this chapter has been incorrectly interpreted.

Sec. 2.520. Variances; applications—Contents and submission requirements.

Applications for all variances shall be filed with the Director and the Secretary of the Board on forms available from the Department. Each application for a variance shall be accompanied by a sketch plan, in

the detail required by the Director or the Board, depicting the proposed variance and its relationship to surrounding properties.

Sec. 2.530. Consideration of variances by Board.

- A. Limitation on variances. The Board may grant a variance from the specific terms of this chapter. However, the Board shall not have authority to grant a variance from any zoning district regulation that a property owner received or could have received through a modification pursuant to this article as a result of approval of the development plan.
- B. Standards. An application for a variance may only be granted upon a finding by the Board that the applicant has shown by clear and convincing evidence that all of the following conditions have been met:
1. With respect to a use variance, that:
 - a. The strict application of the provisions of this chapter would constitute unnecessary hardship upon the applicant;
 - b. The grant of the variance will not alter the essential character of the locality; and
 - c. The land in question cannot yield a reasonable return if used only for the purposes allowed in the district.
 2. With respect to a non-use variance, that practical difficulties exist that would make it impossible to carry out the strict letter of this chapter. In making such finding the Board shall consider:
 - a. How substantial the variation is, in relation to the requirement;
 - b. If the variance is allowed, the effect of increased population density, if any, on available public facilities and services;
 - c. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties is created;
 - d. Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance;

- e. Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance; and
- f. Conditions of the land in question, and not conditions personal to the landowner. The Board shall not consider evidence of applicant's personal financial hardship unrelated to any economic impact upon the land.
3. With respect to all variances, that:
- a. The granting of the variance will not adversely affect the rights of adjacent landowners or residents;
 - b. Granting the variance will not be opposed to the general spirit and intent of this chapter;
 - c. The variance desired will not adversely affect the public health, safety or general welfare;
 - d. The variance requested arises from a condition that is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant; and
 - e. Substantial justice will be done.
- C. Hearing on variance application. Variances shall only be considered after a public hearing has been held, following publication notice, notice to surrounding property owners and posting of signs as provided in this article. A copy of the publication notice shall also be mailed to the applicant and to the Commission. Proof of mailing and return receipts shall be filed under oath by the applicant with the Secretary of the Board prior to the hearing.
- D. Findings and conditions. If an application for variance is granted by the Board, it shall contain findings of fact by the Board, shall be signed by the Chairman of the Board, and shall state on the application the conditions of the approval established by the Board. A copy of the approved variance application shall be forwarded by the Board secretary to the Director who shall issue a permit setting out the terms of the variance, or a copy shall be sent to the appropriate board or commission, if other action is necessary.

ARTICLE 3.

PERMITS AND CERTIFICATES OF OCCUPANCY

Division I. General Permit Requirements

- Sec. 3.010. Purpose and intent.
- Sec. 3.020. List of permits and certificates.
- Sec. 3.030. Action on permit applications.
- Sec. 3.040. Appeals.
- Sec. 3.050. Reserved.

Division II. Land Disturbance Permit

- Sec. 3.060. Land disturbance permit—When required.
- Sec. 3.070. Land disturbance permit—Application, content and submission requirements.
- Sec. 3.080. Land disturbance permit—Consideration.
- Sec. 3.090. Land disturbance permit—Appeals.
- Sec. 3.100. Land disturbance permit—Exemption.

Division III. Easement Construction Permit

- Sec. 3.110. Easement construction permit—When required.
- Sec. 3.120. Easement construction permit—Application, content and submission requirements.
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Division IV. Building Permit

- Sec. 3.160. Building permit—When required.
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Division V. Special Use Permit

Division VI. Right-of-Way Excavation Permit

- Sec. 3.200. Right-of-way excavation permit—When required.
- Sec. 3.210. Right-of-way excavation permit—Application, content and submission requirements.
- Sec. 3.220. Right-of-way excavation permit—Consideration.
- Sec. 3.230. Right-of-way excavation permit—Appeals.
- Sec. 3.240. Right-of-way excavation permit—City repair.
- Sec. 3.250. Right-of-way excavation permit—Construction supervision.

Division VII. Sign Permit

Division VIII. Certificate of Occupancy

- Sec. 3.260. Certificate of occupancy—When required.
- Sec. 3.270. Certificate of occupancy—Consideration.
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- Sec. 3.290. Certificate of occupancy—Records.
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Division IX. Special Event Permits

Division X. Floodplain Development Permit

Division XI. Historic Preservation Certificate

Division XII. Hazmat Permit

Division XIII. Burning Permit

Division XIV. Blasting Permit

PROOFS

DIVISION I. GENERAL PERMIT REQUIREMENTS

Sec. 3.010. Purpose and intent.

It is the intent of this article to set forth the permits that are required for the development of property in the City and the regulations governing the application for, consideration of, and issuance of permits. This article will allow a person developing property to determine when a permit is required and what information must be submitted and what criteria will be used by the City to determine if the permit shall be

issued. This article also sets forth the procedures that must be followed if the applicant desires to appeal the non-issuance or revocation of a permit.

Sec. 3.020. List of permits and certificates.

The following chart contains a list of the possible permits and certificates that may be required for the development of property in the City. The "purpose" column is only for descriptive guidance to the reader. A determination of whether a permit is required for the development of property is made on a case-by-case basis, based upon the requirements of this chapter.

<i>Type of Permit or Certificate</i>	<i>Purpose</i>
Land Disturbance Permit Division II	Grading, excavation or any activity precedent to development of land for any use other than agricultural use.
Easement Construction Permit Division III	An opening or excavation, or any act incident thereto, with respect to the installation of public utilities on privately owned land.
Building Permit Division IV	Construction or expansion of any building or structure.
Special Use Permit Division V	Uses not allowed by right because of their unique impact on adjoining uses of land but with specific requirements may be allowed in certain areas and which are subject to individualized consideration and public hearings.
Right-of-Way Excavation Permit Division VI	Opening or excavation, or any act incident thereto, in the public right-of-way.
Sign Permit Division VII	Installation or construction of any sign regulated under the Code, except those specifically exempted.
Certificate of Occupancy Division VIII	Occupation of a building.
Special Event Permit Division X	Occurrence of a special event at a specific time and location under specified conditions.
Airport Overlay Permit Division XI	Material Change in use of land, construction, or tree planting in an Airport Hazard Overlay Zone.
Floodplain Development Permit Division XII	Construction of a building, structure or any development within a floodplain zone.
Historic Preservation Certificate of Appropriateness Division XIII	Demolition, moving or material change to an historic structure, new construction in an historic district, or signage for an historic building or district.
Parking Lot Permit Division XIV	Construction of a new parking lot or expansion of an existing parking lot. Not required for resurfacing of an existing parking lot.
Hazmat Permit Division XV	Storage, transporting, siting, dispensing using or handling of hazardous materials in accordance with amended Section 2701.4 of the 2000 International Fire Code or any future amendments thereto.
Burning Permit Division XVI	Kindling or maintaining an open fire or a fire on any public street, alley, road or other public or private ground.

<i>Type of Permit or Certificate</i>	<i>Purpose</i>
Blasting Permit Division XVII	Manufacturing, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within Chapter 33 of the 2000 International Fire Code or any future amendments thereto.

Sec. 3.030. Action on permit applications.

A. Permit requirement. A permit application shall be submitted to the City for each permit that is required by this chapter. The contents and submission requirements for each permit shall be as set forth, or referenced in this article. Upon submission of a complete permit application, the City will consider the permit application based on the approval criteria set forth in the applicable Division of this article, and may issue the permit if all applicable criteria are satisfied by the applicant.

B. Revocation of a permit.

1. Grounds of revocation. A permit may be revoked in writing by the City official that issued the permit when it appears to such official that one or more of the following conditions is present:

- a. There is departure from the plans, specifications or conditions referred to in the permit or that were the basis for the issuance of the permit;
- b. The permit was procured by fraud, misrepresentation or a false statement;
- c. The permit was issued by mistake;
- d. Activities taken pursuant to the permit violate the provisions of this chapter or any other provision of the City Code.

2. Notice. Notice of the revocation shall be mailed to the permittee's last known address on the day the permit is revoked and shall be posted in a prominent location on the property by the City official that issued the permit. The notice shall state the grounds for the revocation. Once notice of revocation has been served or posted, no further activities or use of the property authorized by the permit shall proceed.

Sec. 3.040. Appeals.

An applicant may appeal the non-issuance of a permit, and a permit holder may appeal the revocation of a validly issued permit, pursuant to the appeal procedures specified for each type of permit below. If not specifically provided for in each type of permit appeal procedure then the Board of Zoning Adjustment (BZA) shall hear the appeal.

Sec. 3.050. Reserved.

DIVISION II. LAND DISTURBANCE PERMIT

Sec. 3.060. Land disturbance permit—When required.

A land disturbance permit shall be obtained from the City Engineer prior to commencement of any land disturbance activity such as mechanized clearing or grading that removes the vegetative ground cover on any site as set forth in the Design and Construction Manual.

Sec. 3.070. Land disturbance permit—Application, content and submission requirements.

An application for a land disturbance permit shall be filed upon forms prescribed by the City that shall contain all information required for a land disturbance plan as set forth in the Design and Construction Manual.

Sec. 3.080. Land disturbance permit—Consideration.

The land disturbance permit application shall be considered by the City Engineer. The permit may be issued if it appears to the City Engineer that the standards set forth in the Design and Construction Manual applicable to land disturbance permits have been satisfied by the applicant. The City Engineer may grant the permit with conditions.

Sec. 3.090. Land disturbance permit—Appeals.

The non-issuance or revocation of a land disturbance permit may be appealed to the Governing Body through the Public Works Committee by filing a written request with the City Clerk within seven days after the City official refuses to issue a permit or after notice of the decision by the City official revoking the permit is mailed to the permittee. The time and place of the hearing on the appeal shall be set by the Public Works Committee and held within ten days following the filing of the written request. Notice of the hearing shall be given to the permittee by certified mail at least five days prior to the date set for the hearing. The Public Works Committee shall make a recommendation to the Governing Body regarding the appeal at the conclusion of the hearing. The Governing Body shall have 14 days after the hearing to issue its decision on the appeal, at which time the Governing Body shall issue its decision either issuing the permit, reinstating the permit, altering the terms and conditions of the original permit, or revoking the permit. During any appeal to the Governing Body, activities authorized by the permit shall not commence or continue.

Sec. 3.100. Land disturbance permit—Exemption.

A land disturbance permit shall not be required for a foundation excavation associated with a valid building permit.

DIVISION III. EASEMENT CONSTRUCTION PERMIT**Sec. 3.110. Easement construction permit—When required.**

No person shall perform an opening or excavation, or any act incident thereto, with respect to the installation of public utilities on privately owned land without providing the City with proof of platted or separately recorded utility easements.

Sec. 3.120. Easement construction permit—Application, content and submission requirements.

Drawings, as required by the City Engineer shall be submitted prior to the issuance of easement construc-

tion permits. The drawings shall indicate both temporary and permanent easement information. The minimum width for utility easements shall be 15 feet.

Sec. 3.130. Easement construction permit—Consideration.

The City Engineer shall consider all applications for easement construction permits. The permit may be granted if the City Engineer determines that the application conforms to the requirements of the Building Code (Chapter 7, Article II of the City Code).

Sec. 3.140. Easement construction permit—Appeals.

The non-issuance or revocation of an easement construction permit may be appealed pursuant to the procedures set forth in Section 3.090 of this chapter, governing land disturbance permits.

Sec. 3.150. Reserved**DIVISION IV. BUILDING PERMIT****Sec. 3.160. Building permit—When required.**

No building or structure regulated by the Building Code (Chapter 7, Article II of the City Code) shall be erected, constructed, enlarged, altered, repaired, remodeled, moved, converted or demolished within the City unless a separate permit for each building or structure has first been obtained from the Codes Administration Department, pursuant to the requirements contained in the city building code and all other applicable city ordinances and regulations.

Sec. 3.170. Building permit—Application, content and submission requirements.

Applications for building permits shall be filed on the form required by the Building Code (Chapter 7, Article II of the City Code).

Sec. 3.180. Building permit—Consideration.

Building permit applications shall be considered by the Director of Codes Administration or his/her designee hereafter referred to as Code Official. The permit may be issued if the Code Official determines that all applicable requirements of the Building Code

(Chapter 7, Article II of the City Code), and all other applicable city codes, ordinances and regulations have been satisfied.

Sec. 3.190. Building permit—Appeals.

All appeals from non-issuance of a building permit application or revocation of a building permit shall be as set forth in the Building Code (Chapter 7, Article II of the City Code).

DIVISION V. SPECIAL USE PERMIT
(See Article 6, Division III)

DIVISION VI. RIGHT-OF-WAY EXCAVATION PERMIT

Sec. 3.200. Right-of-way excavation permit—When required.

No person shall perform an opening or excavation, or any act incident thereto, in the public rights-of-way or in the streets or alleys within the City without first obtaining a rights-of-way construction permit from the City Engineer.

Sec. 3.210. Right-of-way excavation permit—Application, content and submission requirements.

Each applicant for a rights-of-way construction permit shall file an application with the City Engineer on the form provided by the City. The application shall be accompanied by a bond in a form approved by the City Attorney or a cash deposit in an amount per square foot of area proposed to be opened or excavated as specified by resolution adopted by the City. This bond will be held by the City until a release is signed by the City Engineer certifying that the public rights-of-way, street or alley has been properly and satisfactorily repaired by the applicant.

Sec. 3.220. Right-of-way excavation permit—Consideration.

The right-of-way excavation permit application shall be considered by the City Engineer. The permit may be granted if the City Engineer determines that all requirements of the Design and Construction Manual applicable to the application have been satisfied.

Sec. 3.230. Right-of-way excavation permit—Appeals.

The non-issuance or revocation of a right-of-way excavation permit may be appealed to the Governing Body through the Public Works Committee by filing a written request with the City Clerk within seven days after the City Engineer refuses to issue a permit or after notice of the decision by the City Engineer revoking the permit is mailed to the permittee. The time and place of the hearing on the appeal shall be set by the Public Works Committee and notice of the hearing shall be given to the permittee by certified mail at least five days prior to the date set for the hearing. The Public Works Committee shall make a recommendation to the Governing Body regarding the appeal at the conclusion of the hearing. The Governing Body shall have 14 days after the hearing to issue its decision on the appeal, at which time the Governing Body shall issue its decision either issuing the permit, reinstating the permit, altering the terms and conditions of the original permit, or revoking the permit. During any appeal to the Governing Body, activities authorized by the permit shall not commence or continue.

Sec. 3.240. Right-of-way excavation permit—City repair.

If the holder of a right-of-way excavation permit shall fail at any time to repair the public rights-of-way, street or alley so opened or excavated, within seven days after notification by the Engineer, the bond or cash deposited with the City shall be deemed forfeited and the City shall use the monies to make the necessary repairs. The City reserves the right, in emergency situations, to complete the work and redeem the bond to cover the expenses to make the necessary repairs.

Sec. 3.250. Right-of-way excavation permit—Construction supervision.

The permittee under a right-of-way excavation permit shall, during all times of any work authorized by a rights-of-way construction permit, and until such time as the work has been approved, have the responsibility and the duty, to erect and maintain all necessary barricades and flares and to supervise the work.

DIVISION VII. SIGN PERMIT

(See Article 9)

DIVISION VIII. CERTIFICATE OF OCCUPANCY**Sec. 3.260. Certificate of occupancy—When required.**

No new or existing building or structure shall be occupied or used and no change in the use of an existing building or structure shall occur within the City until a certificate of occupancy (temporary and final), certifying that such building or use complies with all regulations of this chapter and other applicable provisions of the City Code, has been issued by the Code Official pursuant to the Building Code (Chapter 7, Article II of the City Code).

Sec. 3.270. Certificate of occupancy—Consideration.

The request shall be considered by the Code Official and may be granted if found to satisfy the criteria set forth in the Building Code (Chapter 7, Article II of the City Code) and other related issues as required by planning and development, fire department, water utilities department and department of public works.

Sec. 3.280. Certificate of occupancy—Appeals.

All appeals for non-issuance of a certificate of occupancy request or revocation of a certificate of occupancy shall be as set forth in the Building Code (Chapter 7, Article II of the City Code).

Sec. 3.290. Certificate of occupancy—Records.

A record of all certificates of occupancy shall be kept on file in the office of the Code Official.

Sec. 3.300. Certificate of occupancy—Connection with sewer system.

Except where some other method of handling liquid waste has been specifically approved by the City/County, no certificate of occupancy shall be issued by the Code Official for any building or use until the property has been connected with a public sanitary sewer system that has been approved for public use by the City Engineer.

Sec. 3.310. Certificate of occupancy—Parking.

Prior to issuance of a certificate of occupancy for a new building or structure or change in use of an existing building or structure, all parking requirements, as specified in Article 8, Division II of this chapter for the new use, shall be met or otherwise approved by the Director.

DIVISION IX. SPECIAL EVENT PERMITS

(See Article 6, Division 5)

DIVISION X. FLOODPLAIN DEVELOPMENT PERMIT

(See Article 5)

DIVISION XI. HISTORIC PRESERVATION CERTIFICATE

(See Article 5)

DIVISION XII. HAZMAT PERMIT

(See currently adopted edition of the International Fire Code in the Code of Ordinances of the City of Lee's Summit.)

DIVISION XIII. BURNING PERMIT

(See currently adopted edition of the International Fire Code in the Code of Ordinances of the City of Lee's Summit.)

DIVISION XIV. BLASTING PERMIT

(See Section 1010, Permits, Paragraph E, Blasting Permit of the City of Lee's Summit Design and Construction Manual, Ordinance 5813, Code of State Regulations II CSR 40-7.010 Blasting, and currently adopted edition of the International Fire Code in the Code of Ordinances of the City of Lee's Summit.)

PROOFS

ARTICLE 4.

ZONING DISTRICTS

Division I. Reserved

Secs. 4.010—4.040. Reserved.

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- Sec. 4.050. Zoning districts listed.
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- Sec. 4.130. RP-4 Planned Apartment Residential District.
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- Sec. 4.200. CBD Planned Central Business District.
- Sec. 4.210. CS Planned Commercial Services District.
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- Sec. 4.260. Exemptions.

Division IV. Common Property

- Sec. 4.270. General provisions.
- Sec. 4.280. Condominium or property owners' associations and maintenance contracts.
- Sec. 4.290. Declaration of covenants and restrictions.
- Sec. 4.300. Maintenance of common property.
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PROOFS

DIVISION I. RESERVED**Secs. 4.010—4.040. Reserved.****DIVISION II. DESCRIPTION OF ZONING DISTRICTS****Sec. 4.050. Zoning districts listed.**

For the purpose of regulating and restricting the use of land, or the use of buildings and structures including the erection, construction, reconstruction and alterations of buildings and structures in the City, all land within the City is hereby divided into one of the following districts pursuant to RSMo 89:

AG Agricultural;
 RDR Rural Density Residential;
 RLL Residential Large Lot;
 R-1 Single-Family Residential;
 RP-1 Planned Single-Family Residential;
 RP-2 Planned Two-Family Residential;
 RP-3 Planned Residential Mixed Use;
 RP-4 Planned Residential Apartment Use;
 PRO Planned Residential Office;
 NFO Neighborhood fringe office district;
 TNZ Transitional Neighborhood Zone;
 PO Planned Office;
 CP-1 Planned Neighborhood Commercial;
 CP-2 Planned Community Commercial/Retail;
 CBD Planned Central Business District;
 CS Planned Commercial Service District;
 PI Planned Industrial;
 AZ Airport Zone;
 PMIX Planned Mixed Use/Residential/Office/
 Commercial/Retail/Business Park.

Sec. 4.060. AG Agricultural District.

A. Statement of intent and purpose. The AG Agricultural District is established to provide areas for restricted agricultural uses, very-low-density residential development and to serve as a "hold-

ing zone" to prevent the premature development of large land acreage. The AG District is also established to reduce the impact of urban development on rural areas located outside the sanitary sewer service area. It is also intended to conserve rural character, reduce the demand for urban services, and reduce service delivery costs for local government.

- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)
 2. Setbacks requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
 3. Height requirements: (See Table 6-4 in Article 6, Division I.)
 4. Exception to the maximum height requirements is contained in Section 6.050.
 5. Two residential dwelling units, under the same ownership (Table 6-2 in Article 6, Division I), per ten acres is allowed in the AG District.
- D. Performance and design standards.
1. Design standards are applicable to development in this district: (See Article 7.)
 2. Parking regulations: (See Article 8, Division II.)
 3. Sign regulations: (See Article 9.)
 4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.070. RDR Rural Density Residential.

A. Statement of intent and purpose. The RDR Rural Density Residential District is established to provide rural density single-family detached residential development on one acre minimum lot sizes. The RDR density supports the Lee's Summit Comprehensive Plan by providing multiple housing types and varied lot sizes. An RDR subdivi-

sion with lot sizes of three acres or less intended to be serviced by a publicly-provided sanitary sewer system.

- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)
 2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
 3. Height requirements: (See Table 6-4 in Article 6, Division I.)
 4. Exception to the maximum height requirements is contained in Section 4.3510.
 5. One residential unit per acre is allowed in the RDR District.
- D. Performance and design standards.
1. Design standards are applicable to development in this district: (See Article 7.)
 2. Parking regulations: (See Article 8, Division II.)
 3. Sign regulations: (See Article 9.)
 4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.080. RLL Residential Large Lot.

- A. Statement of intent and purpose. The RLL Residential Large Lot District is established to provide for the maintenance of existing large lot residential subdivisions and for the creation of new large lot single-family detached residential subdivision developments on one-half acre minimum lot sizes. The RLL residential density supports the Lee's Summit Comprehensive Plan by providing multiple housing types and varied lot sizes. RLL subdivisions of less than three acre minimum lot sizes are required to be serviced by a publicly-provided sanitary sewer system. Three acres and larger sized lots may utilize septic systems provided they receive the necessary approvals from the county.

- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)
 2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
 3. Height requirements: (See Table 6-4 in Article 6, Division I.)
 4. Exception to the maximum height requirements is contained in Section 6.050.
 5. One-half acre is required per lot.
- D. Performance and design standards.
1. Design standards are not applicable to development in this district.
 2. Parking regulations: (See Article 8, Division II.)
 3. Sign regulations: (See Article 9.)
 4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.090. R-1 Single-Family Residential District.

- A. Statement of intent and purpose. The R-1 Single-Family Residential District is established to provide low-density, single-family detached residential development. The R-1 density supports the goal of the Lee's Summit Comprehensive Plan in providing single-family densities at a maximum of four units per gross acre in close proximity to existing urban development. This district is designed for areas served by publicly-provided sanitary sewer.
- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)

2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is contained in Section 6.050.
5. Four residential units per one acre is allowed in the R-1 District.

D. Performance and design standards.

1. Design standards are applicable to development in this district: (See Article 7.)
2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.100. RP-1 Planned Single-Family Residential District.

A. Statement of intent and purpose. The RP-1 Planned Single-Family Residential District is established to provide single-family detached dwellings at higher densities than R-1 will allow by providing more useable open space or specific amenities to be provided as a trade-off. The RP-1 District is intended to promote variations to the standard single-family environment i.e., patio homes, cluster homes and zero lot line placement all in keeping with the detached dwelling environment through the establishment of more common use green/open areas. (See Subsection C.6. below.)

B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.

C. Height and area regulations.

1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)
2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)

3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is contained in Section 6.050.
5. Six detached residential dwelling units per one acre is allowed in the RP-1 District.
6. The RP-1 District, provides the option for reducing required minimum lots sizes while maintaining overall densities through utilization of the "residential cluster option". The "cluster option" allows a developer to cluster residential development into a more compact area, in exchange for providing greater open space and protection of environmentally sensitive areas such as flood plains and animal habitats. With reduction of lot sizes, the "cluster option" also permits savings in road and utility costs to a developer. See Article 8, Division I, Design Standards for specific "cluster option" standards.

D. Performance and design standards.

1. Design standards are applicable to development in this district. (See Article 8, Division I.)
2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.110. RP-2 Planned Two-Family Residential District.

A. Statement of intent and purpose. The RP-2 Planned Two-Family Residential District is established to provide opportunities for a moderate-density mix of single-family and duplex residential development at a maximum density of seven and one-half units per gross acre. This district is designed for areas served by publicly-provided sanitary sewer.

B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.

C. Height and area regulations.

1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)
2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is contained in Section 6.050.
5. Seven and one-half residential units per one acre is allowed in the RP-2 District.
6. In the RP-2 District, an option for reducing required minimum lots sizes while maintaining overall densities is provided through utilization of the "residential cluster option." The "cluster option" allows a developer to cluster residential development into a more compact area, in exchange for providing greater open space and protection of environmentally sensitive areas such as flood plains and animal habitats. With reduction of lot sizes, the "cluster option" also permits savings in road and utility costs to a developer. See Article 8, Division I, Design Standards, for specific "cluster option" standards.

D. Performance and design standards.

1. Design standards are applicable to development in this district: (See Article 8, Division I.)
2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)
5. The architectural features of the two-family (duplex) units are required to blend harmoniously with traditional detached single-family development.

Sec. 4.120. RP-3 Planned Residential Mixed Use District.

A. Statement of intent and purpose. The RP-3 Planned Residential Mixed Use District is established to provide opportunities for medium-density mixed residential use development at a maximum of ten units per gross acre. The RP-3 District provides for a mix of one-, two-, three- and four-family attached and detached dwelling units. While providing for a wide range of dwelling types the RP-3 district may also be appropriate in large scale mixed use developments or as a residential re-use option in obsolete commercial or office centers. This district is designed for areas served by publicly provided sanitary sewer.

B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.

C. Height and area regulations.

1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)
2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is contained in Section 6.050.
5. Ten residential units per one acre is allowed in the RP-3 District.

D. Performance and design standards.

1. Design standards are applicable to development in this district: (See Article 8, Division I.)
2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.130. RP-4 Planned Apartment Residential District.

- A. Statement of intent and purpose. The RP-4 Planned Apartment Residential District is established to provide opportunities for medium/high-density residential development at a maximum density of 12 units per gross acre. The RP-4 District provides for a mix of multi-family attached dwelling units and/or apartments. This district is designed for areas served by publicly provided sanitary sewer.
- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
1. Density, lot size, and lot width: (See Table 6-2 in Article 6, Division I.)
 2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
 3. Height requirements: (See Table 6-4 in Article 6, Division I.)
 4. Exception to the maximum height requirements is contained in Section 6.050.
 5. Varied densities are applicable in the RP-4 District, however a maximum apartment density shall not exceed 12 residential units per one acre.
- D. Performance and design standards.
1. Design standards are applicable to development in this district: (See Article 8, Division I.)
 2. Parking regulations: (See Article 8, Division II.)
 3. Sign regulations: (See Article 9.)
 4. Landscaping, buffering and tree protection: (See Article 8, Division III.)
 5. In the RP-4 District, a mix of duplexes, triplexes, quadplexes, townhouses and/or apartments is considered appropriate, if effectively sited, landscaped, and buffered and adequate provisions for access and open space are made. Complementary architec-

tural features should be a key element in seamlessly blending the mix of residential uses and densities.

Sec. 4.140. PRO Planned Residential Office District.

- A. Statement of intent and purpose. The PRO Planned-Residential Office District is designed for small-scale office or mixed uses of residential and office uses in close proximity to residential development. The PRO District is suitable for areas that are transitioning to more non-residential character. The PRO District is also suitable for in-fill development in close proximity to existing residential development or as a land use buffer for higher intensity uses. The PRO District recognizes the need to protect adjacent residential uses, thus the basic character of the PRO District encourages a compatible mixture of residential and office types of land uses. This district is identified as one in which the physical character and design of existing and proposed new structures play an important role in assuring compatibility with existing or planned residential development. Review of building design, uses, buffers, landscaping, lighting and parking are recognized as essential for the establishment and maintenance of the character of this district. Areas zoned PRO are not intended for moderate-to-large office centers. Uses that create excess noise, traffic or odors are not permitted in this district.
- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
1. FAR (floor-area ratio), density and lot width: (See Table 6-2 in Article 6, Division I.)
 2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
 3. Height requirements: (See Table 6-4 in Article 6, Division I.)
 4. Exception to the maximum height requirements is contained in Section 6.050.

5. New buildings in the PRO District may not exceed 2,500 square feet. However, pre-existing residential structures that exceed this building maximum, may be considered for rezoning to the PRO District.

D. Performance and design standards.

1. Design standards are applicable to development in this district. (See Article 8, Division I.)
2. Parking regulations: (See Article 8, Division II.) Parking shall be confined to the rear yard and must be properly buffered from view of adjacent residential uses.
3. Sign regulations: (See Article 9.) Signage shall be designed to have minimal impact on neighboring residential properties.
4. Landscaping, buffering and tree protection: (See Article 8, Division III.) Landscaping and lighting shall be designed to blend with the residential character of the area.
5. Properties in the PRO District are required to reflect a residential character in design, landscaping, parking and lighting.
6. Office uses are limited to businesses that generate no more than 100 vehicular trips per day.
7. Window displays or other displays of work are not permitted to be visible from the exterior of the building.
8. Standards for new structures.
 - a. New structures and alterations of or additions to existing structures shall utilize the shapes and proportions common to single-family residential architecture as guides to the architectural design.
 - b. The rhythm, pattern or placement of windows, doors, chimneys, gables, dormers, roof pitch, offsets in the walls, and other elements should also be considered in creating residential compatibility.

Sec. 4.150. NFO Neighborhood Fringe Office District.

- A. Statement of intent and purpose. The NFO Neighborhood fringe office district is intended for single-

family residential dwellings with an office use opportunity, but only if the occupant of the dwelling is the intended office user. The NFO district may be established either:

1. As an infill development on a vacant parcel; or
2. As a redevelopment opportunity of an existing developed parcel; or
3. Within existing single-family residential homes.

The NFO District is suitable for areas that are adjacent to TNZ districts and/or transitioning to less intense residential neighborhoods.

B. Uses.

1. Single-family dwellings, attached and detached, and certain other limited uses found in Table 6-1 in Article 6, Division I are allowed in this district provided they meet the requirements of Subsection A. above.
2. Apartment dwelling units or office use above a detached garage (or attached by breezeway) provided performance and design standards in Subsection D. below are satisfied.

C. Height and area regulations. See Tables 6-2, 6-3, and 6-4 in Article 6, Division I.

D. Performance and design standards.

1. Parking lots are prohibited.
2. Signage shall be limited to:
 - a. One non-lighted wall or projecting sign six square feet maximum area, located near the front door of the home/business entrance; or
 - b. One non-lighted free standing hanging sign no larger than eight square feet, supported by the extended arm of a single post, with the top edge of the sign face not exceeding six feet above grade level and landscaped around the sign base.
3. The residential character (architecture) of the dwelling shall not be changed.
4. Fifty percent of the dwelling (1st and 2nd floor area) may be utilized for office use

provided the occupant of the dwelling is the office user. Basements may not be utilized for office use.

5. The second story above a detached garage (or garage attached by breezeway) may be utilized as an office in lieu of Subsection 4. above provided the area does not exceed the area allowed in Subsection 4. above.
6. New residential structures including infill development or redevelopment of existing parcels shall be compatible to other homes within the general area and should reflect a similar time period of architecture, i.e., front/side porches, gable roofs, dormer windows, columns, detached garages, etc.
7. Number of employees. No persons other than self or family members residing on the premises, plus one additional person not residing on the premises, shall be employed or involved in any business activity on the premises.
8. The uses within this district shall be exempt from Article 8, Division III of this chapter.
9. Fences shall not be located closer to the street than the front of the dwelling.

Sec. 4.160. TNZ Transitional Neighborhood Zone.

- A. Statement of intent and purpose. The TNZ District is a Planned-Transitional Neighborhood District designed for a compatible mix of residential, office and limited specialty retail uses in close proximity to the CBD, Central Business District of downtown and the surrounding residential development. The TNZ District is suitable as a transitional zone for areas that are intended to serve as a buffer between more intense CBD uses and adjoining residential neighborhoods. The TNZ District recognizes the need to provide a mixed use environment while at the same time preserving existing residential neighborhoods. This district is identified as one in which the physical character and design of existing and proposed new structures play an important role in assuring compatibility with existing or planned residential development. The TNZ District is not intended for infill sites outside of the Downtown Core as established in the Downtown Master Development Plan.
- B. Permitted uses. See Table 6-1.
- C. Height and area regulations. See Tables 6-2 and 6-3.
- D. Performance and design standards. In reviewing any application for development or redevelopment within the TNZ district the Commission and/or Governing Body may give consideration to the criteria stated below, to the extent they are pertinent to the particular application.
 1. Building design and character. Existing and new buildings are expected to reflect the residential character of building design and be compatible with adjacent residential style properties.
 2. Hours of operation. Hours of operation may be established or limited by the Commission and/or Governing Body.
 3. Landscaping. Shall be approved per plan, in lieu of Article 8, Division III of this chapter, and shall consist of ornamental type landscape varieties, i.e., flowering trees, one and one-half-inch diameter; small/low scale shrubs, two-gallon size; and ground covers to soften the hardscape of the urban environment.
 4. Lighting. Lighting, if provided, shall be limited in numbers and in intensity to 150 watts maximum, or within 50 watts of surrounding properties intensity, per fixture and be of a pedestrian scale compatible to residential areas within the immediate vicinity. Wall packs

shall be prohibited. Parking lot lighting shall also be prohibited except for the use of bollard type lighting not exceeding four feet in height.

5. Parking lot landscaping. Parking lots shall be landscaped in accordance with the requirements of this chapter except where decorative screening walls are provided for reducing the required setbacks to less than ten feet.
6. Signage. Signage shall be limited to:
 - a. One wall or projecting sign six square feet maximum located near the front door of the business; and
 - b. One free-standing hanging sign no larger than eight square feet, supported by the extended arm of a single post, with the top edge of the sign face not exceeding six feet above grade level.
 - c. Lighted signage shall not exceed the wattage established for lighted signs within the area in which located.

Sec. 4.170. PO Planned Office District.

- A. Statement of intent and purpose. The PO Planned Office District is established to provide for both private and public administrative and professional offices.
- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
 1. FAR (floor area ratio), density and lot width: (See Table 6-2 in Article 6, Division I.)
 2. Setback requirements, including minimum front yard, side yard, and rear yard standards: (See Table 6-3 in Article 6, Division I.)
 3. Height requirements: (See Table 6-4 in Article 6, Division I.)
 4. Exception to the maximum height requirements is contained in Section 6.050.

D. Performance and design standards.

1. Design standards are applicable to development in this district: (See Article 8, Division I.)
2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.180. CP-1 Planned Neighborhood Commercial District.

- A. Statement of intent and purpose. The CP-1 Neighborhood Commercial District is established to provide for office, commercial and public uses that are of a scale that serve surrounding neighborhoods.
- B. Uses. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
- C. Height and area regulations.
 1. FAR (floor area ratio), density and lot width: (See Table 6-2 in Article 6, Division I.)
 2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
 3. Height requirements: (See Table 6-4.)
 4. Exception to the maximum height requirements is contained in Section 6.050.
 5. Due to the "neighborhood" scale of this district, buildings containing retail sales and services that range in size from 1,000 to 15,000 square feet are most appropriate.
- D. Performance and design standards.
 1. Design standards are applicable to development in this district. (See Article 8, Division I.) Design standards encourage on-street parking, buildings with zero front yard setbacks, parking lots that are not positioned as primary uses along pedestrian walkways, and wide sidewalks that encourage use for both pedestrians and outside dining.

2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)
5. Neighborhood-oriented office development that generates pedestrian activity shall be located on ground-floor levels in the CP-1 District. Office uses that do not create the same level of street activity or do not have a high visibility need shall be located on the second or above floors, or in space to the rear of the retail buildings.
6. Residential development is considered appropriate in the CP-1 District if built in a manner that supports the neighborhood commercial character of the area. This includes such uses as units above stores (loft units), elderly apartments, townhomes, or small, single-entry four-unit type walk-up apartments, i.e. row house concept.

Sec. 4.190. CP-2 Planned Community Commercial District.

- A. Statement of intent and purpose. The CP-2 Community Commercial District is established to provide a location for a full-range of retail and office development serving the general needs of the community. The CP-2 District is not considered appropriate for heavier commercial uses that border on being more light industrial in nature, and thus more appropriate for the CS or PI District. The intent of the CP-2 District is to promote a streetscape that encourages buildings to be moved forward adjacent to the front yard setback line or adjacent to the required landscape improvements. This site design improves the benefits derived from the required landscaping and the overall image of the commercial corridor.
- B. Uses.
 1. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.

2. Apartment, townhouses or loft development is considered appropriate in the CP-2 District, if planned as a part of the overall development.

C. Height and area regulations.

1. FAR (floor-area ratio), density and lot width: (See Table 6-2 in Article 6, Division I.)
2. Setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
3. Height requirements: (See Table 6-4 in Article 6, Division I)
4. Exception to the maximum height requirements is contained in Section 6.050.

D. Performance and design standards.

1. Design standards are applicable to development in this district. (See Article 8, Division I.) Design standards encourage on-street parking and wide sidewalks that encourage use for both pedestrians and outside dining.
2. Parking regulations: (See Article 8, Division 2.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.200. CBD Planned Central Business District.

- A. Statement of intent and purpose. The CBD Planned Central Business District is established to permit the most intensive use of land that combines a variety of commercial, office, residential and public uses. The district is designed to have uses that are centrally located and compact so that maximum convenience is afforded the users and occupants of the district. It is the intent of the CBD District to be pedestrian friendly.
- B. Uses.
 1. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
 2. In the CBD District, residential loft and townhouse developments are encouraged.

3. Vertical mixed-use development is encouraged with combinations of retail, office, and residential uses.
4. Parking structures are allowed as a permitted use or accessory use.

C. Height and area regulations.

1. FAR (floor-area ratio), density and lot width: (See Table 6-2 in Article 6, Division I.)
2. The setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.) Minimal or no yard setbacks are required, to encourage buildings to locate adjacent to the property line and utilize on-street or structured parking to the greatest extent possible.
3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is contained in Section 6.050.

D. Performance and design standards.

1. Design standards are applicable to development in this district. (See Article 8, Division I.) Design standards encourage on-street parking and wide sidewalks that encourage use for both pedestrians and outside dining.
2. Parking regulations: (See Article 8, Division II.) On-street, to-the-rear, or structured parking is encouraged over front or side surface parking lots.
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.210. CS Planned Commercial Services District.

- A. Statement of intent and purpose. The CS Planned Commercial Services District is intended to provide for service type uses that require screened outdoor storage of equipment and materials in conjunction with office warehouse facilities. The CS district is not intended to operate as an industrial district but to provide for quality low intensity transitional uses between commercial and industrial districts.

B. Uses.

1. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
2. Reserved.

C. Height and area regulations.

1. FAR (floor-area ratio), density and lot width: (See Table 6-2 in Article 6, Division I.)
2. The setback requirements, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.) Minimal or no yard setbacks are required, to encourage buildings to locate adjacent to the property line and utilize on-street or structured parking to the greatest extent possible.
3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is contained in Section 6.050.

D. Performance and design standards.

1. Design standards are applicable to development in this district. (See Article 8, Division I.) Design standards encourage on-street parking and wide sidewalks that encourage use for both pedestrians and outside dining.
2. Parking regulations: (See Article 8, Division II.) On-street, to-the-rear, or structured parking is encouraged over front or side surface parking lots.
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)

Sec. 4.220. PI Planned Industrial District.

- A. Statement of intent and purpose. The PI Planned Industrial District is established to provide for industrial uses that are fully indoor operations with outside storage only permitted within fully-screened enclosures to the rear or side lot areas. The PI District is intended to provide areas for light manufacturing uses that primarily involve finishing or assembly of previously manufac-

tured goods. The district is also intended to provide for the location of wholesaling, distribution or warehousing uses.

B. Uses.

1. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.
2. The PI District excludes manufacturing or industrial uses that emit noxious odors, dust, fumes, gas, noise or vibration. It also excludes hazardous materials such as those involving bulk storage of gasoline or toxic chemicals.

C. Height and area regulations.

1. FAR (floor-area ratio), density and lot area/width: (See Table 6-2 in Article 6, Division I.)
2. Setback regulations, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is contained in Section 6.050.

D. Performance and design standards.

1. Design standards are applicable to development in this district: (See Article 8, Division I.)
2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)
5. This district is designed for industrial and warehousing uses that do not have a detrimental effect upon adjoining residential, office or commercial development.
6. Physical appearance.
 - a. All operations shall be carried on within an enclosed building except that new finished products or equipment in oper-

able condition may be stored outside only within fully-screened enclosures to the rear or side lot areas.

- b. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are screened from view.
- c. All company service vehicles, fleet trucks, etc., used in conjunction with a permitted use shall be stored overnight such that they are screened with a landscape buffer, or are not visible from a public street.

7. Performance standards.

- a. Fire hazard. All flammable substances involved in any activity established in this district shall be handled in conformance with the latest edition of the Uniform Fire Code published by the American Insurance Association and applicable codes and ordinances.
- b. Noise. No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
- c. Sewage and other liquid waste. No operation shall be carried on which involves the discharge into a sewer, water course, or the ground of liquid wastes of any radioactive nature or liquid waste of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- d. Air contaminants.
 - (1) Air contaminants and smoke shall be less dark than designated Num-

- ber One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each one-half hour. Light colored contaminants of such an opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
- (2) Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths grain per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six-tenths grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
- (3) Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other materials in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or the public in general or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.
- e. Odor. The emission of odors that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor, it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this chapter.
- f. Gasses. The gasses sulfur dioxide and hydrogen sulfide shall not exceed five parts per million. All nitrous fumes shall not exceed one part per million. Measurements shall be taken at the property line of the particular establishment involved.
- g. Vibration. All machines including punch presses and stamping machines shall be so mounted as to minimize vibration, and in no case shall such vibration exceed a displacement of three-thousandths of an inch measured at the property line. The use of steam or broad hammers shall not be permitted in this district.
- h. Glare and heat. Glare, such as welding arcs and open furnaces, shall be shielded so that it shall not be visible from the property line. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.
- i. Hazardous materials. Operations involving the storage or use of hazardous materials in reportable quantities, as classified by the Environmental Protection Agency (EPA), shall obtain any necessary permits from the Fire Department and make improvements to the building and grounds required by the Uniform Fire Code.
- Sec. 4.230. AZ Airport Zone.**
- A. Statement of intent and purpose. The AZ, Airport Zone is established to incorporate the city airport and adjoining developable properties not subject to the various airport protection zones identified in Article 5. The AZ is intended to provide for selective commercial and industrial uses that complement the airport.

B. Uses.

1. Permitted principal and accessory uses, uses permitted as of right but with conditions, and special uses are contained in Table 6-1 in Article 6, Division I.

C. Height and area regulations.

1. FAR (floor-area ratio), density and lot area/width: (See Table 6-2 in Article 6, Division I)
2. Setback regulations, including minimum front yard, side yard and rear yard standards: (See Table 6-3 in Article 6, Division I.)
3. Height requirements: (See Table 6-4 in Article 6, Division I.)
4. Exception to the maximum height requirements is not applicable in this zone.

D. Performance and design standards.

1. Design standards are applicable to development in this district. Office, Commercial and Industrial District design standards shall apply per Article 8, Division I.
2. Parking regulations: Parking by use shall apply per Article 8, Division II.
3. Sign regulations: (See Article 9). Signs shall be based on use as follows:
 - a. Office use: PO District requirements.
 - b. Commercial use: CP-2 requirements.
 - c. Industrial use: PI requirements.
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)
5. This district is designed for uses that are complimentary to the airport and airport operations.
6. Physical appearance.
 - a. All operations shall be carried on within an enclosed building except that new finished products or equipment in operable condition may be stored outside only within fully-screened enclosures to the rear or side lot areas.
 - b. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are screened from view.

- c. All company service vehicles, fleet trucks, etc., used in conjunction with a permitted use shall be stored overnight such that they are screened with a landscape buffer, or are not visible from a public street.

Sec. 4.240. PMIX Planned Mixed Use District.A. Statement of intent and purpose.

1. It is the Governing Body's intent, in providing for a PMIX Planned Mixed Use District, to:
 - a. Allow greater flexibility in development standards (lot coverage, setbacks, building heights, lot sizes, etc.) to facilitate adaptation of development to the unique conditions of a particular site,
 - b. Permit a mixture of uses which, with proper design and planning, will be compatible with each other and with surrounding uses or zoning districts and will permit a finer-grained and more comprehensive response to market demand, and
 - c. Obtain greater economic vitality, higher standards of site and building design, a high level of environmental sensitivity, and more satisfying living and working environments than can be achieved under the standards of other zoning districts.
2. Applicability. An area may be considered for rezoning to PMIX District if any one of the following conditions exist:
 - a. More than one land use is proposed for development on a single parcel, where only a single use is permitted under other zoning classifications.
 - b. Different land uses that would not otherwise be permitted to locate within the same zoning district are proposed for development on one or more adjacent parcels under single or separate ownership.
 - c. An exception or variation from the size, setback, frontage, density, uses or other standards that are required in other zon-

ing districts permitting the same uses are being proposed as part of a development plan.

B. Uses.

1. Residential uses.

a. Characteristics.

- (1) A PMIX may allow for a more flexible placement, arrangement and orientation of residential structures, with accompanying flexibility in the subdivision of land and the grouping of open space and accessory facilities such as garages and parking.
- (2) The PMIX also may provide for a mixture of housing types (single-family, two-family, multi-family, etc.) according to a carefully drawn plan.
- (3) The proposed residential development shall make maximum use of natural features, and, through proper site planning measures, it shall be compatible with the existing character and development pattern of the surrounding area.

b. General requirements. The following special items shall be included in the final development plan application:

- (1) The proposed architectural style and siting of all duplex and multi-family structures shall be indicated.
- (2) If development standards (lot coverage, setbacks, building heights, lot sizes, etc.) are not specifically proposed by the applicant or specific standards are not established by the Governing Body at the time of approval, then the applicable standards of the R-1 District shall apply.

2. Office uses.

a. Characteristics. A PMIX may contain orderly, well-designed office and institutional uses compatible with the surrounding area.

b. Requirements. If development standards (lot coverage, setbacks, building heights, lot sizes, etc.) are not specifically pro-

posed by the applicant or specific standards are not established by the Governing Body at the time of approval, then the applicable standards of the PO District shall apply.

3. Commercial uses.

a. Characteristics. A PMIX may provide for maximum attainable commercial usage of property while ensuring development consistent with the Governing Body's long-range plans.

b. Requirements. If development standards (lot coverage, setbacks, building heights, lot sizes, etc.) are not specifically proposed by the applicant or specific standards are not established by the Governing Body at the time of approval, then the applicable standards of the CP-2 District shall apply.

4. Industrial uses.

a. Characteristics. A PMIX may contain land designated for a single industrial use or for multiple but compatible industrial uses in an industrial park.

b. Requirements. If development standards (lot coverage, setbacks, building heights, lot sizes, etc.) are not specifically proposed by the applicant or specific standards are not established by the Governing Body at the time of approval, then the applicable standards of the PI-1 district shall apply.

5. Special uses. Approval of a use requiring a "special use permit" shall be considered as an amendment to the PMIX District. In considering a "special use permit," in addition to criteria of Article 6, Division III, all rezoning considerations for a PMIX District shall be applicable.

C. Height and area regulations.

1. Densities, lot sizes, structure heights and structure setbacks are established a part of the zoning approval for each particular PMIX zoning approval. The maximum structure

height requirements applicable to this district are found in Table 6-4 in Article 6, Division I.

D. Performance and design standards.

1. Design standards are applicable to development in this district. (See Article 8, Division I.) Standards are established in the zoning approval for the PMIX.
2. Parking regulations: (See Article 8, Division II.)
3. Sign regulations: (See Article 9 in Article 6, Division I.)
4. Landscaping, buffering and tree protection: (See Article 8, Division III.)
5. Minimum site requirements.
 - a. A site proposed for a PMIX District classification shall contain a contiguous area of five acres or more, unless a smaller area is specifically approved by the Governing Body due to special and unusual circumstances. Property shall be deemed to be contiguous if all parts are under unified control, to ensure that the development plan can be executed as approved, and all parts abut or are separated by only a road, easement, or right-of-way.
 - b. The site shall abut a public street for a distance of at least 100 feet.
6. Open space.
 - a. All open spaces not proposed for dedication to the City shall have the proposed maintenance and ownership agreements explained in detail.
 - b. The landowner shall establish an organization for ownership and maintenance of common open space, and that organization shall not be dissolved nor shall it dispose of any common open space, by sale or otherwise (except to an organization conceived and established to own and maintain the common open space). The conditions of any transfer shall conform to the approved final development plan. The final development plan application shall include a descrip-

tion (in narrative form) of the ownership and maintenance organization and copies of any covenants, restrictions, by-laws and agreements proposed. If the maintenance organization will be a corporation, a copy of the articles of incorporation shall be included in the final development plan application.

- c. The Director may stipulate additional provisions for minimum widths and areas, interconnection, desirable features, uses of open space and access to open space. The Director shall ensure that land counted as open space is usable by and suitable for occupants of the development and that it enhances the value of the area.

Sec. 4.250. Reserved.

DIVISION III. EXEMPTIONS

Sec. 4.260. Exemptions.

The following structures or uses are exempt from the regulations of this ordinance and shall be permitted in any district. This section shall not be construed to exempt any public utility from other ordinances or regulations of the City, including, but not limited to, franchise agreements and applicable building codes:

- A. Poles, wires, cables, conduits, vaults (when totally screened), laterals, pipes, mains, valves, or any other similar equipment for transmission or distribution to customers of telephone or other communication services, electricity, gas, steam or water, or the collection of sewage or surface water, operated or maintained by a public utility (see also RSMo 89.380);
- B. Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way.

DIVISION IV. COMMON PROPERTY

Sec. 4.270. General provisions.

- A. Common property shall be designated as "Tract(s)" on all preliminary development plans,

final development plans, preliminary plats, and final plats. Common property shall not be permitted on minor plats.

- B. No common property shall be permitted in any development unless the applicant, in its common property maintenance plan, provides that abatement costs imposed by the City pursuant to this division shall be assessable proportionally against all lots and lot owners and shall be a lien against all lots in the development.
- C. Every preliminary development plan, or preliminary plat if no preliminary development plan is required, designating storm water conveyance, retention, or detention facilities to be located on common property shall set forth the standards to which such facilities will be maintained by the condominium or homeowners' association, and shall also provide that in the event of failure to maintain such facilities to such standards, that abatement by the City shall be authorized, and that costs of abatement incurred by the City pursuant to this division shall be assessed proportionally against all lots and lot owners and shall be a lien against all lots in the development.
- D. No final development plan, or final plat if no final development plan is required, shall be approved unless the Director has received written verification from the Director of Public Works that all requirements pertaining to maintenance of common storm water conveyance, retention, or detention facilities and the assessment of costs substantially conform to the approved preliminary development plan.

Sec. 4.280. Condominium or property owners' associations and maintenance contracts.

- A. An applicant for approval of a preliminary development plan, or preliminary plat if no preliminary development plan is required, which contains common property shall provide for the establishment of a condominium or property owners' association for the perpetual ownership and maintenance of any common property, and shall also provide assurance of the financial and administrative ability of any such condominium or property owners' association to own and maintain the common property.

- B. No such condominium or property owners' association shall be dissolved or dispose of any common property by sale or otherwise (except to a new condominium or property owners' association assuming all the duties and obligations of the original association) unless the maintenance responsibilities set forth in the final development plan, or final plat if no final development plan is required, are assigned, with the consent of the City, to a person or entity with the financial, legal, and administrative ability to perform such obligations.
- C. Any such condominium or property owners' association may be required by the Governing Body to enter into a maintenance contract to provide for the perpetual maintenance of the common property.
- D. The Governing Body may approve the use of an entity other than a condominium or property owners' association to own and maintain the common property in lieu of the requirements of this section.

Sec. 4.290. Declaration of covenants and restrictions.

There shall be recorded in the land records of the county or counties in which the development is located, prior to the recording of the final plat or conveyance of any ownership interest in any of the real property in any development containing common property, a declaration of covenants and restrictions which shall:

- A. Specify the ownership of the common property; and
- B. Be prepared in accordance with this division; and
- C. Provide for the establishment of a condominium or property owners' association, or other entity approved by the Governing Body, prior to the recording of the final plat or sale of any part of the property; and
- D. Provide that ownership of any lot in the development shall not occur until the condominium or property owners' association, or other entity approved by the Governing Body, is formed and ownership of all common prop-

- erty has been transferred to the condominium or property owners' association or other entity; and
- E. Provide for the method of maintenance of common property; and
- F. Provide that the declaration of covenants and restrictions pertaining to common property shall be permanent; and
- G. Provide that the lot owners within the development are liable for the costs of maintenance of all common property and that the costs shall be assessed proportionally against the individual lots and lot owners within the development in accordance with the rules of the condominium or property owners' association; and
- H. Provide that the condominium or property owners' association, or other entity approved by the Governing Body, shall be responsible for liability insurance, taxes and perpetual maintenance; and
- I. Provide that membership in the condominium or property owners' association, or other entity approved by the Governing Body, shall be mandatory for each lot owner and any successive buyer; and
- J. Provide that each lot owner, at the time of purchase, shall be furnished with a copy of the declaration of covenants and restrictions; and
- K. Provide that the condominium or property owners' association, or other entity approved by the Governing Body, formed to own and maintain common property shall not be dissolved without the consent of the City, unless the maintenance responsibilities set forth in the final development plan are assigned, with the consent of the City, to a person or entity with the financial, legal, and administrative ability to perform such obligations; and
- L. Provide that in the event that any condition of the common property is determined to be a nuisance or in disrepair in violation of any provision of the Lee's Summit Property Maintenance Code, and such disrepair or nuisance is abated pursuant to procedures otherwise provided in the Property Maintenance Code, that the costs to abate the nuisance created by the failure to maintain any common property shall be assessed proportionally against the individual lots and lot owners within the development, in an equal amount per individual lot or lot owner, pursuant to the tax bill provisions of the Property Maintenance Code, and that the amount caused by the Finance Director to be assessed annually by tax bill shall not exceed five percent of assessed valuation per individual lot or lot owner; and
- M. Provide that in the event it is determined that the maintenance of any storm water conveyance, retention or detention facility located on common property fails to meet any standard set forth in the final development plan, or final plat if no final development plan is required, and such failure is abated by the City pursuant to the procedures of this division, that upon completion of the work and certification by the Director of Public Works that the deficiency has been abated, the Director of Public Works shall certify all costs of such abatement, including enforcement costs and expenses of staff time incurred in the remediation of the deficiency, to the City's Director of Finance who shall cause a special tax bill therefore, or add the costs thereof to the annual real estate tax bill, at the Finance Director's option, proportionally against the individual lots and lot owners within the development, in an equal amount per individual lot or lot owner, that the amount caused by the Finance Director to be assessed annually by tax bill shall not exceed five percent (5%) of assessed valuation per individual lot or lot owner, that the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance shall be a defense thereto, that each special tax bill shall be issued by the City Clerk and delivered to the City Finance Director on or before the

first day of June of each year, and that such tax bill, if not paid when due, shall bear interest at the rate of eight percent; and

- N. Provide that the City shall be a third party beneficiary of all provisions pertaining to the assessment of costs for maintenance of storm water conveyance, retention, or detention facilities on common property, and that such provisions shall not be modified or amended without the written consent of the City.

The Governing Body may waive, amend, or approve requirements or the use of other entities in lieu of, the requirements of this section.

Sec. 4.300. Maintenance of common property.

- A. The City shall not be responsible for the maintenance of common property.
- B. Maintenance responsibility for all common property in the development shall be the responsibility of the condominium or property owners' association, or other entity approved by the Governing Body. During the period in which the developer maintains effective control of the board of the condominium or property owners' association, or other entity approved by the Governing Body, the developer shall remain jointly and severally liable for the maintenance obligations of the condominium or property owners' association.

Sec. 4.310. Enforcement.

- A. The failure of the developer, the condominium or property owners' association, or other entity approved by the Governing Body, to properly maintain any common property shall subject the developer, the condominium or property owners' association, other entity approved by the Governing Body, and/or persons or entities with any ownership interest in lots within the development, to enforcement action pursuant to the City's Property Maintenance Code, Ordinance No. 4934, as may be amended from time to time. The costs to abate a nuisance created by the failure to maintain any common property shall be assessed proportionally against the individual lots and lot owners within the development, in an equal amount per individual lot or lot owner,

pursuant to the tax bill provisions of the Property Maintenance Code. The amount caused by the Finance Director to be assessed annually by tax bill shall not exceed five percent of assessed valuation per individual lot or lot owner.

- B. The failure of the developer, the condominium or property owners' association, or other entity approved by the Governing Body, to properly maintain any common property shall be considered to be a violation of this article and subject to the penalties and/or remedies set forth in Sections 1.190 and 1.200 of this chapter.
- C. In the event the Director, in consultation with the Director of Public Works, determines that probable cause exists to believe that maintenance of any common storm water conveyance, retention or detention facility located on common property fails to meet a standard or standards set forth in the final development plan, or final plat if no final development plan is required, the Director shall provide notice by U.S. mail to the developer, the condominium or property owners' association, or the entity approved by the Governing Body, or the registered agent of the developer, condominium or property owners' association, or other entity, describing with particularity the facts constituting such cause to believe a deficiency exists, and setting a date, time, and place for administrative hearing before the Director no sooner than ten days from the date of said notice. In emergency circumstances, when failure to promptly abate such deficiency can reasonably be expected to cause damage to any person or property, 24-hour notice of such administrative hearing may be delivered to any responsible officer or director of the developer, condominium or property owners' association, or other entity. At the date, time, and place of the hearing set forth in the notice, the Director shall receive evidence and testimony from the developer, the condominium or property owners' association, or other entity, or anyone on behalf of the developer, condominium or property owners' association, or other entity, and all other persons with relevant evidence or testimony to provide, on the issue of whether a maintenance deficiency exists, and if the Director finds that a deficiency exists, the Director may either order remedial action by the developer, condominium

or property owners' association, or other entity, with compliance deadlines, or the Director may order abatement by the City. The Director's decision shall be final when mailed by U.S. mail postage prepaid to the developer, the condominium or property owners' association, the other entity, or to a registered agent of the developer, association, or other entity, and may be appealed within ten days from the date of such mailing. The appeal, if any, shall be pursuant to the contested case procedures of RSMo ch. 536. In the event the decision of the Director is to order abatement by the City, the Director of Public Works shall be authorized to procure by emergency contract the services of such consultants, design professionals, and contractors as may be necessary to abate the condition. Upon completion of the work and certification by the Director of Public Works that the deficiency has been abated, the Director of Public Works shall certify all costs of such abatement, including enforcement costs and expenses of staff time incurred in the remediation of the deficiency, to the City's Director of Finance who shall cause a special tax bill therefore, or add the costs thereof to the annual real estate tax bill, at the Finance Director's option, proportionally against the individual lots and lot owners within the development, in an equal amount per individual lot or lot owner. The amount caused by the Finance Director to be assessed annually by tax bill shall not exceed five percent of assessed valuation per individual lot or lot owner. The tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance shall be a defense thereto. Each special tax bill shall be issued by the City Clerk and delivered to the City Finance Director on or before the first day of June of each year. Such tax bill, if not paid when due, shall bear interest at the rate of eight percent.

PROOFS

ARTICLE 5.

OVERLAY DISTRICTS

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DIVISION I. AIRPORT HAZARD OVERLAY DISTRICT

Sec. 5.010. Purpose.

A. The purpose of the Airport Hazard Overlay District regulations is to:

1. Establish land uses that are compatible with continued airport operations.
2. Reduce hazards that may endanger the lives and property of the public and aviation users.
3. Protect the viability of the Lee's Summit Municipal Airport.
4. Discourage siting of incompatible land uses that may impair the future development and operation of the Lee's Summit Municipal Airport.
5. Protect navigable airspace from obstructions which are of sufficient height as to constitute a danger to aircraft flight.

B. To carry out the provisions of this division throughout certain zones, there are hereby established certain zones that include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Lee's Summit Municipal Airport. These zones are shown on the adopted Airport Layout Plan (ALP), as amended, consisting of drawings, prepared to Federal Aviation Administration (FAA) and Missouri Department of Transportation (MODOT) Aviation Section standards as required under Federal Aviation Regulations Part 77 Objects Affecting Navigable Airspace.

Sec. 5.020. Definitions.

The following definitions of words, terms or districts shall apply to the Airport Hazard Overlay District:

Airport elevation means 1,004 feet above mean sea level.

Airport zones means an area located in more than one of the following zones is considered to be only in

the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Other than utility, non-precision instrument runway with a visibility minimum greater than three-quarter statute mile non-precision instrument approach zone. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. This zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Runway larger than utility with a visibility minimum as low as three-quarter mile non-precision instrument approach zone. The inner edge of this zone coincides with the width of the primary surface. This zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Precision instrument runway approach zone. The inner edge of this zone coincides with the width of the primary surface. This approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4. Transitional zones. The transitional zones are the areas beneath the transitional surfaces.
5. Horizontal zone. The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
6. Conical zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

7. Runway Protection Zone. The Runway Protection Zone (RPZ) is trapezoidal in shape and centered about the extended runway centerline. The central portion of the RPZ and controlled activity area are the two components of the RPZ. The central portion of the RPZ extends from the beginning to the end of the RPZ, centered on the runway centerline. The controlled activity area is the area within the RPZ to the sides of the central portion of the RPZ. The dimensions and location of the RPZs for runway 18-36 and 11-29 are included in Exhibits A and B of this article. The purpose of this zone is to maintain areas that are generally free of structures and other obstructions, and avoid uses that allow human occupation or significant concentrations of people for any significant period of time.

Approach surface means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section 5.030 of this ordinance. The perimeter of the approach surface coincides with the perimeter of the airport zone.

Conical surface means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

Hazard to air navigation means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height means for the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal surface means a horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.

Obstruction means any structure, growth, or other object, including a mobile object that exceeds a limiting height set forth in this article.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary surface means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:

- (1) Five hundred feet for non-precision instrument runways having visibility minimums greater than three-quarters mile.
- (2) One thousand feet for precision instrument runways and non-precision instrument runways having a non-precision instrument approach with visibility minimums as low as three-quarters mile.

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Runway other than utility, non-precision instrument runway means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

Transitional surfaces means these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and a 90 degree angle to the extended runway centerline.

Sec. 5.030. Airport zone height limitations.

Except as otherwise provided in the Airport Hazard Overlay District, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this district to a height in excess of the applicable height limit herein established for such zone. The applicable height limitations are hereby established for each of the zones in question as follows:

- A. Non-precision instrument runway with a visibility minimum greater than three-quarters mile non-precision instrument approach zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
- B. Precision instrument runway approach zone. Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- C. Transitional zones. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,154 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
- D. Horizontal zone. Established at 150 feet above the airport elevation or at a height of 1,154 feet above mean sea level.
- E. Conical zone. Slopes 20 feet outward for each foot upward beginning at the periphery

of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

- F. Approach obstruction clearance surface. This surface is at a height within a terminal obstacle clearance area including an initial approach segment, a departure area, and a circling approach area, that would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance for that instrument approach procedure.
- G. Excepted height limitations. Nothing in this article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

Sec. 5.040. Use restrictions.

Notwithstanding any other provisions of the Airport Hazard Overlay District, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Sec. 5.050. Nonconforming uses.

- A. Regulations not retroactive. The regulations prescribed by the Airport Hazard Overlay District shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a legal nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

B. Marking and lighting. Notwithstanding the other provision of this District, the owner of any existing legal nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Director, to indicate to the operators of aircraft in the vicinity of the airport the presence or such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the City's expense.

Sec. 5.060. Development.

A. Future uses. Except as specifically provided in this chapter, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless approved through the development process.

1. In the runway protection zone (RPZ) the following land uses are allowed without further evaluation:
 - a. Farming that meets the minimum buffers as shown in FAA Advisory Circular 150/5300-13A, Chapter 3.
 - b. Irrigation channels as long as they do not attract birds.
 - c. Airport service roads, as long as they are not public roads and are directly controlled by the airport operator.
 - d. Underground facilities, as long as they meet other design criteria, such as runway safety area requirements, as applicable.
 - e. Unstaffed NAVAIDs and facilities, such as equipment for airport facilities that are considered fixed-by-function in regard to the RPZ.
 - f. Permits shall be required for all trees and structures within the RPZ.
 - g. Evaluation and approval of other land uses in the RPZ. The FAA Office of Airports must evaluate and approve any proposed land use located within the limits of land controlled by the airport owner of an existing or future RPZ that is not specifically allowed in subsections

4.a. through 4.e. above. The FAA's Evaluation and Approval of RPZ Land Use Guidelines outlines the procedures for the FAA's Office of Airports review of proposed land uses in the RPZ. This document also provides direction on the evaluation of existing land uses in an RPZ and methods and procedures available to communities to protect the RPZ and prevent the congregation of people and property on the ground.

2. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this article except as set forth in Section 5.030.

- B. Existing uses. No nonconforming use, structure, or tree shall be allowed to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments thereto.
- C. Nonconforming uses abandoned or destroyed. Whenever the Director determines that a legal nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, the structure or tree shall not be allowed to exceed the applicable height limit or otherwise deviate from the zoning regulations.

Sec. 5.070. Development near the airport.

No material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone created by Article 5, Division I of this chapter within the City unless approved through the development process.

Secs. 5.080, 5.090. Reserved.

DIVISION II. FLOODPLAIN OVERLAY DISTRICT

Sec. 5.100. Statutory authorization.

The Legislature of the State of Missouri has in RSMo 89.020 delegated the responsibility to local govern-

mental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the City Council of the City of Lee's Summit, Missouri ordains as follows.

Sec. 5.110. Findings of fact.

A. Flood losses resulting from periodic inundation.

The special flood hazard areas of the City are subject to inundation that 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.

B. General causes of these flood losses. These flood losses are caused by:

1. The cumulative effect of obstruction in floodways causing increases in flood heights and velocities; and
2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

C. Methods used to analyze flood hazards. The flood insurance study (FIS) that is the basis of this division uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.

1. Selection of a regulatory 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 division is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this division. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year, as delineated on the Federal Insurance Administrator's Flood Insurance Study, and illustrative materials for Jackson County, Missouri dated January 20, 2017 as amended, and any future revisions thereto.

2. Calculation of water surface profiles based upon a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
3. Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increases in flood height.
5. Delineation of the floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

Sec. 5.120. Statement of purpose.

It is the purpose of this division to promote the public health, safety and general welfare; to minimize those losses described above to establish or maintain the City'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(d) by applying the provisions of this division to:

- A. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause increased flood heights or velocities;
- B. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction;
- C. Protect individuals from buying lands that are unsuited for intended purposes due to the flood hazard; and
- D. Assure that eligibility is maintained for property owners in the City to purchase flood insurance in the Federal Flood Insurance Program.

Sec. 5.130. Definitions.

The following definitions shall apply to the Floodplain Overlay District:

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 the City 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 City who is charged with the authority to implement and administer laws, ordinances, and regulations for the City.

City means the City of Lee's Summit, which is the designated 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 the City.

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 boundary and floodway map (FBFM) means an official map of the City on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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 fringe means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood hazard boundary map (FHBM) means an official map of the City, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood insurance rate map (FIRM) means an official map of the City, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the City.

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.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.

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 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 the City'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 the City 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 City.

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.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Risk premium rates means those rates established by the Administrator pursuant to individual City 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 and 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 its before damaged condition

would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term includes repetitive loss buildings (see definition).

For the purposes of this definition, "repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions,
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure," or
- (3) Any improvement to a building.

Substantial improvement means any combination of reconstruction, alteration, or improvement to a building, taking place during a ten-year period, in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done.

The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions,
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure," or

- (3) Any building that has been damaged from any source or is categorized as repetitive loss.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief by the City 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 City.

Violation means the failure of a structure or other development to be fully compliant with the City'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.

Sec. 5.140. General provisions.

- A. Land to which ordinance applies. This division shall apply to all lands within the jurisdiction of the City identified as numbered and unnumbered A zones and AE zones on the flood insurance rate map (FIRM) for Jackson County on map panels 29095C0294G, 29095C0313G, 29095C0314G, 29095C0404G, 29095C0407G, 29095C0408G, 29095C0409G, 29095C0411G, 29095C0412G, 29095C0413G, 29095C0414G, 29095C0416G, 29095C0417G, 29095C0418G, 29095C0419G, 29095C0430G, 29095C0435G, 29095C0436G, 29095C0437G, 29095C0438G, 29095C0439G, 29095C0441G, 29095C0445G, 29095C0526G, 29095C0530G, 29095C0531G, 29095C0532G, 29095C0535G, 29095C0551G, 29095C0552G, and 29095C0553G, dated January 20, 2017 as amended, and any future revisions thereto. In all areas covered by this division, no development shall be permitted except

through the issuance of a floodplain development permit, granted by the Governing Body or its duly designated representative under such safeguards and restrictions as the Governing Body or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the City, and as specifically noted in Article 2.

- B. Floodplain Administrator. The City Engineer is hereby designated as the Floodplain Administrator under this ordinance.
- C. Compliance. No development located within the special flood hazard areas of this City 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 the intent of the Floodplain Overlay District to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where the Floodplain Overlay District imposes greater restrictions, the provision of this division shall prevail. All other provisions inconsistent with this division are hereby repealed to the extent of the inconsistency only.
- E. Interpretation. The interpretation and application of the provisions of the Floodplain Overlay District shall be held to be minimum requirements and shall be liberally construed in favor of the City 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 division is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study; however, larger floods may occur and flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. The Floodplain Overlay District does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within these districts will be free from flooding or flood damage. This District shall not create liability on the part of the City or any officer or employee thereof for any

flood damages that may result from reliance on this division 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.

Sec. 5.150. Administration.

- A. Floodplain Development Permit required. A floodplain development permit shall be required for all proposed construction or other development, including placement of manufactured homes, in the areas described in Article 15. 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 City Engineer is hereby appointed to administer and implement the provisions of this ordinance.
- C. Duties and responsibilities of Floodplain Administrator. Duties of the City Engineer 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;
 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 Missouri State Emergency Management Agency (Mo. SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse.
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 City Engineer shall require certification from a registered professional engineer or architect.
- D. Application for floodplain development permit. To obtain a permit, the applicant shall first file an application therefore 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, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
 2. Identify and describe the work to be covered by the permit for which application is made;
 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. Be accompanied by plans and specifications for proposed construction;
8. Be signed by the permittee or his authorized agent, who may be required to submit evidence to indicate such authority;
9. Be accompanied by elevations (in relation to mean sea level) of the lowest floor (including basement) or in the case of floodproofed non-residential structures, the elevation to which it has been floodproofed; and
10. Give such other information as reasonably may be required by the City Engineer.

Sec. 5.160. Establishment of zoning districts.

The mapped floodplain areas within the jurisdiction of the City are hereby divided into the two following districts: A floodway overlay district (FW) and floodway fringe overlay district (FF) identified in the flood insurance study and shown on the flood insurance rate maps. The boundaries of these districts shall become part of the official zoning map. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A zones and AE zones as identified on the official FIRM and identified in the flood insurance study provided by the Federal Insurance Administration.

Sec. 5.170. Standards for flood hazard reduction in floodway and floodway fringe overlay districts.

In all areas of special flood hazards (floodway and floodway fringe), the following standards must be met:

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 numbered or unnumbered 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 City 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 City.
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, of 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:
 - a. There is no human habitation or occupancy of the structure;
 - b. The structure is of single-wall design;
 - c. A variance has been granted from the standard floodplain management requirements of this ordinance; and
 - d. A floodplain development permit has been issued.
 7. Hazardous materials: All hazardous material storage and handling sites shall be located out of the floodplain.
 8. Cumulative improvement: A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed 50 percent of the structure's current market value. If the cumulative value of the improvement exceeds 50 percent of the structure's current market value, the structure must be brought into compliance with Section 5.170.B.1., which requires elevation of residential structures to or above the base flood elevation, or the elevation/floodproofing of non-residential structures to or above the base flood elevation.
 9. Critical facilities:
 - a. All new or substantially improved critical nonresidential facilities including, but not limited, to governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the 500-year flood level or together with attendant utility and sanitary facilities,

be floodproofed so that below the 500-year flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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 the National Flood Insurance Program (NFIP) regulations.

- b. All critical facilities shall have access routes that are above the elevation of the 500-year flood.

10. **Agricultural structures:** Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, 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; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

B. Specific standards.

1. In all areas identified as numbered and unnumbered A zones and AE zones, where base flood elevation data have been provided, as set forth in Section 5.170.A.2., 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 two feet above the base flood elevation.

- 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 two feet above the base flood elevation 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 Section 5.150.C.9.

- 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 de-

VICES 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 City'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 City's FIRM on sites:
 - a. Outside of manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to and 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 two 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 City's FIRM, that are not subject to the provisions of Subsection C.2. of this section, be elevated so that either:

- a. The lowest floor of the manufactured home is at two feet above the base flood level; 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 24 inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

D. Floodway. Located within areas of special flood hazard established in Section 5.140.A. are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

1. The City shall select and 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. The City shall prohibit any 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 City during the occurrence of the base flood discharge.
3. If Section 5.170.D.2. is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 5.170.
4. In unnumbered A zones, the City shall obtain, review, and reasonably utilize

any base flood elevation or floodway data currently available from federal, state, or other sources as set forth in Section 5.170.A.2.

E. Recreational vehicles. Recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the City's FIRM shall be either:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use*; or
3. Meet the permitting, elevation, and the 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.

Sec. 5.180. FW Floodway Overlay District.

- A. Permitted uses. Only uses having a low flood-damage potential and not obstructing flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other sections of this chapter and provided they do not require structures, fill or storage of materials or equipment. No use shall increase the flood levels of the regulatory flood elevation.
- B. Uses within specified districts. The following uses are permitted where the uses are also permitted by the appropriate zoning district:
1. Agricultural uses such as general farming, pasture, nurseries, forestry;
 2. Residential uses such as lawns, gardens, parking and play areas;
 3. Non-residential areas such as loading areas, parking, airport landing strips; and
 4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

Sec. 5.190. FF Floodway Fringe Overlay District.

- A. Permitted uses. Any use permitted in Section 5.220, Nonconforming use, shall be permitted in the Floodway Fringe Overlay District. Other uses that are permitted by the appropriate zoning district shall be permitted subject to the standards set forth in Section 5.170.

Sec. 5.200. Certification and information.

- A. Flood proofing. Applicants for a development permit for a flood-proofed structure shall provide certification by a registered professional engineer or architect that the flood proofing plans are adequate to be water tight with walls impermeable to the passage of water and withstand the hydrostatic and hydrodynamic forces associated with the 100-year flood.
- B. Flood proofing approval. Flood proofing of residential structures will not be allowed unless an exception is specifically granted from the provisions of this ordinance by the Administrator of the Federal Insurance Administration.
- C. Elevation of property. The applicant shall provide information identifying the elevation of the property in relation to mean sea level of the lowest floor (including the basement of the proposed structure) to which structures are flood proofed. In addition, the applicant shall provide this information for the second lowest floor when the lowest floor is below grade on one or more sides.
- D. Records. The City Engineer will maintain the records of certification when issuing development permits in conformance with this section.

Sec. 5.210. Floodplain management variance procedures.

- A. Establishment of Appeal Board. The Board of Zoning Adjustment as established by the City of Lee's Summit shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.
- B. Responsibility of Appeal Board.
1. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is

- denied by the City Engineer, the applicant may apply for such floodplain development permit or variance directly to the Board of Zoning Adjustment, as defined in Section 5.210.A.
2. The Board of Zoning Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this ordinance.
- C. Further appeals. Any party aggrieved by the decision of the Board of Zoning Adjustment or any taxpayer may appeal such decision to the Jackson County Circuit Court as provided in RSMo 89.110.
- D. Floodplain management variance criteria. In passing upon such applications for variances, the Board of Zoning 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 City;
 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 level, 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 structures 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. The City shall notify the applicant in writing over the signature of a City official that:
 - a. The issuance of a variance to construct a structure below base flood level will result in increased annual premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage,
 - b. Such construction below the base flood level increases risks to life and property, and
 - c. 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 Sections 5.210.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 City'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 Section 5.170.A.4.b. of this ordinance.
3. The accessory structures must be adequately anchored to prevent flotation, col-

lapse, or lateral movement of the structure in accordance with Section 5.170.A.4.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 Section 5.170.A.4.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 Section 5.170.B.1.c. of this ordinance.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 5.170.D.2. 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. The City shall notify the applicant in writing over the signature of a City official that:
 - a. The issuance of a variance to construct a structure below base flood level will result in increased annual premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and
 - b. Such construction below the base flood level 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 City and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.
- G. Conditions for approving variances for agricultural structures. Any variance granted for an agricultural 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 Sections 5.210.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 agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the City's flood insurance rate map (FIRM).
3. For any new or substantially damaged agricultural 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 Section 5.170.A.4.b. of this ordinance.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 5.170.A.4.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.
5. 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 Section 5.170.A.4.d. of this ordinance.
6. The agricultural 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 Section 5.170.B.1.c. of this ordinance.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 5.170.D.2. of this ordinance. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. The City shall notify the applicant in writing over the signature of a City official that:
 - a. The issuance of a variance to construct a structure below base flood level will result in increased annual premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and
 - b. Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this ordinance.

11. Wet-floodproofing construction techniques must be reviewed and approved by the City and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

Sec. 5.220. Nonconforming use.

- A. A structure or the use of a structure or premises that was lawful before the effective date of passage or amendment of this ordinance, but that is not in conformity with the provisions of this division may be continued subject to the following instructions:

1. No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in a way that increases its nonconformity.
2. If the use is discontinued for three consecutive months, any future use of the building premises shall conform to this ordinance. The Water Utilities Department shall notify the City Engineer in writing of instances of legal nonconforming uses where utility services have been discontinued for a period of three months.
3. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

- B. If any legal nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, except if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations, or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, or local inventory of historic places upon determination.

Sec. 5.230. 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 pursuant to Article 2, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the hearing shall be provided pursuant to Article 2. The regulations of this division are in compliance with the National Flood Insurance Program Regulations.

**Sec. 5.240. Floodplain development permit—
When required.**

No person shall initiate any development within floodway and floodway fringe overlay districts or cause development to be undertaken therein without first obtaining a separate floodplain development permit for each building, structure or other development, pursuant to the requirements set forth in Section 5.190, FF Floodway Fringe Overlay District, of this chapter.

Sec. 5.250. Penalties for 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 a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00, 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 Lee's Summit or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. In Addition, the City may seek injunctive relief through civil remedies to mitigate development performed on land in FW and FF overlay districts without approved permits or in violation of Article 5, Division II of this ordinance.

**Sec. 5.260. Floodplain development permit—
Appeals.**

The applicant may appeal the non-issuance of a floodplain development permit, and a permit holder may appeal the revocation of a floodplain development permit, to the Board pursuant to Article 2, Division VII, Board of Zoning Adjustment.

Secs. 5.270—5.300. Reserved.

**DIVISION III. HISTORIC PRESERVATION
OVERLAY DISTRICT**

Sec. 5.310. Statement of purpose and intent.

It is hereby declared as a matter of public policy that the protection and enhancement of cultural resources are required in the interest of promoting the educational, cultural, economic and general welfare of the City. The purpose of this division is to:

- A. Protect, enhance and perpetuate cultural resources that represent or reflect elements of the city's cultural, social, economic, political and architectural history;
- B. Safeguard the City's historic, aesthetic and cultural heritage as reflected in these sites, buildings, structures or land improvements on single parcels of land and in historic districts;
- C. Foster civic pride in the beauty and accomplishments of the past;
- D. Protect and enhance historic sites, buildings, structures landscape elements, and objects or works of art in order to create an attraction to visitors thereby strengthening the economy of the city;
- E. Promote the use of landmarks and historic districts as educational and cultural resources of the City;
- F. Reconstruct, retain, stabilize, restore, and rehabilitate those properties which contribute to the character of landmarks and historic districts and to encourage their adaptation for current use or adaptive reuse;

- G. Assure that alterations of and/or additions to existing structures are compatible with the character of the landmark and historic district;
- H. Assure new construction and subdivision of lots are compatible with the character of the local landmark and local historic district;
- I. Promote interaction with persons, organizations, corporations, foundations, and public agencies in matters involving historic restoration, preservation, rehabilitation and reuse;
- J. Make provisions for review of any applications for certificates of no effect (CNE) and for certificates of appropriateness (COA) including appropriate plans, drawings, building façade elevations, historic photography, archeological finds and other information as may be necessary for decisions to be made;
- K. Promote the exploration of and identification, evaluation, protection and interpretation of the prehistoric and historic archaeological site resources within the corporate limits of the city;
- L. Promote the safety and general welfare of the residents of the city.

Sec. 5.320. Definitions.

The following definitions shall apply to the landmark and historic district:

Alteration means any architectural, mechanical or structural change requiring the addition, removal, reconstruction, change in the location, or extension of any main building or accessory building or site configuration.

Certificate of appropriateness (COA) means a certificate approved by the Historic Preservation Commission and issued by the Department of Planning and Development stating that proposed major work on a local landmark and/or structure within a local historic district designated property is compatible with the historic character of the property and associated local historic district and the design guidelines associated with the applicable local landmark and/or local historic district.

Certificate of no effect (CNE) means a certificate approved and issued by the Department of Planning and Development stating that proposed minor work on a local landmark and/or structure within a local historic district designated property will have no adverse effect on the historic character of the building or property.

Construction means reconstruction, rehabilitation, restoration, and stabilization of an existing building or structure, placing an addition on to an existing structure, or the erection of a new main structure or an accessory structure on a lot or property.

Cultural resource(s) means any single structure, site, portions of structures, landscape elements, objects, works of art, spring house, root cellar or well located on a single property so designated as a landmark and structures or sites, portions of structures, groups of structures, landscape elements, objects, works of art, spring house, root cellar or well integrated combinations designated as a historic district of special historic, aesthetic, archeological or architectural significance.

Demolition means any act or process that destroys in part or in whole a cultural resource. Demolition does not consider in this case the removal of solely interior elements that do not alter exterior features or that is not clearly visible from outside a building or structure.

Demolition approval means authorization for removal of all or part of a structure located within a local historic overlay district or under application(s) for designation as a cultural resource, local landmark or local historic district designation.

Design guidelines means specific standards adopted by the Preservation Commission in conjunction with, and accepted by, the owners of the designated cultural resource as adopted by the City Council. These are specific standards by which an appropriate construction activity will preserve the historic and architectural character of the designated cultural resource.

Design review criteria means general criteria adopted by ordinance by the City Council at time of cultural resource designation. These criteria are to be considered in establishing design guidelines for each specific designated cultural resource.

Exterior architectural appearance means the architectural character and general composition of the exterior of any building or structure including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, window openings, doors, door openings, roofing and siding materials, light fixtures, signs, and other like building elements.

Historic Preservation Commission means the Lee's Summit Historic Preservation Commission, as established in Article 14, Administration of the Unified Development Ordinance (UDO).

Local historic district means an area designated as a "historic district" by ordinance of the City Council that may contain, within an identifiable geographic boundary, a significant concentration, linkage or continuity of properties, sites, buildings, structures or objects, known as landmarks and/or contributing properties in a historic district, united by past events or aesthetically by plan or physical development and which is worthy of rehabilitation, restoration, stabilization and/or preservation and interpretation.

Local landmark means a single property, site, building, structure or object, so designated by ordinance of the City Council, which due to its historic, architectural or archaeological significance to the City, is worthy of rehabilitation, restoration, stabilization and/or preservation and interpretation.

Preservation means the application of measures to sustain the existing form, integrity and material of a cultural resource without significant reconstruction or restoration. These measures may include stabilization and a regular maintenance program to arrest or retard deterioration.

Reconstruction means the accurate re-creation of a deteriorated, beyond repair or a non-surviving site, landscape, a vanished or irreplaceably damaged building, structure or part thereof, or object with all new materials replicating documented species and/or materials which existed on the no longer existing site, landscape, building, structure or object. The new construction re-creates the building's exact form and detail as they appeared at some point in history.

Rehabilitation means the act or process of returning a property site, building or structure to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those

portions or features of the property which are significant to its historical, architectural, and cultural values.

Removal or relocation means the physical displacement of a building or structure on its site or its relocation to another site.

Repair means to restore an element of or a portion of a building or structure to a sound condition after deterioration, neglect, or damage has occurred.

Restoration means the process of accurately recovering the form and details of a building or structure and its setting as it appeared at a particular period of time by means of the removal of materials from other periods or by the replacement of missing original work.

Site means any area or location occupied by an enclosure, building or structure and/or utilized by humans for a sufficient length of time to construct features, or deposit a number of artifacts or any place with evidence of past human activity. Sites include, but are not limited to, occupation, location, work areas, evidence of farming or hunting and gathering, burial remains, artifacts and structures of all types.

Stabilization means the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

Structure means that which is built or constructed. A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

Sec. 5.330. Designation of landmarks and historic districts.

A. Preliminary research. The Preservation Commission shall establish and maintain a cultural resource survey of historic properties in accordance with standards and guidelines established by the Secretary of the Interior's "Standards and Guidelines for Historic Preservation" (36 CFR Part 61). The cultural resource survey shall be compatible with Missouri's statewide Historic Preservation Comprehensive Planning Process. In establishing the foregoing information, the

Preservation Commission shall place particular emphasis upon evaluating and incorporating the findings and studies and surveys already completed.

B. Application evaluation. Upon receiving a complete application for a local landmark and/or local historic District(s) the Historic Preservation Commission shall hold a public information meeting in accordance with Section 5.310 to consider the application. City staff shall prepare a written staff report subject to the designation criteria found in Section 5.330.C. below, describing the character and significance of the proposed local landmark or local historic district outlining its proposed boundaries. The Historic Preservation Plan applicable to the area to be affected by designation should also be considered in the Historic Preservation Commission's recommendation.

C. Designation.

1. Evaluation criteria for designation. The Preservation Commission shall evaluate each parcel of property within an area that is included in the application for a demonstrated quality of significance in local, regional, state, or national history, architecture, archaeology, engineering or culture, and integrity of location, design, setting, materials, workmanship and association.

A structure or site, portion of a structure, group of structures, landscape element(s), objects, works of art, or any integrated combination thereof may be designated for preservation if it:

- a. Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation; or is associated with the life of a person or persons significant in the past;
- b. Exemplifies the cultural, political, economic, social or historical heritage of the City;
- c. Portrays the environment in an era of history characterized by a distinct architectural style;

- d. By being part of or related to a park or other distinctive area, should be developed to preserve according to plan based on an historic, cultural or architectural motif;
 - e. Owing to its unique location or singular physical characteristics, represents an established and familiar visual feature of the neighborhood, community or city;
 - f. Any prehistoric/historic site(s) containing information of archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric research interest as set forth in the state historic preservation program master plan for cultural resources;
 - g. Embody the distinctive characteristics of a type, period or method of construction or that represent the work of a master or that possess high artistic values or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 - h. Are at least 50 years old, or have achieved significance within the past 50 years if the property is of exceptional importance.
2. The Historic Preservation Commission shall, when applying the evaluation criteria for designation, draw the boundaries of a landmark or historic district as carefully as possible to ensure that:
- a. The landmark or historic district contains documented historic, architectural or archaeological resources;
 - b. The historic district boundaries coincide with documented historic boundaries such as early roadways, subdivision plats or property lines;
 - c. Other district boundaries coincide with logical physical or manmade features and reflect recognized neighborhood or area boundaries; and
 - d. Other, non-historic resources or vacant land is included where necessary to cre-

ate appropriate boundaries to assist in meeting the criteria for designation as stated above.

- 3. Applications for a landmark or a historic overlay district or an amendment thereto shall be considered a rezoning.

Sec. 5.340. Public notice requirements.

A. Preservation Commission public meeting notification.

- 1. Time of mailing. The applicant shall mail all notices at least 15 days prior to the public meeting, notifying the property owner of the opportunity to be heard.
- 2. Mailed notice requirements. Mailed notice shall be sent, by regular mail, to the last known record owner of all property within 185 feet from the boundaries of the property for which the application is being considered. The notice shall state the time and place of the meeting, and include a general description of the proposal, a location map of the property, the general street location of the property subject to the proposed change, and a statement explaining that the public will have an opportunity to be heard at the public meeting. Failure to receive mailed notice shall not invalidate any action taken on the application.
- 3. Proof of notification. A copy of the mailed notice and a list of notified property owners with their addresses, along with an affidavit, shall be filed with the City prior to the public meeting certifying that notice has been sent in accordance with this section.

B. Planning Commission and City Council public hearing notification.

Upon receipt of a recommendation from the Historic Preservation Commission to consider an application for a cultural resource designation, notification shall be provided for Planning Commission and City Council public hearings in accordance with Article 2 of this chapter. Mailed notice shall be sent to both, owners of record of properties within the proposed area to be designated and to owners of properties within 185 feet of the boundaries thereof.

Sec. 5.350. Public hearing procedure.

- A. Action by Planning Commission. After notice as required by law, the Planning Commission shall hold a public hearing on each proposed designation of a local landmark or local historic district. After the conclusion of the public hearing, the Planning Commission shall make a recommendation in accordance with other provisions of this section with respect to the proposed designation. The recommendation may be for approval, disapproval or approval in part. The recommendation, together with a record of the hearing shall be forwarded to the City Council.
- B. Action by the City Council. Upon receipt of the recommendations of the Commission and Preservation Commission, the City Council shall hold a public hearing on the proposed designation. Following the public hearing the City Council shall either adopt an ordinance approving all or a part of the recommendation or shall disapprove the recommendation of the proposed designation in its entirety.
- C. Protest.
1. By owner(s) of property to be designated. If an owner of a proposed local landmark or 51 percent or more of the owners of property proposed to be included in a local historic district file a written protest to the requested designation, in affidavit form, with the City Clerk prior to consideration of an ordinance adopting the designation, then the requested designation shall not be approved.
 2. By owners of property within 185 feet of the local landmark or local historic district to be designated. If the owners of property(ies) of 30 percent or more of the total land area, exclusive of streets and alleys, that is located within an area determined by lines drawn parallel to and 185 feet distance from the boundaries of the property(ies) proposed to be designated as local landmark or a local historic district shall file a written protest, in affidavit form, with the city clerk's office against the designation of the property as a local landmark or local historic district, prior to consideration of an ordinance regarding the proposed designation, then the pro-

posed designation shall not be approved by ordinance except by a two-thirds majority vote of the City Council.

Sec. 5.360. Overlay district designation.

- A. Designation ordinance. Upon favorable approval by ordinance of a proposed designation by the City Council, the local landmark or historic district shall be classified and designated as an "H" historic overlay district as provided in this section. Following the passage of the designating ordinance, applicable design guidelines specific to the local landmark or local historic district shall be adopted by the Preservation Commission and accepted by the owners of the designated resource.
- B. Notification of approved designation. Within 20 days after adoption of the designation ordinance by the City Council, the City Clerk shall send, by certified mail, a copy of the ordinance to the owner(s) of record of the cultural resource so designated.
- C. Administrative delay on application for reconstruction, rehabilitation, removal, restoration, stabilization, construction, alteration or demolition while designation pending. No application for a permit to reconstruct, rehabilitate, remove, restore, stabilize, construct, alter or demolish any cultural resource in a proposed landmark or historic district shall be considered from the date on which the landmark or historic district application is deemed complete by the Director until the application for designation is finalized. However, if after 180 days have elapsed from the date the application has been deemed complete, final action on the designation has not been completed by adoption of an ordinance, the permit application shall be processed pursuant to existing ordinance.
- D. Emergency repairs. If an emergency situation exists regarding a physical condition of the proposed cultural resources, temporary repairs required to prevent imminent damage to the cultural resource may be authorized by the Director of Codes Administration. Within 48 hours after the repairs are made to stabilize the resource, the person making such authorized temporary repairs shall notify the Director of Codes Admin-

istration and such actions shall be presented to the Preservation Commission for their concurrence. If any work intended to be permanent was performed or is to be performed, a certificate of appropriateness (COA) must be obtained from the Preservation Commission in accordance with this article and the Historic Preservation Commission action thereon shall supersede the emergency approval.

E. Zoning district. The "H" historic overlay zoning district designation shall not change the existing underlying zoning designation within the local landmark or local historic district. The existing zoning standards for each underlying zoning district are set forth in this chapter and shall be complied with unless the standards conflict with the provisions of the ordinance designating the local landmark or local historic district and design guidelines specific to the landmark or district as adopted by the Historic Preservation Commission and accepted by the owners thereof. In the event of a conflict, the provisions of the historic district ordinance and associated design guidelines shall prevail.

Sec. 5.370. Certificate of no effect and certificate of appropriateness applications.

A. Certificate of no effect (CNE) or a certificate of appropriateness (COA) required.

1. A certificate of no effect (CNE) or a certificate of appropriateness (COA) shall be required before any person may take any of the following actions to any designated cultural resource:
 - a. Demolition (whole or part of);
 - b. Moving or relocation on the current site or to another site;
 - c. Material change(s) in the exterior appearance caused by additions, alterations, reconstruction, rehabilitation, restoration, stabilization or maintenance involving preparation for and application of exterior paint applications;
 - d. New construction of a principal building, building addition, accessory building,

landscape elements, objects or works of art located within a landmark or historic district;

- e. Construction of parking areas, drive-ways, or parking lots located within a local landmark or local historic district;
- f. Installation or placement of signs for a local landmark or for a building located in a local historic district.

2. The applicant shall schedule a pre-application meeting with City Staff to review site plans, façade elevations, details and supporting documents.
3. City staff shall visit the site and review the submitted documents to determine the appropriate process.

B. Review of certificate of no effect (CNE) application.

1. If determined to be the appropriate process, the applicant may make application for a CNE accompanied by the supporting documentation and appropriate fee.
2. City staff shall review the application for completeness and issue the CNE provided:
 - a. It is determined the proposed work is clearly identified as a minor project and clearly is in accord with adopted design guidelines.
 - b. Proposed work is compatible with specific design review guidelines established for and pertinent to the historic district in which the property is located.
 - c. Changes are kept to a minimum when adapting a building or site to a compatible new use.
 - d. Alterations are avoided which seek to create an earlier appearance or style.
 - e. Changes are retained that show the development of a building or site over time, where the changes are considered significant.
 - f. The distinctive stylistic features or examples of skilled craftsmanship on a building, structure or site are treated in a sensitive manner.

- g. The repair of deteriorated features is the first priority. If replacement is necessary, the applicant must match the visual qualities of the old or original feature using substantiated evidence.
 - h. The use of the gentlest method of cleaning is specified and which is appropriate for each building material. The sandblasting process will not be accepted as an approved cleaning process unless it can be documented that it will not damage a particular building material in any manner.
 - i. Any proposed work will protect and preserve archaeological resources on the site in question or any adjoining site.
 - j. The alterations, additions and new construction are designed and implemented in a manner that are compatible with the size, scale, color, material, and character of the historic building, structure, or site.
 - k. The design of new additions and alterations are implemented so that the essential form and integrity of the historic buildings or structures would be preserved if the additions or alterations were removed at some future date.
 - l. New secondary or accessory buildings within historic districts shall be visually compatible with the significant buildings, structures, and places to which they are visually related.
 - m. The proposed work will not diminish, eliminate or adversely affect the historic and architectural character of the subject property (landmark) or its effect on the historic district.
 - n. The proposed work, when at any time thereafter may be removed, will not diminish, eliminate or adversely affect the historic and architectural character of the subject property or its effect on the historic district.
3. If the CNE is approved, the applicant may apply for a building permit if one is required.
4. If denied or determined not to be the appropriate application, city staff shall refer the application to the Preservation Commission for consideration as a certificate of appropriateness (COA).
- C. Review of certificate of appropriateness (COA) application.
1. The applicant shall submit a complete application form for a COA with all supporting documentation and appropriate fees.
 2. Staff shall prepare a public information sign stating the time and place for the public information meeting to be held by the Preservation Commission to consider the requested action. The applicant shall post the sign on the subject property at least 15 days prior to the public information meeting date.
 3. Staff shall prepare a COA report for the Preservation Commission agenda along with supporting documentation and staff recommendation.
 4. The Preservation Commission shall review the affected area to determine the potential for the presence of historic, architectural or archeological sites and resources.
 5. The Preservation Commission shall conduct the public information meeting and approve, modify, or disapprove the application, in whole or in part, or suspend action on it for a period not to exceed 60 days for the purpose of obtaining additional information or documentation.
 6. If the COA is approved, staff shall prepare and issue the certificate of appropriateness. If not approved or approved in part, staff will prepare a written response to the applicant stating the basis for the Preservation Commission's decision.
 7. The applicant shall post the COA permit, along with the building permit if required, on the premises while the work is in progress and until the work is completed and approved by the City.
 8. If the COA is approved, staff shall prepare and issue the COA. If the COA is denied in whole or in part, the Director of Planning and

Development, or his designee, will prepare a written decision to the applicant stating the basis for the Preservation Commission's decision. An applicant may appeal the Preservation Commission's decision by filing a written appeal to the City Clerk within 30 days following the date of the decision. The written appeal shall include all documentation which the applicant believes relates to the applicant's entitlement to a COA. If a person fails to appeal the Preservation Commission's decision within 30 days as set forth in this subsection, the decision shall be final and no appeal shall be heard. The City Clerk shall provide notice to the applicant of the date, time and place of hearing, where the person will have full opportunity to present evidence and testimony in support of the applicant's appeal. The hearing shall be conducted by the City Council as a contested case under the provisions of RSMo ch. 536, and the City Council shall issue a final decision within 30 days of the hearing date. The decision shall include written findings of fact and conclusions of law. The decision of the City Council shall be final for purposes of appeal pursuant to RSMo ch. 536.

- D. Guidelines for rehabilitation. Design guidelines shall be the criteria developed to identify design concerns for rehabilitating historically designated properties, and to preserve the property's historic and architectural character. The design guidelines shall be accepted by the affected property owners, adopted by the Preservation Commission, and used as the basis for review of property rehabilitation of landmarks and historic districts.
- E. Conformance to certificate of no effect (CNE) or certificate of appropriateness (COA) application. All work performed pursuant to the issuance of a CNE or COA shall conform to the requirements of the certificate. The applicant shall inform City staff when the work subject to the CNE or COA is complete. It shall be the duty of City staff to inspect any work performed in accordance with the CNE or COA to insure compliance. In the event work is not performed in compliance with the CNE or COA, City staff shall issue a stop work order and all work shall cease. If the prop-

erty owner does not respond to the stop work order, a notice of violation shall be issued and all necessary action shall be taken to gain compliance. No person, firm or corporation shall undertake any work on a project as long as the work stop order continues in effect.

- F. Lapse of work. If a building permit has been issued and work has been suspended or abandoned for a period exceeding 180 days, the CNE or COA shall be null and void and the applicant shall be required to submit a new application for consideration.
- G. Plan changes. No changes shall be made to the approved plans of a project after issuance of a CNE or COA without resubmittal of a revised CNE or COA plan to the Historic Preservation Commission for their review and approval. Review of the amended plans shall be in the same manner as originally approved.
- H. Expiration period. A CNE and COA shall expire one year from the date of issuance unless work has started and progressed within that time.

Sec. 5.380. Demolition.

A. CNE/COA determination.

1. Minor demolition shall require a CNE determination as provided in this article. Minor demolition includes the following:
 - a. Porch removal and like reconstruction;
 - b. Garage or carport removal and like reconstruction;
 - c. Chimney removal and like replacement.
2. Major demolition shall require a COA as provided below and shall include all other demolition applications that do not receive a CNE determination.

B. Factors for consideration in determining major demolition permit. In the case of the proposed demolition of an existing cultural resource located within the designated historic district the Preservation Commission shall review the COA application and consider the following factors:

1. The city's interest in protecting the public's health, safety, and general welfare;

2. The detrimental impact upon the historic architectural, cultural, or economic character of the district or City in general;
 3. The structural feasibility of rehabilitation considering both the technological feasibility and the economic feasibility;
 4. The excessive cost of rehabilitation and the remaining economic use of the property if rehabilitated, and the economic impact and hardship upon the owner; and
 5. A determination of the potential for occurrence of archaeological sites and resources.
- C. Demolition permit process. The application and review process for any major demolition permit shall be the same as required herein for a COA. Additional exhibits required for consideration include:
1. Photographs and negatives of the front façade; perspective views of the façade including one side, the rear and opposing side; detail front entrance and/or typical window; general view from a distance showing environment, landscaping, out buildings, adjacent buildings, and street from each direction; exterior details including, but not limited to, cornices, commercial storefront or residential front, upper façade ornamentation, historic signs, etc.
 2. All photographs shall be processed on archival-safe paper and in archival-safe manner.
 3. A scaled site plan showing the existing structure and relationship to other buildings on the block.
 4. A scaled floor plan showing existing entrances, windows, doorways and stairwells, etc.
 5. The Preservation Commission may require the owner to record the historic structure with the State Historic Preservation Officer (SHPO) and/or the National Park Service (NPS), at the owner's expense, according to documentation standards of the Historic American Buildings Survey (HABS) and the Historic American Engineering Record (HAER) and provide a copy of the recorded document with the Preservation Commission.
- D. Demolition alternatives. As an alternative to demolition, the applicant and property owner have an obligation to first attempt to sell the property, to seek tenants for it and to explore potential reuses.
1. Alternatives. Before approving any application for demolition of a cultural resource, the Preservation Commission shall assist the applicant in investigating alternatives to demolition, including:
 - a. Sale of the building/structure, etc. (as noted above), on its present site(s);
 - b. Whether there is a reasonable likelihood that some person or group other than the owner is willing to purchase, move and preserve the building/structure, etc.;
 - c. Whether the owner has made continuing bona fide and reasonable efforts to sell the building/structure, etc. to any such purchaser willing to preserve such building/structure, etc.; and
 - d. Whether any public or quasi-public agencies have any potential use for the property, building/structure, etc., know of any potential users or purchasers for it, or have financial programs that could assist in the preservation of the building/structure, etc.
 2. Time frame for determination. The Preservation Commission shall have up to 90 days from the date of their first regularly scheduled meeting following receipt of an application for demolition to render a decision.
 3. Appeal. Applicants denied a demolition permit may appeal the decision of the Preservation Commission to the City Council by filing a written appeal with the City Clerk within 30 days of the Preservation Commission decision. (See the appeal process under "review of certificate of appropriateness application.")
- E. Demolition delay. No permit for demolition shall be issued until all plans for future use and devel-

opment of the site have been filed and approved pursuant to this chapter or building code for a building permit whichever is deemed appropriate by the Director.

- F. Emergency demolition. If an existing cultural resource presents a threat to safety, due to fire, weather or other disaster, the Codes Administrator may take any emergency actions necessary to mitigate the threat, pursuant to the property maintenance code.

Sec. 5.390. Sign application.

- A. Certificate required. Regardless of provisions in any ordinance of the City relating to signs, including Article 9 of this chapter, all signs for a local landmark or building in a local historic district must receive a CNE or COA prior to issuance of any sign permit. Staff may issue a CNE provided the sign has been determined to meet the respective design guidelines. If staff determines that the requested sign does not meet the design guidelines, the applicant may request consideration of a COA by the Historic Preservation Commission. The Historic Preservation Commission shall review the proposed signage in accordance with the following provisions of this section.

B. General.

1. General sign regulations included in Article 9 of this chapter.
2. It is not the intent of these standards to create uniformity of signage or to inhibit creative initiative.
3. Signs shall be designed and placed so as to appear an integral part of the building design, and to respect neighboring properties and the district in general. Signs shall be designed with appropriateness relative to the services of the establishment served.

C. Recommended signage.

1. Signs should be maintained if they are determined to be an original part of a building as it was originally constructed.
2. Some signs, though not original to a building may have acquired significance by virtue of

their age, design, materials and craftsmanship. These signs should be maintained and preserved.

3. Some existing signs may not be appropriate, especially if they disguise, obstruct, or detract from significant facade elements.
 4. Wall signs. Each ground floor occupant in a building shall have no more than one sign oriented to each street on which the premises have frontage. The sign(s) should identify the predominant use of the occupant or identify the building as a whole. The design of wall signs shall be compatible with the design guidelines adopted for the respective local landmark or local historic district in which the primary building is located.
 5. Secondary wall signs. Each occupant in a building may have one or more secondary wall signs. These signs should identify occupants on upper floors or those not considered the primary occupants. The design of secondary wall signs shall be compatible with the design guidelines adopted for the respective historic district in which the primary building is located.
 6. Projecting signs. The Historic Preservation Commission may adopt a standardized sign that may project beyond property lines of a commercially zoned historic overlay district and which may be used by all property owners or businesses within that district. The sign shall be no lower than seven feet six inches nor higher than 16 feet above the elevation of the ground floor, shall extend from the property line not more than three feet, and shall have no dimension greater than three feet.
 7. Illumination. Any sign lighting shall not have an internal light source and shall be properly shielded or diffused so as to eliminate glare.
- D. Additional signage permitted. The following are appropriate in addition to those signs listed above:
1. Names of buildings, dates of erection, monumental citations, and commemorative tablets that do not exceed 20 square feet in area when made a permanent integral part of a building.

2. Educational signs not exceeding ten square feet providing bulletin or poster display space, identifying or explaining local history or other processes.
3. Signs that have special aesthetic, artistic or historical merit or appropriateness.

Sec. 5.400. Projections beyond property line.

There should be no projections beyond the property line other than as described below, or as allowed by other sections of this division:

- A. Sun protection/weather protection devices are permitted only in the form of awnings. Awnings should be of canvas, or of a metal or similar smooth surface. Awnings should be located no higher than 16 feet and should extend no lower than eight feet. Awnings should be of a color(s) and design that compliments the existing facade and that do not cover or damage significant structural or decorative elements.
- B. Individual wall lighting fixtures projecting beyond property lines may be used providing fixtures are consistent with the period or the design of the building facade; the total wattage per fixture is not more than 100 watts; the fixture does not emit glare or harsh bright spots; the fixture is mounted no lower than seven feet six inches nor higher than nine feet above the elevation of the ground floor; and the fixture extends from the property line not more than 16 inches, with no dimensions greater than 16 inches.

Sec. 5.410. Rezoning, preliminary development plan and special use permit applications.

Applications for rezonings, preliminary development plans and special use permits for a landmark or buildings in a historic district shall be referred by staff to the Preservation Commission for comment. The Preservation Commission may review these applications provided their review is pursuant to the respective design guidelines for the landmark or historic district. The Preservation Commission shall forward its comments to staff for inclusion into the staff report for consideration by the Planning Commission at its public hearing.

Sec. 5.420. Exemptions.

Nothing in this division shall be construed to prevent the ordinary maintenance or repair of any exterior element of any building or structure. Ordinary maintenance shall be defined as work for which a building permit is not required by law.

Sec. 5.430. Economic hardship (reserved).

DIVISION IV. CONSERVATION OVERLAY DISTRICT (RESERVED)

DIVISION V. NEIGHBORHOOD STABILIZATION OVERLAY DISTRICT

The neighborhood stabilization overlay district (NSO) has been created to provide continued opportunities in the creation of affordable housing while maintaining both the neighborhood character and the neighborhood quality in the process.

Sec. 5.440. Statement of finding.

The Governing Body finds that the construction of new single-family detached dwellings and associated accessory dwellings that are incompatible with existing dwellings within certain established single-family neighborhoods are detrimental to the character, stability, and livability of those neighborhoods and the city as a whole.

Sec. 5.450. Purpose and intent.

The neighborhood stabilization overlay district (NSO) attempts to identify the fundamental characteristics of the established residential neighborhoods and provide direction for new construction with respect to the single-family neighborhood context and basic design elements. Characteristics include the way in which a building is located on its site, the manner in which it relates to the street, and its basic mass, form and scale. Visual compatibility occurs when these characteristics are incorporated into new building designs in order to be complementary to those typically seen in the area.

The standards for new construction within the NSO are most concerned with whether the proposed building design and plot plan respect the existing neigh-

borhood's patterns and rhythms along the street frontage that will be compatible with and contribute to the quality of the neighborhood.

- A. The neighborhood stabilization overlay district (NSO) is intended to preserve single-family neighborhoods by imposing specific yard, lot and space regulations for any new construction that reflect the existing character found in certain existing neighborhoods throughout the Old Lee's Summit Area outside of the downtown core boundaries.
- B. The NSO does not prevent construction of new single-family detached dwellings, accessory dwelling units or the renovation, remodeling, repair or expansion of existing dwellings. However, the NSO does seek to ensure new residential construction respects the character of the neighborhood in which they are to be located and to maintain compatibility with existing single-family dwellings along the same street frontage.
- C. The NSO does not dictate construction materials.
- D. The NSO does, through the requirements listed below, address appropriate size, scale, massing, setback, building form, orientation, rhythm and alignment.
- E. Accessory dwellings are permitted provided that the character of the neighborhood is maintained.
- F. NSO districts are distinguished from historic overlay districts, which preserve historic residential or commercial places, and from conservation overlay districts, which conserve a residential or commercial area's distinctive architectural or cultural attributes.

Sec. 5.460. Factors for consideration.

- A. Building alignment. New buildings shall be arranged along a line of similar distance from the street or property line to the front of the building similar to that found within the neighborhood.
- B. Building form. A building shall have basic roof and building forms (overall shapes) that are similar to those found in the neighborhood.

- C. Development context. The project shall be compatible with those neighborhood characteristics that result from common ways of building such as the three-dimensional character of the buildings, structures, streetscape and immediate surroundings of a given building or site.
- D. Mass and scale. The traditional mass (physical size and bulk) and scale (size as it appears to the pedestrian) of the area shall be maintained.
- E. Orientation. The traditional patterns of the placement of a structure on its lot with regard to other structures and natural features and the manner in which a building relates to the street shall be maintained.
- F. Rhythm. The pattern of development characterized by regularly recurring elements shall be maintained along a street or block front.
- G. Size. The size of a building shall be measured in square feet of the structure, not the building height.

Sec. 5.470. Designation.

- A. The use of the NSO district is primarily intended to be applied to R-1 single-family neighborhoods within the Old Lee's Summit Area of the Downtown Master Development Plan. Other areas may be considered upon a case by case review provided that a petition is presented to the Governing Body as provided below.
- B. An application for NSO designation may only be filed at the direction of the Governing Body. Such filing may either be City initiated or initiated by a neighborhood petition signed by the owners of record of not less than 51 percent of the parcels within the neighborhood boundary included in the petition.
- C. Except as otherwise provided herein, the designation of a NSO shall follow the same process for rezoning property in Article 2 of this chapter.
- D. All property owners within an area proposed for NSO designation shall be provided notice in addition to the notice requirements of Article 2 of this chapter. Such notice shall be provided by the City if they are the applicant or by a designated representative of the neighborhood petition.

- E. A NSO district shall only be placed on an area that is zoned R-1 single-family and developed primarily with single-family dwellings. A NSO district shall not be placed on a neighborhood with a conservation or historic overlay district or on a new subdivision being developed.

Sec. 5.480. Neighborhood stabilization overlay criteria and specifications.

The following criteria shall be applied to all new construction including additions and accessory buildings within the NSO:

- A. Building location.
1. Orientation.
 - a. The front of the principal structure and its primary entry shall be oriented to the street. Orientation on corner lots shall be considered on a case by case basis. The context of the neighborhood shall be considered in determining which street should receive the structure orientation.
 - b. The primary entrance shall be clearly defined by using a raised front porch or stoop.
 2. A sense of visual continuity shall be provided by aligning the front and sides of a new building with other structures in the neighborhood.
 3. The construction of a new building shall be located to fit with the predominant pattern of yard dimensions found within the block in which located including front, side and rear yard setbacks.
- B. Driveways, parking areas and garages.
1. Driveways and parking areas shall be subordinate to residential buildings, designed to minimize their visual impact and be accessed from an alley where one exists.
 - a. Lots backing on an alley shall utilize the alley for access to a detached garage or off-street parking.
 - b. Lots not accessible from an alley shall locate parking to the rear of the lot from a driveway accessed from the street.
 - c. Corner lots adjacent to an alley shall utilize the alley for access to a detached garage or off-street parking or the side street where such access patterns occur.
 2. Parking areas and driveways shall be planned in a manner that minimizes the number of curb cuts on the block.
 - a. Avoid new curb cuts whenever possible.
 - b. Shared driveways and curb cuts are encouraged.
 - c. Circular driveways are only permitted if the neighborhood includes an existing pattern of such driveways.
 3. The visual impact of driveways shall be minimized.
 - a. Minimize the width of a driveway and related curb cuts.
 - b. Curb cuts should accommodate single car access.
 - c. Maintain single car width until the driveway extends beyond the rear of the primary building.
 - d. Parking strips may be utilized to minimize the amount of paved surface.
 4. Garages should not dominate the street scene.
 - a. Minimize the visual impact of a garage by locating it to the rear of a building lot.
 - b. Detached garages are preferred.
 - c. If a garage must be accessed from the street, it shall be set back behind the primary building such that parking will not extend beyond the front plane of the primary building.
 - d. Detached garages may be attached to the primary building by a breezeway or enclosed passageway.

- e. Attached garages, either one or two car, are acceptable only if the neighborhood contains such attached garages.
 - f. New construction within neighborhoods without garages may utilize tandem parking (front to back). This provision shall supersede the UDO requirement for two enclosed parking spaces. A detached one or two car garage located to the rear of the lot is the preferred alternative.
 - g. New construction within neighborhoods with detached one car garages may provide either one or two car detached garages depending on mass and scale compatibility within the neighborhood. The UDO requirement for two covered parking spaces shall be superseded by this provision.
- C. Primary buildings—Mass and scale. The mass and scale of a new building is an important design issue in the older established residential neighborhoods. Traditional scale enhances the pedestrian friendly character of the streetscape. New construction should maintain this smaller more human scale to lessen any negative impacts on abutting residential properties. While new buildings may be larger than many of the earlier houses, new construction should not be so large that the visual continuity of the neighborhood is compromised. It should be noted that in some circumstances in order for a project to comply with the full intent of these provisions and guidelines, it may not be possible to build to the maximum setbacks and footprint coverage allowed in the underlying zoning district.
1. The front elevation shall be similar in scale to those seen on the same block.
 - a. The primary plane of the front shall not appear taller than other residential buildings in the neighborhood.
 - b. The back side of a building may be taller than the front and still appear in scale if appropriately designed and compatible with the primary structure.
 2. Minimize the perceived scale of a building by stepping down its height toward the street and neighboring smaller structures.
 3. The primary building face shall not exceed the average width of single-family structures in a similar context within the same block.
 4. Garage doors are to be designed to minimize their visual impacts by utilizing architectural bands or similar features or windows that are compatible with the primary building.
- D. Building form.
1. Building forms shall be similar to those found on existing single-family residential structures within the same block.
 2. Roof forms shall be similar to those found on existing single-family residential structures within the same block.
- E. Primary building additions—Character elements.
1. Additions shall be designed to complement the existing character of a building.
 2. Additions shall not alter the perceived character of the original building.
 3. Roofs of additions shall be in character with that of the original building.
- F. Primary building additions—Mass and scale.
1. New additions shall be compatible in size and scale with the primary building and with the neighborhood.
 2. The mass of a new addition shall be subordinate to the primary building, or, if larger than the primary building, the addition shall be connected at the rear of the primary building to minimize visual impacts from the street.

G. Secondary (accessory) structures—Site design.

1. Locate accessory structures to the rear of the lot and along an alley when feasible.
2. When considering a two story accessory use such as a detached garage with a loft dwelling above, the second story should be set back a minimum of ten feet from the rear property line or close to the primary building. An evaluation of setbacks will be considered in context of the existing situation.
3. Doors and windows on accessory structures shall be located in such a way as to respect the privacy of neighboring properties to the extent possible.

H. Secondary (accessory) structures—Mass and scale.

1. An accessory structure shall be similar in mass, scale and height to those accessory structures within the neighborhood.
2. An accessory structure shall relate to the general architectural character of the primary building mass, scale and form.

I. Bulk regulations.

1. Front yard setback. R-1 zoning district regulation, or if varying setbacks exist, then within five feet of the average setback along the block frontage.
2. Side yard setback. Shall comply with the R-1 zoning district regulation.
3. Rear yard. R-1 district regulation, except that garages accessed by an alley may be four feet off the alley.
4. Height. Maximum building height shall be the average height, measured from the street grade to the highest point of the ridge line, of the most common single-family residential structure along the block frontage; i.e. if the most common structure is a single story, even though there may be several two storied structures

along the block frontage, the average of the most common structure height shall be utilized.

5. Transitional heights. New construction located between two structures of differing heights and proposing to transition from a single-story to a multi-story may be considered on a case by case basis. Such cases may be allowed provided the transition maintains the mass and scale of the neighborhood.

6. Garage. Garage size shall be limited to the size of existing garages on the same block, except that where none exist or those that do exist are too small for today's standards, a two car garage may be constructed provided the mass and scale of the neighborhood is not compromised.

7. Structure size:

- a. Single story. The maximum area of a new single story residential structure shall not exceed one and one-half times the square footage size of the average of the single story residential structures along its block frontage, provided that the mass and scale is compatible with existing structures along the same block frontage.
- b. Multi-story. The maximum area of a new multi-story residential structure shall not exceed one and one-half times the square footage of the average of the multi-storied residential structures along the block frontage, provided the mass and scale is compatible with existing structures along the same block frontage.
- c. Accessory structure. Accessory structures shall meet the accessory structure bulk regulations in Article 6, Division IV for the R-1 district, provided the mass and scale of the neighborhood character is found to be compatible.

Sec. 5.490. Review process.

- A. Pre-application conference. An administrative pre-application conference with planning and development staff is required prior to any building permits being issued for any new construction within a NSO.
- B. Application. An application shall be submitted along with architectural drawings including all building elevations with dimensions and a plot plan drawn to scale for review and analysis.
- C. Additional submittals. An applicant shall also submit, with the application, photographs of other buildings within the same block along the street frontage with their respective plot plans in support of the placement of the new building within the neighborhood. Staff will field verify this support documentation and use it in the administrative review process. If further support documentation is requested by staff it shall be the applicant's responsibility to provide such additional documentation.

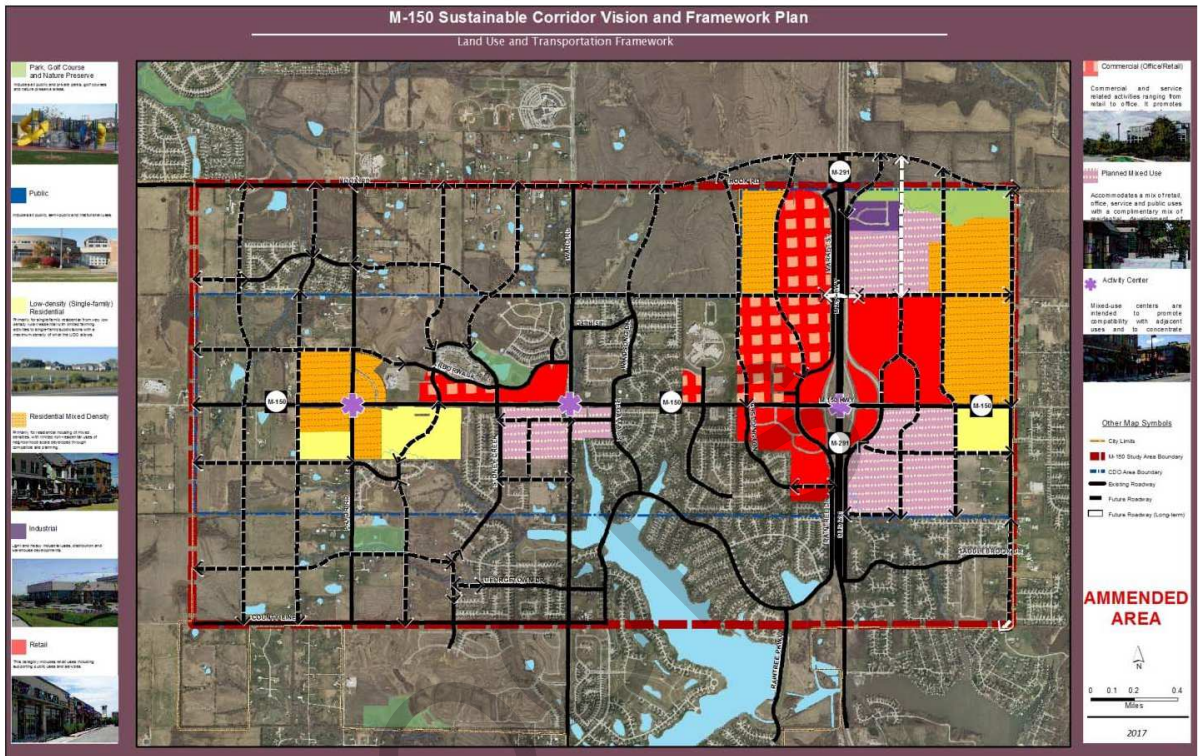
- D. Administrative review. The Director or his or her representative shall review the application and support documentation for conformance to these regulations, and for compatibility to existing residential structures and with the overall neighborhood character within the same block in which the new structure is proposed to be located. The Director's determination shall be final except that the Director's decision may be appealed to the Governing Body as further described below.

Sec. 5.500. Appeal to Governing Body.

Appeals from the Director's decision shall be made in writing to the City Clerk and shall be forwarded to the Governing Body at their next reasonably available City Council meeting. The appeal shall include sufficient documentation to explain the reasons as to why the appeal is being taken and why the Director's decision should be overturned.

DIVISION VI. M-150 CORRIDOR DEVELOPMENT OVERLAY (CDO) DISTRICT**Sec. 5.510. M-150 CDO design standards.**

- A. General provisions.
 - 1. Purpose. The purpose of the M-150 (CDO) is to facilitate the development of property in the M-150 corridor in accordance with the M-150 Sustainable Corridor Vision and Framework Plan (M-150 Corridor Plan) with the highest possible levels of community and building design consistent with the healthy economic development and redevelopment of the plan area. Except as further amended by this article, the administration, enforcement, and amendment of this M-150 Corridor Development Overlay shall be consistent with the M-150 Sustainable Corridor Vision and Framework Plan. All amendments to the CDO should maintain and enhance the consistency between the CDO and the M-150 Corridor Plan.
 - 2. Applicability. The CDO is applicable to specific land parcels along M-150 and M-291 traffic corridors identified on Map 1, below, as now or hereafter established. Development standards shall be applicable to multi-family and non-residential construction, reconstruction, alteration, or expansion. No land, building, structure, or premises shall be used for any purpose or in any manner other than that which is permitted in the applied zoning district and CDO standards.



Map 1: M-150 CDO Boundaries

3. Land use and transportation framework. The following legends on the Framework Map above are more fully described below and correlate to their respective locations on the map:
 - a. Activity center—Mixed-use. Activity centers or "commercial nodes" are situated at primary intersections along M-150 and are to include a concentrated mixed-use development that can be easily accessed and supported by existing and future neighborhoods. Ideally these centers will be multi-storied with a vertical mix of uses. These are not intended to be large developments but should be designed with social gathering places. Residential use above the first floor is highly recommended.
 - b. Retail. Retail categories are intended to support large commercial retail stores, either individually or grouped together. These types of developments have increased traffic and parking demands, increased impervious surfaces and increased environmental impacts. Developments within this category are expected to increase necessary controls to minimize the environmental impacts they generate.
 - c. Commercial (office/retail). Commercial areas include both office and retail uses which can be standalone buildings or a vertical mix of uses within a single building. This category promotes creative integration of more intensive retail uses and less intensive office uses in one general area.
 - d. Residential mixed density. This area supports residential housing of mixed densities with limited non-residential uses of neighborhood scale developed through compatible site planning.

- e. Planned mixed-use. Planned mixed-use accommodates a mix of retail, office, service and public uses with a complimentary mix of residential development of varying densities. Business park type of uses may also be mixed with retail and office uses where appropriate.
 - f. Park, golf course, nature preserve, open space. This category includes all public and private parks, golf courses and nature preserve areas.
4. Conflict. These design standards are additive; more than one set of standards may apply to a particular development project. The more restrictive provision, as determined by the Director, shall control in cases where standards conflict.
5. Alternative equivalent compliance.
- a. Purpose and scope. To encourage creative and unique design, "alternative equivalent compliance" allows development to occur in a manner that meets the intent of this CDO yet through an alternative design that does not strictly adhere to the CDO's standards. This is not a general waiver of regulations. Rather, this section authorizes a site-specific plan that is equal to or better than the strict application of the standard in meeting the goals and policies in the M-150 Corridor Plan.
 - b. Decision-making responsibility. Final approval of any alternative compliance proposed under this section shall be the responsibility of the decision-making body responsible for deciding upon the application. Administratively approved projects proposing alternative compliance shall receive written approval of the alternative compliance from the Director.
 - c. Criteria. Alternative equivalent compliance may be approved if the applicant demonstrates that following criteria have been met by the proposed alternative:
 - (1) Achieves the intent of the subject standard to the same or better degree than the subject standard;
 - (2) Advances the goals and policies of the M-150 Corridor Plan and this CDO to the same or better degree than the subject standard;
 - (3) Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard; and
 - (4) Imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this ordinance.
 - d. Effect of approval. Alternative compliance shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.
- B. Development standards.
- 1. Sensitive lands and natural resources. The provisions of the stream preservation standards in the City's Design and Construction Manual shall be applicable to development in the CDO. Green design provisions as further listed herein shall be applied to all development within the CDO.
 - 2. Pedestrian and bicycle connectivity and mobility.
 - a. Purpose. The purpose of this section is to:
 - (1) Support the creation of a highly connected transportation system within Lee's Summit in order to provide choices for drivers, bicyclists, and pedestrians;



Figure 5.510.B-1: Sidewalks on Both Sides of Street

- (2) Increase effectiveness of local service delivery; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as employment, schools, parks, and shopping centers;
 - (3) Reduce vehicle miles traveled; improve air quality and reduce emergency response times;
 - (4) Mitigate the traffic impacts of new development, and free up arterial capacity for long-distance travel needs; and
 - (5) Avoid the creation of large, isolated tracts without routes for through traffic or pedestrian and bicycle connections.
- b. Sidewalks required. Sidewalks shall be installed on both sides of all arterials, collector streets, and local streets pursuant to the standards of City's Design and Construction Manual. Connectivity is an important element in the implementation of the goals related to the "community for all ages" initiative that the City has embraced and is committed to. The Director may allow the use of alternative paving materials if a community improvement district or other long-term oversight board and funding mechanism is established to provide for ongoing maintenance.
- c. Block pattern.
- (1) New development shall establish a regular pattern of blocks to the extent feasible to avoid creating large "superblocks" that limit pedestrian, bicycle, and vehicular circulation.
 - (2) On large sites or where block consolidation is proposed as part of redevelopment (by right-of-way abandonment), pedestrian, bicycle, and vehicular circulation access to surrounding neighborhoods shall be maintained to the maximum extent feasible.
- d. On-site pedestrian connections.
- (1) All development in the CDO shall provide a network of on-site pedestrian walkways with a minimum width of five feet to and between the following areas:



Figure 5.510.B-2: On-Site Pedestrian Connections

- (a) Entrances to each building on the site, including pad site buildings;
 - (b) Public sidewalks, walkways, or trails on adjacent properties that extend to the boundaries shared with the subject development;
 - (c) Public sidewalks along the perimeter streets adjacent to the development;
 - (d) Adjacent land uses and developments;
 - (e) Adjacent public park, greenway, or other public or civic use; and
 - (f) Adjacent public transit station areas, transit stops, park and ride facilities, or other transit facilities.
- (2) On-site pedestrian connections shall be constructed of stone, slate, exposed aggregate concrete, plain concrete, or concrete pavers. Jogging trails and pathways in multi-family residential neighborhoods may be constructed of approved synthetic or natural material provided that the property owner's association is required to ensure long-term maintenance.



Figure 5.510.B-3: Decorative Materials for Pedestrian Crossings

- (3) Internal pedestrian walkways shall be provided through parking areas in excess of 50 spaces, constructed of materials distinguishable from the driving surface pursuant to Section 5.370.C.7.e(1), below.
- e. Off-site pedestrian connections
- (1) In high traffic areas, pedestrian walkways and crosswalks in public streets shall be identified to motorists and pedestrians through the use of one or more of the following methods:
- Changing paving color;
 - Painted crosswalks; or
 - Stamped concrete.
- Additional identification methods may be used in private streets provided an improvement district or other funding mechanism is provided for long-term maintenance.
- (2) Pedestrian circulation routes along storefronts shall be emphasized with special design features that establish them as areas where pedestrians are physically separated from the flow of vehicular traffic and/or are protected from the elements. Techniques shall include one or more of the following:
- Arcades, porticos, or other shade structures;
 - Pedestrian light features;
 - Bollards;
 - Seat walls or benches;

- (e) Drinking water fountains; and
 - (f) Landscape planters.
- (3) The placement of street furniture and other decorative or functional items on the sidewalk shall not narrow the sidewalk at any point to less than four feet wide.

f. Trail linkages.

- (1) Trail linkages shall be incorporated into the design of all new multifamily, and non-residential developments in support of the "community for all ages" initiative. Trail linkage shall be located and designed so as to provide public access, to connect residences and businesses to open space and the City's trail system, and to promote pedestrian and bicycle movement between residential areas and employment/ business areas.



Figure 5.510.B-4: Residential Trail Connection

- (2) All development shall be required to demonstrate that the design of the proposed development includes trail linkages pursuant to the M-150 Corridor Plan, Lee's Summit Greenway Master Plan, Metro Green, or other applicable plan.
- (3) Trails shall be constructed at the time of development in accordance with adopted City standards and specifications.
3. Screening. The following screening standards shall apply in the M-150 CDO in addition to the requirements of Article 8, Division III, Landscaping, Buffers, and Tree Protection:
- a. Multi-family, mixed-use, and commercial screening. The following mechanical equipment screening standard shall apply to the maximum extent practicable.
 - (1) Roof-mounted mechanical equipment. Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design. The parapet wall or similar feature shall be of a height equal to or greater than the height of the mechanical equipment being screened. Roof-mounted mechanical equipment, except solar energy collection systems, is prohibited on single-family residential dwellings.



**Figure 5.510.B-5: Parapet Wall
Screening Roof Mounted
Equipment**

- (2) Wall-mounted mechanical equipment. Wall-mounted mechanical equipment, except air conditioning equipment (e.g., window AC units), that protrudes more than six inches from the outer building wall shall be screened from view by structural features that are compatible with the architecture and color of the subject building. Wall-mounted mechanical equipment that protrudes six inches or less from the outer building wall shall be designed to blend with the color and architectural design of the subject building.
 - (3) Ground-Mounted Mechanical Equipment. Ground-mounted mechanical equipment shall be screened from view by landscaping or by a decorative wall that is compatible with the architecture and landscaping of the development site. The wall shall be of a height equal to or greater than the height of the mechanical equipment being screened.
 - (4) Utilities.
 - (a) Utility poles (other than wooden poles erected by a public utility company) and supports shall be painted or be of materials neutral in color.
 - (b) All transformers and other facilities and equipment, including telecommunications equipment, shall either be screened through the use of architectural materials compatible with the architectural materials present on the site or, alternatively, through landscape screening.
 - (c) Such screening shall be adequate to completely screen such facilities from all rights-of-way.
 - (5) Alternate screening. Mechanical equipment that is not screened in full compliance with the screening standards of this section shall be reviewed in accordance with the procedures of Section 5.510.C.5., Alternative equivalent compliance. Alternate screening methods may include, but shall not be limited to, increased setbacks, increased landscaping, grouping the equipment on specific portions of a site, and painting or otherwise camouflaging the equipment.
- b. Screening of service, loading, and storage areas.
- (1) Applicability. These screening requirements are applicable to all service, loading, and storage areas. Owners are encouraged to locate the types of features listed in this subsection where they are not visible from off-site or from public areas of a site, so that screening is unnecessary.

- (2) Placement.
 - (a) All service areas shall be placed at the rear, on the side of, or inside buildings.
 - (b) No service area shall be visible from a public right-of-way or from adjacent residential areas.
 - (c) Service areas and access drives shall be located so they do not interfere with the normal activities of building occupants or visitors on driveways, walkways, in parking areas or at entries.
- (3) Outside storage areas and loading docks.
 - (a) All storage areas, service areas, and loading docks not screened by an intervening building shall be screened from view from any public street right-of-way. In addition, storage and loading areas must be screened from view from any adjoining property when that property requires a buffer as identified in Table 14.1, Buffer/Screen Impact. On property zoned or used industrial, all outside storage areas that are adjacent to nonindustrial zoned property must also be screened from view.



Figure 5.510.B-6: Loading Area Placement and Screening

- (b) An opaque screen consisting of one or a combination of the following shall be used:
 - 1) Freestanding walls, wing walls, or fences;
 - 2) Earthen berms in conjunction with trees and other landscaping; or
 - 3) Landscaping, that must be opaque and eight feet in height within 18 months of planting.
 - (c) Screening shall be a minimum height of eight feet to screen truck berths, loading docks, areas designated for permanent parking or storage of heavy vehicles and equipment or materials.
 - (d) Screening shall be long enough to screen the maximum size trailer that can be accommodated on site. Sites that can accommodate a full size tractor-trailer shall provide a 48-foot wing wall, where wing walls are used.
- (4) Shopping cart storage. All shopping carts shall be stored inside the building they serve. Shopping cart corrals shall be made of a material suitable for withstanding weathering and rusting. Plastic corrals are prohibited.

- (5) Refuse facility screening. All refuse facilities, including new refuse facilities placed on an existing development, shall be large enough to accommodate a trash dumpster and shall be completely screened from view of public streets and adjoining nonindustrial zoned properties by:

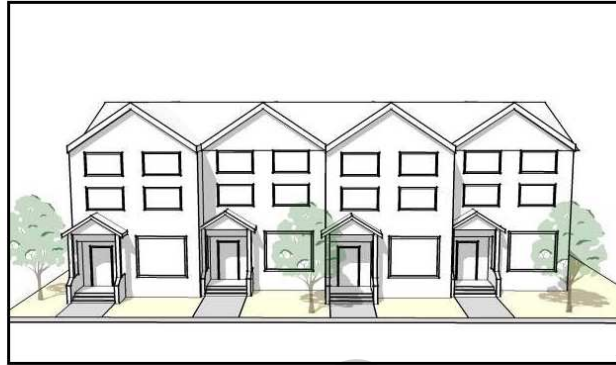


Figure 5.510.B-7: Refuse Facility Screening

- (a) Meeting the requirements of the other sections of this section; or
- (b) Screening on three sides by a minimum six-foot masonry wall surrounded by evergreen landscaping. An opening shall be situated so that the container is not visible from adjacent properties or public streets and the opening shall be a metal clad opaque gate. Chain-link gates are not permitted. Gates must have tie backs to secure in the open position.
- (6) Design of screening. All screening shall be complementary to the building served in landscaping approach and through the use of similar colors and material palette.
4. Multi-family development design standards.
- a. Applicability: Triplex, fourplex, townhome, apartment.



Triplex



Quadraplex/Fourplex



Townhome



Apartment

Figure 5.510.B-8

- (1) The design standards in this subsection apply to all new dwellings to be occupied by three or more households, including individually constructed buildings, townhomes, and multiple buildings constructed as parts of a larger development.
 - (2) Elevator required. Multi-family buildings, three stories and above, shall, at a minimum, equip one out of every three buildings with an ADA approved elevator. This requirement is an instrument to establish the goals set out in the City's commitment to provide "a community for all ages."
 - (3) This section replaces Sections 8.030 to 8.040 in the M-150 CDO. Sections 8.050, Planned Residential District Open Space Requirements; 8.060, Residential Street Design; 8.080.B, Pedestrian Lighting; 8.090, Residential Parking Locations; and 8.100, Residential Traffic Calming, are applicable within the M-150 CDO.
- b. Site layout and building orientation.
- (1) Minimum Building Separation. Multi-family structures shall be separated pursuant to the standards of the Building Code.
 - (2) Building orientation:



Figure 5.510.B-9: Courtyard Orientation

- (a) Individual buildings within a multi-family development shall be oriented to:
- 1) Common open space, such as interior courtyards or on-site natural areas or features;
 - 2) Perimeter streets;
 - 3) Other residential buildings; or
 - 4) Through-access drives.
- (b) To the maximum extent practicable, buildings shall be oriented or arranged in a manner to enclose common open spaces such as gardens, courtyards, recreation or play areas, that shall contain a minimum of three of these features:
- 1) Seasonal planting areas,
 - 2) Trees,



Figure 5.510.B-10: Perimeter Street Orientation

- 3) Pedestrian-scaled lighting,
 - 4) Gazebos or other decorative shelters,
 - 5) Seating,
 - 6) Play structures for children, or
 - 7) Natural features or areas, unless the City determines that for preservation reasons the buildings should avoid the feature or area.
- (3) Entrance orientation:
- (a) Primary entrances and façades shall not be oriented towards parking lots, garages, or carports.
 - (b) All multi-family buildings shall comply with at least two of the following requirements:
 - 1) At least one main building entry faces an adjacent public street;
 - 2) A building entrance faces a courtyard or common open space that has a direct and visible connection to an adjacent public street;
 - 3) A building entry is connected to a public sidewalk by a system of interior walkways; or
 - 4) The pedestrian entries to the site from the public right-of-way are emphasized with enhanced landscaping, special paving, gateways, arbors, or similar features.
 - (c) All ground-floor units with frontage along the primary street shall have an entrance that faces the street. Multi-family buildings located with multiple street frontages shall provide entrances to the building along each local street frontage.
 - 1) Exterior entrances from a public sidewalk or common open space are permitted for dwelling units on the ground floor.



Figure 5.510.B-11: Ground-Floor Unit Entrances

- 2) Exterior entrances shall be raised from the finished ground-floor level of the sidewalk a minimum of two feet.
 - (d) Dwelling units above the ground floor shall have interior unit entrances, except that exterior stairs are permitted for access to upper-floor units only if they are oriented towards a central plaza not visible from any street.
 - (4) Private common space. Developments with at least four units shall provide 400 square feet of private common open space for each multi-family dwelling unit. A minimum of 40 percent of the open space shall be usable for recreation, including uses such as swimming pools, sport courts, playgrounds with equipment, and/or community gardening. Required landscaping is excluded from open space calculations.
- c. Building design.
- (1) Four-sided design. All sides of a multi-family building visible from property occupied by or designated for single-family residential uses, an existing public street right-of-way, or other public lands shall display a similar level of quality and architectural detailing as on the front elevation.



Figure 5.510.B-12: Four-Sided Design

- (2) Single-family attached dwelling façades.
 - (a) The attached single-family dwellings in any one row structure shall be required to have distinctly different façades. No attached single-family structure facade shall be repeated more than once every four structures on the same side of the street.
 - (b) The façades of single-family attached townhomes shall be punctuated by a change in texture or material, offset, or other architectural feature to differentiate individual units.



Figure 5.510.B-13: Single-Family Attached Building Articulation

- (c) Any building (excluding parking garages and other accessory buildings) viewed from a public right-of-way or public open space shall either face such right-of-way or open space, or shall have a façade facing such area in keeping with the character of the front façade, including the utilization of similar fenestration and materials.

(3) Building mass and articulation.

(a) The elevations of all multi-family buildings shall be articulated through the incorporation of at least three or more of the following:

1) Balconies;



Figure 5.510.B-14: Multi-Family Building Articulation

- 2) Bay or box windows;
- 3) Porches or covered entries;
- 4) Dormers or other variations in the roof plane;
- 5) Accent materials such as brick, stone, or stucco with banding highlights;
- 6) Shutters;
- 7) Variation in window sizes and shapes; or
- 8) Vertical elements that demarcate building modules.

(b) The height of each multi-family building taller than 35 feet shall be stepped down from its highest roofline at least one full story on any end of the building located within 50 feet of an adjacent area zoned or used for single-family residential.

(c) Multi-family buildings shall provide concentrated unit access points. Access balconies and corridors running the length of the exterior of a building are prohibited.

(4) Vertical articulation.

(a) For all structures three stories or more in height, the base (first 20 feet) of a building shall be distinguished from the remainder of the building by providing a minimum of three of the design elements listed above in subsection (4)(a).

(b) Multi-family buildings shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.

(5) Building length. The maximum length of any multifamily building shall be 180 feet. Additional building length may be utilized when a minimum off-set of 4 feet for every 100 feet of building length to create a visually pleasing effect.

(6) Transparency. At least 20 percent of all walls facing a public street shall contain windows or doorways.

- (7) Design of multiple buildings.
 - (a) Developments with more than one multi-family building shall incorporate a variety of distinct building designs according to the scale of the development, as follows:
 - 1) Two to six buildings: Two models minimum; and
 - 2) Seven or more buildings: Three models minimum.
 - (b) Distinct building designs, as required above, shall be easily distinguished through a minimum of two of the following:
 - 1) A variation in length;
 - 2) A variation in the footprint of the building;
 - 3) A distinct variation in color and use of materials;
 - 4) A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass, i.e., apartments vs. townhomes; or
 - 5) A distinct variation in building height and roof form.
- (8) Materials. All material shall be durable and long-lasting. The following materials are acceptable for multi-family residential construction:



**Figure 5.510.B-15: Multi-Family
Parking Located Behind
Primary Structure**

- (a) Brick, concrete stucco, stone, stone facing, wood, glass in combination with metal, or similar, durable architectural materials as approved by the Planning Commission.
 - (b) Vinyl siding, EIFS, or synthetic stucco may be approved by the Planning Commission on a case-by-case basis.
- d. Parking location and layout.
- (1) Location and layout.
 - (a) To the maximum extent feasible, garage entries, carports, parking areas, and parking structures shall be internalized in building groupings or oriented away from street frontage.
 - (b) Parking areas and freestanding parking structures (detached garages or carports) shall not occupy more than 30 percent of each perimeter public street frontage of a multi-family development.

- (c) To the maximum extent practicable, freestanding parking structures that are visible from perimeter public streets shall be sited so that the narrow end of the parking structure is perpendicular to the perimeter street.
 - (2) Carports and detached garages.
 - (a) Detached garages and carports shall incorporate compatible materials, scale, colors, architectural details, and roof slopes similar to those of the primary multi-family buildings.
 - (b) Rear walls of detached garages over 40 feet in length that back onto the perimeter street shall be articulated or punctuated through the use of window openings or other similar techniques.
5. Mixed-use/non-residential design standards.
- a. Applicability. The design standards in this section apply to all mixed-use and commercial structures. These standards replace the standards in Article 8, Division I, Subdivision 3: Office, Commercial, and Industrial district design standards and Subdivision 4: Other Required Design Standards. Industrial development in the M-150 Corridor is not subject to these standards and remains subject to the provisions of Article 8, Division I.
 - b. Vertical mixed-use. Vertical mixed-use developments are highly desirable within the CDO. Areas indicated as activity centers shall require multi-storied vertical mixed uses with buildings placed up to the front property line at the street. These areas are located at the major intersections of M-150 and Pryor Road, Ward Road and M-291. The required placements of these buildings enhance the desired urban environment along this corridor. Parking proposed in front of buildings located in the activity center areas is highly discouraged and, if allowed, shall only be permitted on a very limited basis through the development approval process. Additional planting materials shall be provided to minimize the visual impact for front loaded parking from the street.
 - c. Site layout and building organization.
 - (1) Private common spaces.
 - (a) Required private common spaces. Mixed-use, commercial, and office development shall incorporate at least one on-site indoor or outdoor common space per building. Common space shall be visible and accessible and shall be located, where possible, along street frontages. Common spaces shall be connected, to the maximum extent practicable, to pedestrian areas, sidewalks, trails, or public open space in order to create functional pedestrian connectors.



Figure 5.510.B-16: Private Common Space

- (b) Features and amenities. The following features may be used to satisfy the private common space standard:
- 1) Patio or plaza with seating and landscaping;
 - 2) Landscaped mini-parks or square;
 - 3) Rooftop or community garden; or
 - 4) Similar features as approved by the Director.
- (c) Design. Private common spaces shall be constructed of materials that are of a comparable quality and be of a compatible design as the building they are attached to or the public space in which they are placed.
- (d) Quantity and amount. The quantity and amount of required private common spaces shall vary as follows:
- 1) For buildings 10,000 square feet or less — 1,000 square feet;
 - 2) For buildings between 10,001 and 20,000 square feet — 2,000 square feet that may be divided into two 1,000 square foot spaces; and
 - 3) For buildings over 20,000 square feet — An extra 1,000 square feet of common space per 10,000 square feet of building or portion thereof.
- (2) Building orientation.
- (a) Individual buildings. In cases where the long axis of a building is perpendicular to the primary street, the portion of the structure facing the primary street shall be configured with at least one operable entrance and one or more transparent windows as approved by the Director.
- (b) Multi-building developments.
- 1) Buildings shall be organized to promote a compact pattern of development, pedestrian-friendly spaces, streetscapes, areas of naturalized landscaping, and to screen parking areas.



Figure 5.510.B-17: Buildings Arranged to Create Pedestrian-Friendly Spaces

- 2) Buildings shall be arranged and grouped so that their primary orientation complements one another and adjacent, existing development by:
 - a) Framing the corner of an adjacent street intersection or entry point to the development;
 - b) Framing and enclosing a pedestrian and/or vehicle road or access corridor within or adjacent to the development site;
 - c) Framing and enclosing on at least three sides parking areas, public spaces, or other site amenities;
 - d) Framing and/or enclosing outdoor dining or gathering spaces for pedestrians between buildings; or
 - e) Framing one or more areas of natural vegetation.
- (c) Entrance orientation.
 - 1) To the maximum extent feasible, the principal building entrance shall face:
 - a) An adjacent public street;
 - b) An adjacent public plaza; or
 - c) An adjacent primary public walkway.
 - 2) In cases where the principal entrance does not face the principal street, the entrance shall be connected to the street and adjacent parking areas with a sidewalk(s).
- (3) Outparcel development.
 - (a) To the maximum extent practicable, outparcels and their buildings shall be clustered in order to define street edges, entry points, and intimate spaces for gathering or seating between buildings. The even dispersal of outparcel sites in a widely-spaced pattern along streets is strongly discouraged.



Figure 5.510.B-18: Site Layout of Outparcel Development

- (b) Spaces between buildings on outparcels shall be improved to provide small-scale pedestrian amenities such as plazas, seating areas, pedestrian connections, gathering spaces, or well-landscaped parking areas.
- d. Streetscape design and character.
- The following standards apply in lieu of the standard sidewalk requirements:
- (1) Public sidewalks required. In order to create an environment that is supportive of transit and pedestrian mobility, public sidewalks shall be provided along both sides of all streets in the mixed-use districts. Such sidewalks shall be at least 12 feet in width and no more than 16 feet in width, unless otherwise approved as part of the design review process. The 12-foot minimum requirement shall apply regardless of the available right-of-way. Where required, the sidewalk shall extend onto private property to fulfill the 12-foot minimum requirement, with a sidewalk easement provided. Property adjacent to M-150 or an arterial road shall provide a 10-foot wide landscaped linear buffer or a single-loaded row of parking between the public sidewalk and the roadway.
 - (2) Delineation of sidewalk area. Sidewalks shall be organized into two distinct areas: A street tree/furniture area located adjacent to the curb, and a clear area.
 - (a) Street tree/furniture area. The street tree/furniture area shall have a minimum width of six feet (from face-of-curb) and shall be continuous and located adjacent to the curb. The area shall be planted with street trees at an average spacing of 20 to 30 feet on center, based on the mature canopy width of the tree species selected and in accordance with Article 8, Division III. The area also is intended for the placement of street furniture including seating, street lights, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus shelters, bicycle racks, public utility equipment such as electric transformers and water meters, and similar elements designed to city specifications and located in a manner that does not obstruct pedestrian access or motorist visibility, and subject to applicable requirements of this UDO.



Figure 5.510.B-19: Delineation of Sidewalk Area

- (b) Clear area. The clear area shall be a minimum width of six feet, shall be hardscaped, and shall be located adjacent to the street tree/furniture area. The clear area shall be unobstructed by any permanent or nonpermanent element for a minimum width of six feet and a minimum height of eight feet. Additional sidewalk width located between the clear area and the building may be used for outdoor dining or seating areas.



Figure 5.510.B-20: Building Set to Sidewalk Clear Area

- (c) Supplemental zone. A supplemental zone may be provided at the option of the applicant between the street-facing façade or a side-facing facade and the required clear area, to provide additional areas for outdoor dining, porches, terraces, landscape and water features, and plazas. A supplemental zone, if provided, may be a maximum of 20 feet deep and may extend up to 30 percent of the linear frontage of the development. The supplemental zone shall not provide any parking or vehicle circulation areas.

- (d) Improvement district. An improvement district or other long-term oversight board and funding mechanism shall be established to provide for the maintenance of required streetscape.
- (3) Building placement. At least 70 percent of the building facade facing a public street shall be brought up to the clear area if provided.
- (4) Sidewalk entries.
 - (a) Spacing. Sidewalk entries shall be provided to all buildings and individual units that front on the sidewalk.
 - (b) Sidewalk entry hierarchy. Entrances into residential buildings in mixed-use areas are encouraged to follow a hierarchy of sizes and functions as follows:
 - 1) Carriage way: A centrally located twelve-foot wide entrance at sidewalk level for visual and direct access to a private courtyard.
 - 2) Secondary entry: A six-foot wide entrance with ornamental entrance gate and defined by a stoop with low cheek walls and planters at the sidewalk. Mailboxes, bike racks, and trash receptacles should be grouped around these secondary entries.



Figure 5.510.B-21: Secondary Entry

- 3) Other entries: Home office and retail storefront entries which are either at grade or stooped shall be sized to accommodate specific requirements of the individual space.
 - (5) Utilities. Transformers, switchgear, and related utility service equipment shall not be located above-ground in pedestrian access easements. Building service panels are to be located on the inside of all buildings.
 - (6) Paving. Paving is intended to highlight or accentuate special areas along the ground plane while at the same time complementing the design of adjacent building and streetscape elements.
- e. Mix of uses. A diverse range of commercial, office, residential, and civic uses are desired within the PMIX zoned districts. The appropriate mix of uses will vary by its location, size, and the surrounding

development contexts. Generally, larger sites located in areas where higher levels of activity are desirable should have a greater mix of uses than smaller sites. Vertical mixed-use developments are encouraged to create the desired urban context being promoted along the corridor.

(1) Ground-floor uses.

- (a) Intent. The incorporation of commercial uses such as retail shops and restaurants at the street level is strongly desired within the mixed-use districts to promote a more active environment for pedestrians and support residential and office uses located within the same building (on upper floors) or nearby.



Figure 5.510.B-22: Active Street-Level Uses and Outdoor Gathering Spaces

(b) Standards.

- 1) Location. Commercial uses shall be concentrated adjacent to transit stops, major public spaces, and in other areas where a high level of pedestrian activity and visibility is desirable. If a limited portion of a structure's ground level will be devoted to commercial space, such space shall be located along those facades adjacent to or most visible from transit corridors, primary street frontages, or major pedestrian walkways.
 - 2) Design and use of commercial space. Although the ground-floor commercial spaces may be used for residential units/office use, they should be designed for easy conversion to retail/commercial uses and shall be constructed to commercial standards.
- (2) Residential uses. Residential uses, where included, shall be incorporated within a mixed-use development to be visually and/or physically integrated with nonresidential uses. This shall be achieved by ensuring that residential uses meet at least two of the following:
- (a) Residential uses are vertically located above street-level commercial uses;
 - (b) Residential uses are horizontally integrated into site development to provide a transition between the highest intensity uses within the center or development and the adjacent neighborhood;
 - (c) No internal block walls are used that separate residential and nonresidential uses from each other; and

- (d) A pedestrian circulation system (i.e., sidewalks, crosswalks, trails, etc.) is provided that reduces conflict between pedestrian and vehicular movements and increases pedestrian activity between residential and nonresidential uses.
- f. Parking standards for mixed-use districts. The purpose of parking area requirements is to ensure that the parking areas themselves are not the dominant feature of the mixed-use development. These requirements severely restrict on-site surface parking (other than incidental parking in association with residential development leasing offices, or head-in or parallel spaces to support retail uses) and encourage physical consistency throughout the development, including the appearance of parking garages. In all mixed-use districts, the following standards apply:
- (1) Allowable parking. On-street parking shall not be designated per individual business or occupancy but may count toward the minimum parking requirements for the entire structure along the adjacent frontage. Parallel parking, head-in parking along streets, and/or minimal surface parking is permitted subject to approval through the site plan or development plan process and approval of a maintenance agreement.
 - (2) Parking location. Off-street parking is prohibited between the principal street and the corresponding street-facing facade line.
 - (3) Bicycle parking shall be provided for all developments as follows:
 - (b) Design and location.
 - 1) Bicycle parking facilities shall include a rack or storage facility (e.g., locker) that enables bicycles to be secured. Where racks are used, they shall meet the following standards:
 - a) The bicycle frame and one wheel can be locked to the rack with a high-security, U-shaped shackle lock if both wheels are left on the bicycle;
 - b) A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components; and
 - c) The rack must be securely anchored.
 - 2) Bicycle racks and storage facilities shall be accessible without moving another bicycle.
 - 3) Bicycle racks and storage facilities shall be located in convenient, visible, well-lit areas with easy access and near main entrances of all commercial, residential, and institutional buildings. Such locations shall be clearly noted with signage.
 - 4) The racks and storage facilities shall be located so they do not interfere with pedestrian traffic and shall be protected from potential damage by motor vehicles.
 - 5) Bicycle parking shall not be within any required landscape area nor interfere with any pedestrian pathway.
 - (4) Parking lot screening. In all mixed-use districts, all surface parking lots adjacent to a public street shall be screened using one of the following methods below:
 - (a) An informal hedge at least three feet in height at maturity consisting of a double row of shrubs planted three feet on-center in a triangular pattern; or
 - (b) Berming of the grade to at least 2½ feet in height above the finish grade of the parking lot, and with slopes no greater than 2:1. Slopes shall be covered with shrubs spaced a maximum of three feet on center. Trees and flowering plants may be included in the berm plantings where the Director finds that long-term maintenance will be provided.

- (5) Parking structure design. The off-street parking required by mixed-use and non-residential development may be located in a parking structure. Such structure shall be subject to the following standards:
- (a) Design.
- 1) Parking structures shall be constructed of materials of similar quality and shall be compatible in appearance with adjacent buildings and shall contain lighting sufficient for security as approved by the City.
 - 2) Ground floor facades of parking structures not occupied by active public uses shall be articulated through the use of three or more of the following architectural features:
 - a) Windows or window-shaped openings with decorative mesh or similar features as approved by the Director;
 - b) Masonry columns;
 - c) Decorative wall insets or projections;
 - d) Awnings;
 - e) Changes in color or texture of materials;
 - f) Approved public art;
 - g) Integrated landscape planters; or
 - h) Other similar features approved by the Director.
- (b) Entry design. Vehicle entries to off-street parking structures shall be integrated into the placement and design of adjacent buildings or oriented away from the primary street frontage. At a minimum, parking structures shall have user vehicles access from a location that minimizes conflicts with pedestrian circulation.
- (c) Wrapping of parking structure. Where feasible, the ground floor of parking structures in mixed-use or non-residential districts shall be wrapped with active public uses along at least 60 percent of the ground-floor street frontage. Parking structures with ground floors that are not wrapped with active public uses on the sides facing a public street or open to public view shall not:



Figure 5.510.B-23: Parking Structure Wrapped with Active Uses

- 1) Abut street intersections or public/civic use areas,

- 2) Be adjacent to public squares, or
- 3) Occupy sites that are the terminus of a street vista.

g. Building design.

(1) Four-sided design.

- (a) All sides of a building shall be architecturally finished with equal levels of materials and detailing. Blank walls void of architectural details or other variation are prohibited.



Figure 5.510.B-24: Franchise Design Consistent with Surrounding Structures

- (b) Exceptions from the above standard may be granted for those areas of the building envelope that the applicant can demonstrate are not visible from adjacent development and public spaces.
 - (c) Corporate or franchise architecture is discouraged in favor of architecturally compatible designs. The Director may require photographic examples of the more minimized corporate architecture in the designs and completed structure by the same company in other communities.
- (2) Consistent architectural theme.
- (a) The architectural design within a multi-building development of structures (including freestanding outparcel structures) shall be organized around a consistent architectural theme in terms of the character, materials, texture, color, and scale of buildings. Themed restaurants, retail chains, and other franchise-style structures shall adjust their standard architectural model to be consistent with a development's architectural character.
 - (b) All buildings in a single development, whether developed at a single time or in phases, shall share at least four architectural features in order to create continuity within the overall development. These features include, but are not limited to, the following:
 - 1) Overhangs,
 - 2) Canopies or porticos,
 - 3) Recesses/projections,
 - 4) Arcades,
 - 5) Raised corniced parapets over the entrance,

- 6) Peaked roof forms,
 - 7) Arches,
 - 8) Outdoor patios,
 - 9) Tower elements (at strategic locations),
 - 10) Display windows,
 - 11) Integral planters that incorporate landscaped areas or seating areas, and
 - 12) Public art/sculptures.
- (3) Building materials and colors.
- (a) Permitted materials. Building materials shall comply with Section 8.210.
 - (b) Mix of materials:
 - 1) No single building material shall cover more than 80 percent of the front building façade. Windows and doors shall not be counted as additional building materials.
 - 2) Structures 20,000 square feet or less shall require a minimum of two distinct building materials on all facades to provide architectural detail and interest.
 - 3) Structures over 20,000 square feet shall require a minimum of three distinct building materials on all facades to provide architectural detail and interest.
 - (c) Prohibited materials. The following materials are prohibited as primary cladding or roofing materials:
 - 1) Aluminum siding or cladding,
 - 2) Plastic or vinyl siding,
 - 3) Exposed aggregate, and
 - 4) Wood shingles.



Figure 5.510.B-25: Mix of Building Materials

- (d) Façade colors.
 - 1) Colors of paint, stains, and other finishes or materials shall complement each other.
 - 2) Generally, no more than four colors per building are permitted.
 - 3) Fluorescent colors are prohibited.
 - 4) Primary colors are prohibited.
 - 5) The use of stark white is discouraged.

- (e) Transparency and glazing.
 - 1) At least 25 percent of all walls facing a public street shall contain windows or doorways.
 - 2) Glazing shall be effectively clear, and shall not exceed 40 percent reflectance. Divided-light windows are encouraged. Materials that create noticeable glare or which restrict the ability of the public to view the inside of a structure from the outside are generally prohibited but may be allowed in limited locations in structures intended for financial or other uses with documentable safety concerns.
 - 3) Energy conserving window films and coatings are permissible within these standards.
- (4) Gateways. Buildings located at entrances to a development demarcate a gateway that will create an overall identity, set the tone for the development, and mark arrival or entry.
 - (a) At major entry points of a development with three or more buildings, buildings shall be organized along the street and at the intersection to create a gateway.
 - (b) Architectural features shall be incorporated into the facades of buildings at major entry points to help emphasize arrival or entry points into the development. These features may include, but are not limited to:
 - 1) Eaves,
 - 2) Planters,
 - 3) Mounted signs,
 - 4) Pilasters,
 - 5) Tower elements,
 - 6) Water features, or
 - 7) Arcades.
- h. Building massing and form.
 - (1) Vertical articulation. Buildings greater than two stories or taller than 30 feet shall be designed to reduce apparent mass by including a clearly identifiable base, body, and top, with horizontal elements separating these components. The component described as the body must constitute a minimum of 50 percent of the total building height.



Figure 5.510.B-26: Vertical Articulation

- (2) Horizontal articulation. Buildings shall be designed to reduce apparent mass by dividing facades into a series of smaller components. No individual component shall have a length of more than 60 feet. Components shall be distinguished from one another through two or more of the following:
- (a) Variations in roof form and parapet heights;
 - (b) Pronounced recesses and projections;
 - (c) Distinct changes in texture and color of wall surfaces;
 - (d) Ground level arcades and second floor galleries/balconies;
 - (e) Protected and recessed entries; and
 - (f) Vertical accents or focal points.
- (3) Relationship to surrounding development. New developments that are significantly larger than adjacent existing development in terms of their height and/or mass shall provide a development transition using an appropriate combination of the following techniques:



Figure 5.510.B-27: Appropriate Transition in Building Height and Mass

- (a) Wrapping the ground floor with a building element or integrated architectural feature (e.g., pedestrian arcade) that is the same height as the adjacent structure;
 - (b) Graduating building height and mass in the form of building step-backs or other techniques so that new structures have a comparable scale with existing structures; or
 - (c) Orienting porches, balconies, and other outdoor living spaces away from the shared property line to protect the privacy of adjacent residents where applicable.
- (4) Entrances and pedestrian areas.





Figure 5.510.B-28: Entrance Design

- (a) Primary entries and pedestrian frontages shall be clearly visible from the street and accentuated from the overall building facade by:
 - 1) Differentiated roof, awning, or portico;
 - 2) Covered walkways or arcades;
 - 3) Projecting or recessed entries from the surrounding building facade;
 - 4) Detailed doors and doorways with transoms, sidelights, trim details, and/or framing; and
 - 5) Windows within doorways equivalent in size to 50 percent of door surface area.
 - (b) Secondary entrances shall have minor architectural detailing that adds visual interest to that portion of the façade.
- (5) Roofs.
- (a) Roofline articulation. Variations in roof lines shall be used to add interest and reduce the scale of large buildings. Roof features shall complement the character of the overall development.
 - (b) Flat roofs. Flat roofs shall include parapets that adhere to articulation requirements for the main face of the structure. The average height of the parapet shall not exceed 15 percent of the height of the supporting wall, unless rooftop equipment cannot be sufficiently screened. A three-dimensional cornice treatment is encouraged for parapets. Parapets shall look complete from all sides if visible at any distance from the ground.

- (c) Overhanging eaves. Overhanging eaves shall extend no less than three feet past the supporting walls.
 - (d) Roof pitch. Pitched roofs shall have a pitch consistent with the majority of buildings within 1,000 feet. This requirement excludes roofs for entries and dormers.
 - (e) Architectural elements. Architectural elements that add visual interest to the roof, such as dormers and masonry chimneys, are encouraged.
 - (f) Roof materials.
 - 1) Asphalt shingles, industry-approved synthetic shingles, standing seam metal or tile roofs are allowed.
 - 2) Wood shingles are prohibited. Corrugated metal, tar paper, and brightly-colored asphalt shingles may be permitted by the Director where they will not be visible from a roadway, public park, or residential district or use.
- (6) Awnings, canopies, arcades, and overhangs. Structural awnings are encouraged at the ground level to enhance the articulation of the building and provide shade.
- (a) The material of awnings and canopies shall complement the building.
 - (b) Awnings shall not be internally illuminated.
 - (c) Canopies shall not exceed 40 linear feet without a break.
 - (d) Awnings shall not extend more than five feet over the sidewalk, unless otherwise approved by the Director, up to a maximum of 10 feet, and are in keeping with the architectural style of the building.
 - (e) Canopies shall respect the placement of street trees and lighting and shall not interfere with them.
 - (f) All large canopies that require structural columns for support shall have a minimum six-foot masonry (or other approved material) finish measured from the finished grade. Materials used on columns and canopies shall be complementary to the building.
- i. Residential compatibility standards.
- (1) Applicability. The residential compatibility standards in this subsection apply when nonresidential or mixed-use development is proposed adjacent to lots used by or zoned for detached or attached single-family structures in a residential district.
 - (2) Use limitations. Where these compatibility standards apply, the following uses or features shall be prohibited as principal or accessory uses:
 - (a) Public address/loudspeaker systems;
 - (b) Outdoor storage; and
 - (c) Uses providing delivery services via large tractor trailers (not including package delivery services).
 - (3) Off-street parking location.
 - (a) Off-street parking shall be established in one or more of the locations listed below. The locations are listed in priority order; the applicant shall select the highest feasible location from this list, and shall demonstrate why that application was selected over other alternative locations.
 - 1) Adjacent to off-street parking lots serving nonresidential uses on abutting lots;
 - 2) Adjacent to lot lines abutting nonresidential development;
 - 3) Adjacent to lot lines abutting mixed-use development;
 - 4) Behind the building;
 - 5) In front of the building; or

- 6) Adjacent to lot lines abutting residential uses.
 - (b) In cases where an off-street parking lot serving a nonresidential use is located on an abutting lot, connection between the two parking areas via a cross-accessway with a minimum width of 12 feet and a maximum width of 24 feet is strongly encouraged. A cross-access easement shall be recorded.
- (4) Relationship to surrounding uses.
 - (a) Multi-building developments shall be configured to locate the tallest and largest structures within the core of the site and provide a gradual decrease in building height and mass towards adjacent residential land uses.



Figure 5.510.B-29: Gradual Decrease in Building Height and Mass Towards Adjacent Residential Uses

- (b) Horizontally integrated mixed-use developments shall locate nonresidential uses away from lots in adjacent residential areas.
- (c) Medium to high density housing shall be incorporated to the maximum extent feasible both within and around the development to facilitate connections between residential and non-residential uses.
- (d) Nonresidential structures taller or larger than adjacent residential uses shall be broken up into modules or wings with the smaller or shorter portions of the structure located adjacent to residential uses.
- (5) Facade configuration.
 - (a) Service functions like refuse collection, incidental storage, and similar functions shall be integrated into the architecture of the building unless an alternate location places these functions farther from adjacent residential uses.
 - (b) Windows shall be arranged to avoid direct lines-of-sight into abutting residential uses.
 - (c) Multi-story structures with balconies, patios, or other public gathering spaces more than 24 feet above grade shall orient these features to avoid direct views into lots in low- and medium-density residential districts.
- (6) Landscaping. Native landscape materials are required. (See the native plant list at <http://grownative.org/native-plant-info/plant-picker> as amended from time to time). The native plant

list provides plant species that are well suited for growing in the Midwest. Plants from this list shall be incorporated into all development landscape plans. The use of materials other than those listed is prohibited unless specifically approved as part of the development plan approval.

(7) Landscaping/screening.

- (a) Screening shall not interfere with public sidewalks, vehicular cross-accessways, or improved pedestrian connections.
- (b) Any parking designated for trucks, recreational vehicles and other large vehicles shall be placed in a location which is not adjacent to either any street or to any residentially zoned property.

(8) Operation.

- (a) Nonresidential uses with outdoor components (e.g., outdoor dining, performance venues) located adjacent to lots in a residential district shall curtail outdoor activities by 10:00 p.m.
- (b) Loading or unloading activities shall take place only between the hours of 7:00 a.m. and 11:00 p.m.
- (c) Alternate hours of activities may be approved through the development plan approval process.

j. Green design. (See the sustainability subsection below.)

C. Sustainability.

1. Purpose. This section is intended to promote sustainable development within the M-150 Corridor by:
 - a. Encouraging infill and redevelopment to slow the absorption of raw land and promote a more compact pattern of growth;
 - b. Encouraging the integration of water and energy conservation techniques in site planning and building design;
 - c. Protecting natural features, wooded areas, and mature trees that absorb greenhouse gases, reduce storm water runoff and pollutants, and provide wildlife habitat;
 - d. Encouraging development patterns that encourage bicycling, walking, and other alternative modes of travel to promote a healthy community and improved air quality;
 - e. Encouraging local production of food; and
 - f. Encouraging the use of alternative energy sources.

2. Sustainability requirements:

a. New mandatory minimum development requirements:

- (1) Stormwater Best Management Practices (BMP's) identified in Section 5600 of the Kansas City Metropolitan Chapter of APWA Design Criteria and Section 5600 of Lee's Summit's Design and Construction Manual as amended from time to time shall be utilized in all new and redevelopment projects as further provided herein.

Environmental health and quality of life issue requires mitigation of the environmental impact of increased stormwater runoff due to development. By controlling the large water quantities produced by developing watersheds and minimizing resulting impairment, peak flows and overall quantity of stormwater can be maintained upon completion of the development activities.

Proposed stormwater management system design is sensitive to site characteristics including slopes, soil types, cover types, and infiltration capacity. These characteristics shall be consid-

ered in the site layout to improve both site drainage and water quality. The following BMP's shall be utilized either independently or in combination to meet the requirements established in the City's Design and Construction Manual.

(a) Source control BMP's for stormwater management may include:

- Infiltration trenches;
- Filter strips;
- Pervious paving;
- Rain gardens;
- Spill prevention;
- Street and storm drain maintenance.

(b) Source filtration BMPs may include:

- Bio-retention;
- Storm filters;
- Dry swales and grass channels.

(c) Regional retention and treatment may include:

- Wet ponds;
- Constructed wetlands;
- Extended retention wetlands.

- (2) Erosion control as established in the Design and Construction Manual and maintained throughout the completion of the project or development.
- (3) LED lighting with flat lens full cut-off approved fixtures adhering to the International Dark-Sky Association (IDA).



- (4) Native plants per the approved list.
- (5) Locally sourced construction materials when possible.
- (6) Solar ready buildings.
- (7) Durable materials.

- (8) Construction and demolition debris and waste management plan. The waste management plan is intended to reduce the amount of construction/demolition related debris going into the land fill and to cull out recyclable materials for future use. Such waste management plan shall include provisions relating to:
 - (a) Land clearing debris;
 - (b) Waste handling procedures;
 - (c) Location of waste dumpsters/bins;
 - (d) Waste segregation if proposed;
 - (e) Potential recycle location.
 - (9) Waste containment on site shall be documented as to:
 - (a) Method of containment;
 - (b) Pick up/removal schedule;
 - (c) Person in control of collection including method of 24-hour contact.
 - (10) Construction staging area including:
 - (a) Fencing material;
 - (b) Location on site.
- b. New buildings shall incorporate a minimum of three of the following features:
- (1) Solar (passive or active), wind or geothermal renewable energy systems;
 - (2) Energy-efficient materials, including recycled materials that meet the requirements of this Code;
 - (3) Materials that are produced from renewable resources;
 - (4) A green roof, such as a vegetated roof, or a cool roof;
 - (5) Materials and designs that meet the U.S. Green Building Council's LEED-NC certification requirements;
 - (6) A greywater recycling system;
 - (7) Electrical vehicle charging station;
 - (8) Xeriscape or water-conserving landscape materials;
 - (9) Drip irrigation system for landscaped areas;
 - (10) Shared parking;
 - (11) Shade structures, covered parking, or shaded walkways.
3. Renewable energy system standards.
- a. Solar array standards. All solar arrays shall be accessory to a principal use and shall comply with the following requirements:
 - (1) Setbacks, location, and height.
 - (a) A solar array shall not be located in the front yard between the principal structure and the public right-of-way.



Figure 5.510.C-1: Accessory Solar Arrays in a Parking Lot

- (b) A solar array shall be located a minimum of six feet from all property lines and other structures.
 - (c) An accessory solar array in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of accessory arrays in mixed-use and nonresidential districts shall not exceed one-half of the footprint of the principal structure.
 - (d) Solar arrays are permitted as an accessory use in a parking lot. However, the maximum lot coverage of any solar array shall not exceed 80 percent.
 - (e) A solar array shall not exceed 20 feet in height.
- (2) Code compliance. Solar arrays shall comply with all applicable building and electrical codes contained in the adopted building code.
- (3) Solar easements. A property owner who has installed or intends to install a solar array shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county register of deeds.
- b. Solar collection standards.
- (1) Setbacks, location, and height.
 - (a) A solar collection system shall be located a minimum of six feet from all property lines and other structures, except the structure on which it is mounted.
 - (b) A solar collection system shall not extend more than five feet above the roofline or the maximum height permitted in the zoning district in which it is located, whichever is less.
 - (c) A solar collection system may be located on an accessory structure.
 - (d) A development proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.
 - (2) Code compliance. Solar collection systems shall comply with all applicable building and electrical codes contained in the City's adopted building code.
 - (3) Solar easements. A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county register of deeds.

Secs. 5.520—5.550. Reserved.

DIVISION VII. RESERVED.

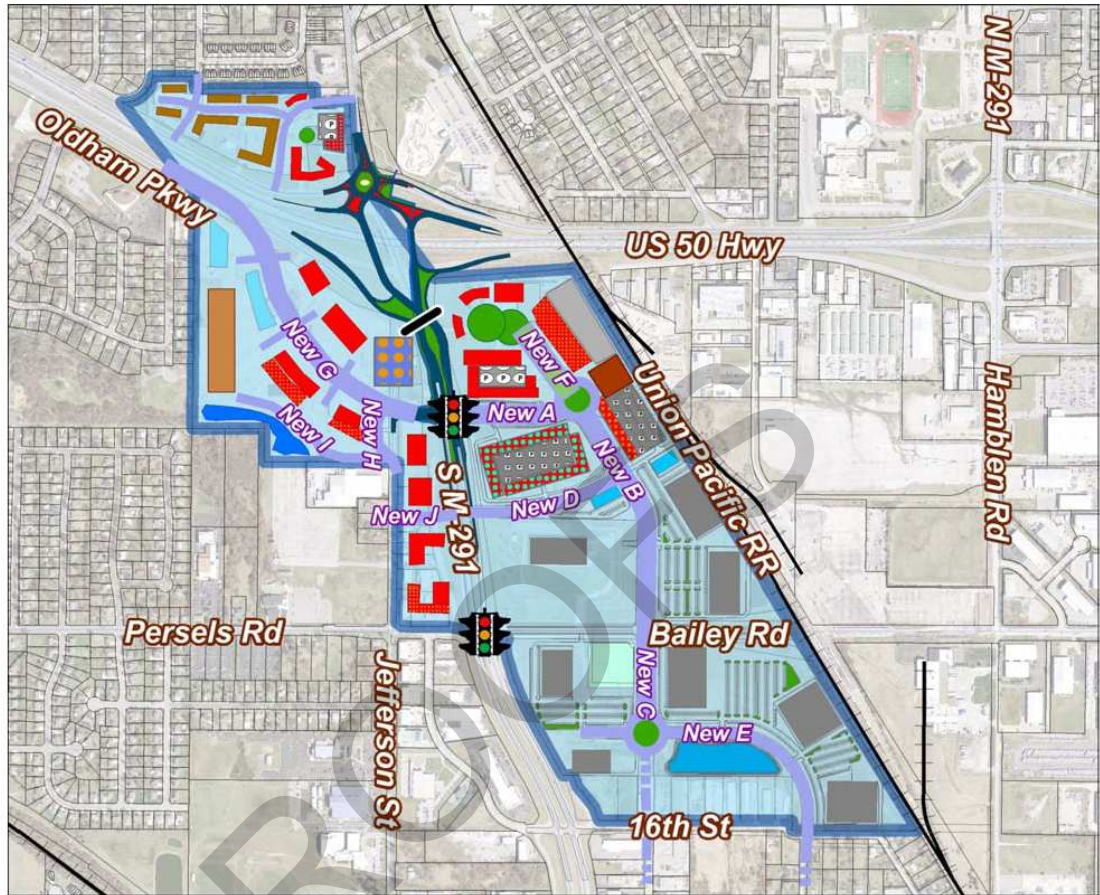
Secs. 5.560—5.600. Reserved.

DIVISION VIII. ENVISION LS AREA DEVELOPMENT PLAN (ADP) DESIGN STANDARDS

Sec. 5.610. Introduction.

EnVision LS was first conceived at the announcement of the new diverging diamond interchange soon to replace the existing outdated and overburdened South M-291/US 50 Highway interchange. The City Council identified the area in and around the interchange as a targeted redevelopment opportunity directing staff to prepare a Master Development Plan for consideration. The Master Development Plan was to include Pine Tree Plaza, Adesa property and adjacent parcels along South M-291, the old Calmar property and the 85-acre Westcott Investment Group, LLC property just to the south of Calmar and bisected by Bailey Road.

Staff prepared a Conceptual Master Development Plan which was adopted by the City Council along with rezoning the properties to Planned Mixed Use, PMIX.

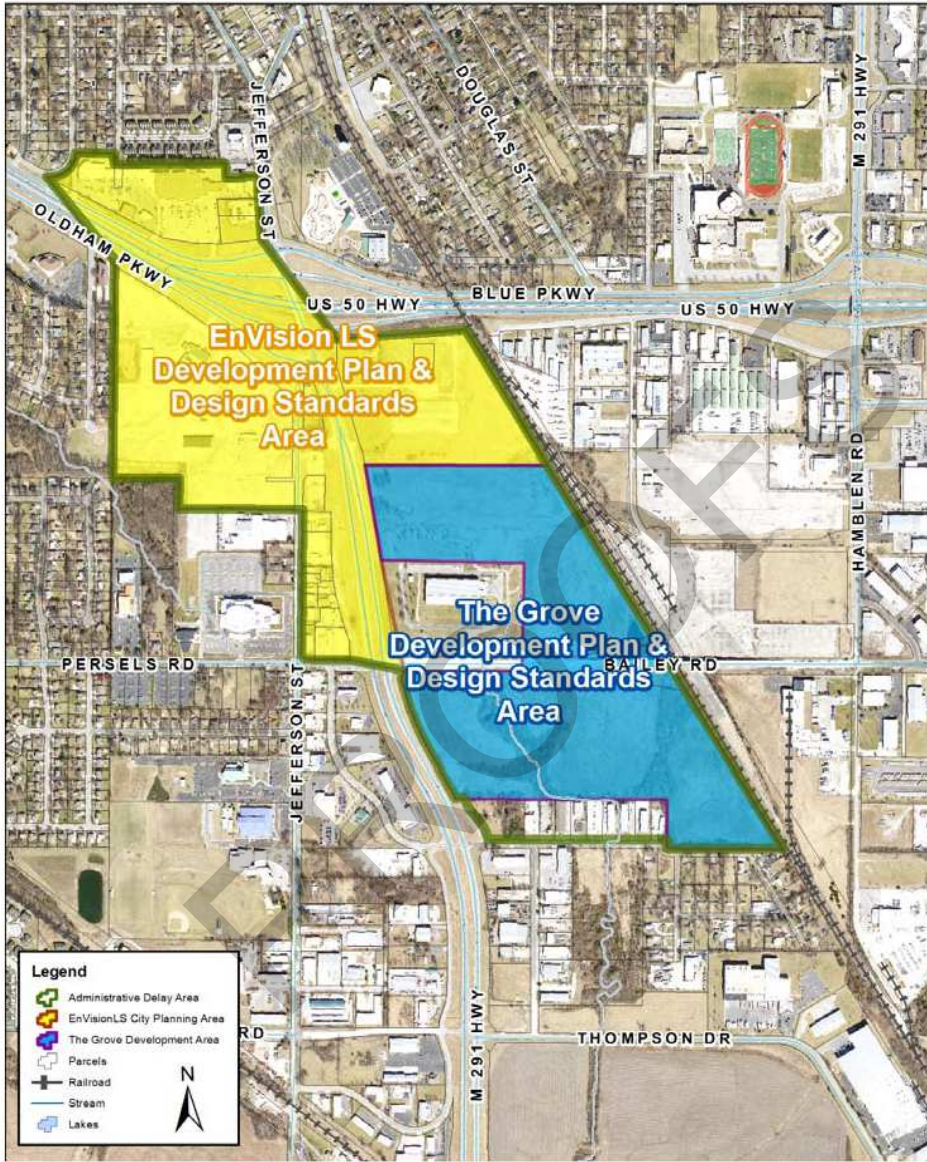


Envision LS — Adopted Conceptual Master Development Plan

Following adoption of the Conceptual Master Development Plan and PMIX zoning, Westcott Investment Group, LLC made Preliminary Development Plan application for "The Grove," an 85-acre mixed-use development with an established set of quality design standards. Approvals were subsequently granted for both the development plan and design standards.

EnVision LS Area Development Plan Design Standards shall be applied to all property within the EnVision LS area with the exception of the 85-acre development known as "The Grove" which will be governed by its own adopted set of design standards.

Planning Areas for Design Standards

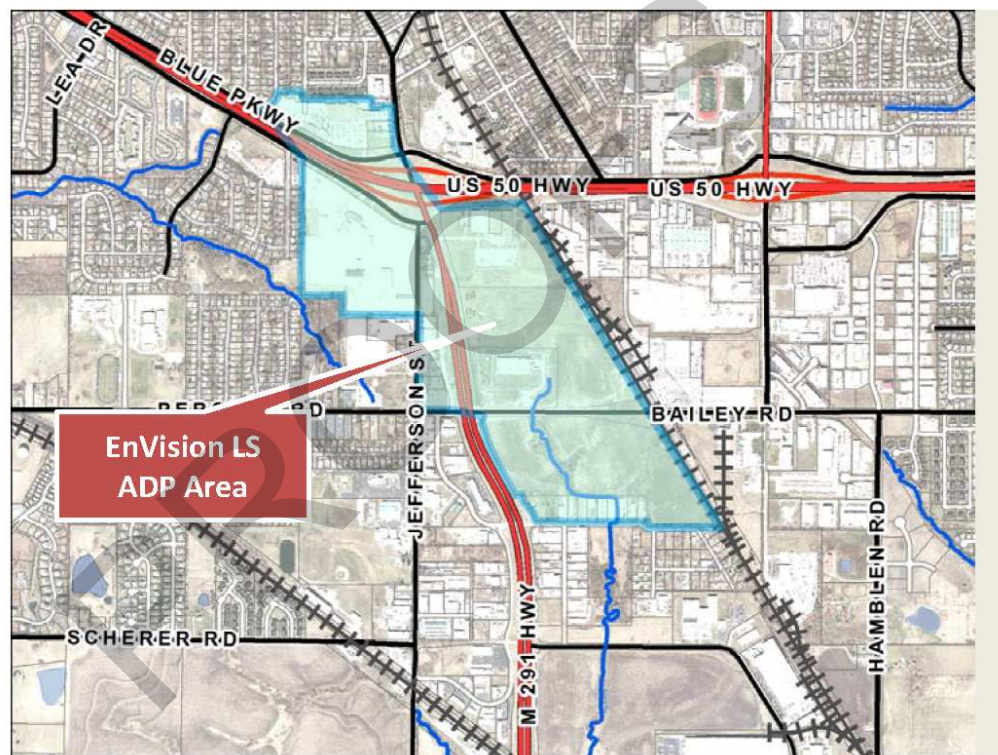


The Conceptual Master Plan and associated Design Standards outlined herein exhibit the City's desire and commitment to a vision of "establishing and achieving a desired aesthetic and a high quality gateway community at a prime commercial location". These Design Standards were created to establish the minimum design standards necessary for the implementation of the expressed vision.

EnVision LS Design Standards serve to provide a structure for the development community to follow in preparation for development plan application submittals.

Sec. 5.620. EnVision LS Area Development Plan (ADP).

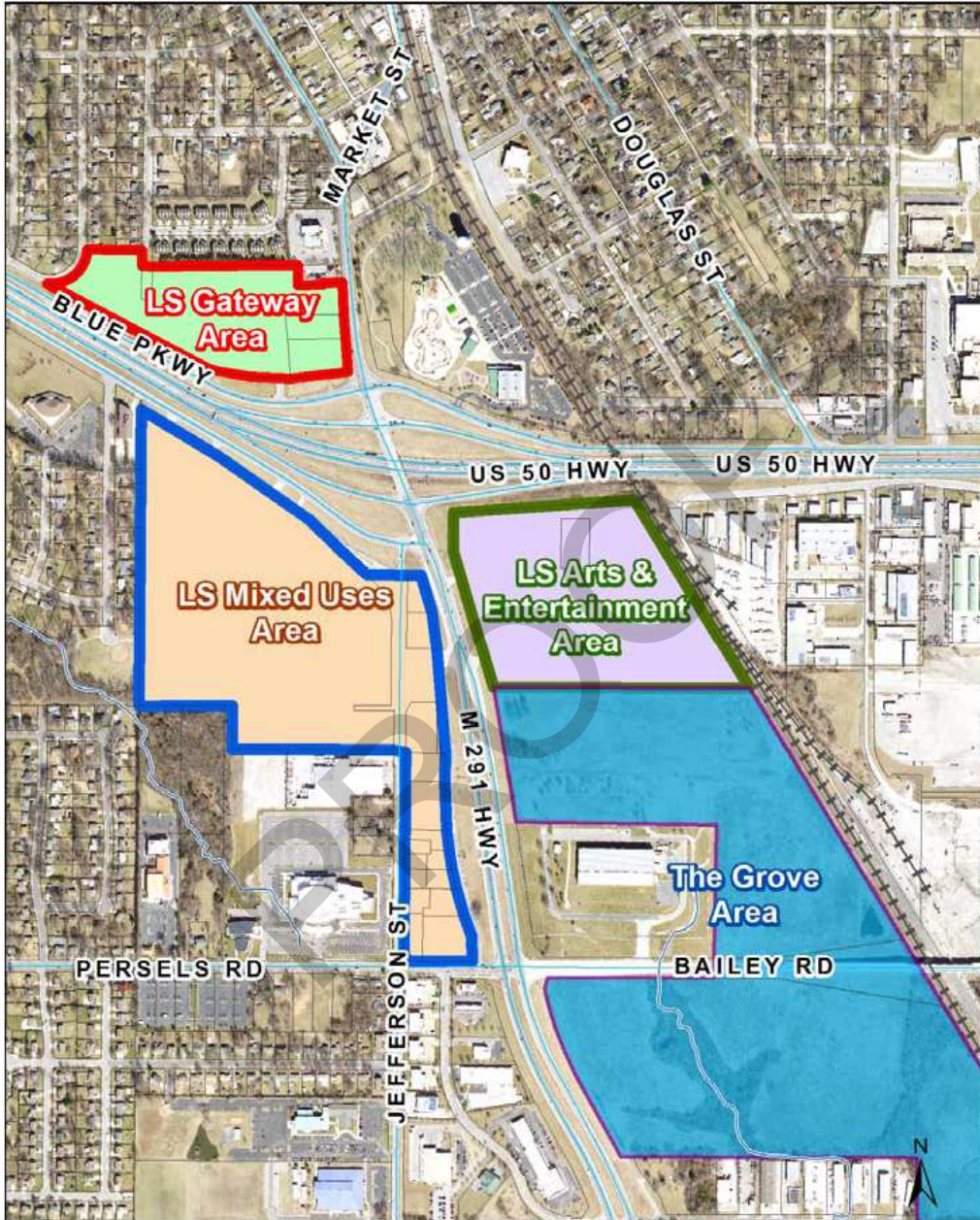
- A. The ADP (Conceptual Master Development Plan) represents the desired mix and intensity of uses. However, uses depicted on the ADP are considered flexible and will be viewed and considered per development application and site location. The overall mix of uses should remain consistent with the overall approved ADP.
- B. Buildings should be located close to the street, two to five stories tall, have a high level of exterior finish, utilize brick and/or stone, and include heavy architectural elements, canopies, overhangs, and patios or balconies. The design of the buildings should include variable roof and exterior wall planes and trim details that divide the mass of the buildings and add visual interest.



Area Development Plan Boundaries

- C. The larger EnVision LS Area Development Plan, ADP, is divided into three primary development areas, excluding "The Grove Area" for purposes of applying these design standards and further herein referred to as the ADP:
1. LS Gateway (Pine Tree Plaza).
 2. LS Mixed Use (Adesa and properties adjacent to M-291 north of Persels).
 3. LS Arts and Entertainment District.

Planning Subareas for Design Standards



Sec. 5.630. General provisions.

- A. Purpose. The purpose of these development standards is to facilitate the development of all property within the EnVision LS Area Development Plan located adjacent to and in close proximity to the new interchange improvements at South M-291/ and US 50 Highway with the highest possible levels of community and building design consistent with the Area Development Plan (ADP).

Development standards within the ADP have been established to create a healthy and viable economic development and redevelopment area. The administration, enforcement, and amendment of these standards shall be consistent with the ADP. Amendments to these standards should only be considered when a proposed development plan is providing a higher standard than that reflected in the ADP.

- B. Applicability. These development standards are applicable to all property identified on the map labeled "Planning Subareas for Design Standards" on page 4, as now or hereafter established. Development standards shall be applicable to multi-family and commercial (nonresidential) construction, reconstruction, alteration, and expansion. No land, building, structure, or premises shall be used for any purpose or in any manner other than that which is permitted under the approved established for each development as a part of their respective preliminary development plan.
- C. Conflict. These development standards are additive; more than one set of standards may apply to a particular development project. The more restrictive provision, as determined by the Director of Planning and Special Projects (Director), shall control in cases where standards conflict.
- D. Alternative equivalent compliance.
1. Purpose and scope. To encourage creative and unique design, "alternative equivalent compliance" allows development to occur in a manner that meets the intent of these standards yet through an alternative design that does not strictly adhere to these standards. This is not a general waiver of regulations. Rather, this section authorizes a site-specific plan that is equal to or better than the strict application of these adopted standards while still meeting the goals and policies established herein.
 2. Decision-making responsibility. Final approval of any alternative compliance proposed under this section shall be the responsibility of the decision-making body responsible for deciding upon the application. Administratively approved projects proposing alternative compliance shall receive written approval of the alternative compliance from the Director.
 3. Criteria. Alternative equivalent compliance may be approved if the applicant demonstrates that the following criteria have been met by the proposed alternative:
 - a. Achieves the intent of the subject standard to the same or better degree than the subject standard;
 - b. Advances the goals and policies of the ADP to the same or better degree than the subject standard;
 - c. Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard; and
 - d. Imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this article.
 4. Effect of approval. Alternative compliance shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

Sec. 5.640. Development standards.

- A. Sensitive lands and natural resources. The provisions of the stream preservation standards in the City's Design and Construction Manual shall be applicable to development in the ADP.

B. Pedestrian and bicycle connectivity and mobility.**1. Purpose.** The purpose of this section is to:

- a. Support the creation of a highly connected transportation system within Lee's Summit in order to provide choices for drivers, bicyclists, and pedestrians;



Sidewalks on Both Sides of Street

- b. Increase effectiveness of local service delivery; promote walking and bicycling; connect "development communities" to each other and to local destinations such as employment centers, parks, multi-family units and shopping centers;
 - c. Reduce vehicle miles traveled; improve air quality and reduce emergency response times;
 - d. Mitigate the traffic impacts of new development, and free up arterial capacity for long-distance travel needs; and
 - e. Avoid the creation of large, isolated tracts without routes for traffic, pedestrian and bicycle connections.
2. **Sidewalks required.** Sidewalks shall be installed on both sides of all streets pursuant to the standards of City's Design and Construction Manual. The Director may allow the use of alternative paving materials if a community improvement district or other long-term oversight board and funding mechanism is established to provide for ongoing maintenance.

3. On-site pedestrian connections.

- a. Development within the ADP shall provide a network of on-site pedestrian walkways with a minimum width of five feet to and between the following areas:



On-Site Pedestrian Connections

- (1) Entrances to each building on the site, including pad site buildings;
- (2) Public sidewalks, walkways, or trails on adjacent properties that extend to the boundaries shared with the subject development;
- (3) Public sidewalks along the perimeter streets adjacent to the development;
- (4) Adjacent land uses and developments;
- (5) Adjacent public park, greenway, or other public or civic use; and
- (6) Adjacent public transit station areas, transit stops, park and ride facilities, or other transit facilities.

- b. On-site pedestrian connections shall be constructed of materials distinguishable from the driving surface such as:



Decorative Materials for Pedestrian Crossings

- (1) Changing paving color;
- (2) Painted crosswalks; or
- (3) Stamped concrete.

Additional identification methods may be used provided an improvement district or other funding mechanism is provided for long-term maintenance.

- c. Pedestrian circulation routes along storefronts shall be emphasized with special design features that establish them as areas where pedestrians are physically separated from the flow of vehicular traffic and/or are protected from the elements. Techniques shall include one or more of the following:
 - (1) Arcades, porticos, or other shade structures;
 - (2) Pedestrian light features;
 - (3) Bollards;
 - (4) Seat walls or benches;
 - (5) Drinking water fountains; and
 - (6) Landscape planters.
- d. The placement of street furniture and other decorative or functional items on the sidewalk shall not narrow the sidewalk at any point to less than four feet wide.

4. Trail linkages.

- a. Trail linkages shall be incorporated into the design of all developments where practical. Trail linkages shall be located and designed to provide public access, connecting residential units and businesses to open space and the City's existing trail system where practical, and to promote pedestrian and bicycle movement between residential areas and employment/business areas.



Residential Trail Connection

- b. All development shall be required to demonstrate that the design of the proposed development includes trail linkages pursuant to Lee's Summit Greenway Master Plan, Metro Green, or other applicable plan.
 - c. Trails shall be constructed at the time of development in accordance with adopted City standards and specifications.
- C. Screening. The following screening standards shall apply in the ADP in addition to the requirements of UDO Article 8, Division III, Landscaping, Buffers, and Tree Protection.
- 1. Multi-family, mixed-use, and commercial screening. For all developments the following mechanical equipment screening standard shall apply to the maximum extent practicable.



Parapet Wall Screening Roof Mounted Equipment

- a. Roof-mounted mechanical equipment. Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design. The parapet wall or similar feature shall be of a height equal to or greater than the height of the mechanical equipment being screened.

- b. Wall-mounted mechanical equipment. Wall-mounted mechanical equipment, except air conditioning equipment (e.g., window AC units), that protrudes more than six inches from the outer building wall shall be screened from view by structural features that are compatible with the architecture and color of the subject building. Wall-mounted mechanical equipment that protrudes six inches or less from the outer building wall shall be designed to blend with the color and architectural design of the subject building.
 - c. Ground-mounted mechanical equipment. Ground-mounted mechanical equipment shall be screened from view by landscaping or by a decorative wall that is compatible with the architecture and landscaping of the development site. The wall shall be of a height equal to or greater than the height of the mechanical equipment being screened.
 - d. Utilities.
 - (1) Utility poles and supports shall be painted or be of materials neutral in color. Wooden poles shall be prohibited.
 - (2) All transformers and other facilities and equipment, including telecommunications equipment, shall either be screened through the use of architectural materials compatible with the architectural materials present on the site or, alternatively, through landscape screening.
 - (3) Such screening shall be adequate to completely screen such facilities from all rights-of-way.
2. Screening of service, loading, and storage areas.
- a. Applicability. These screening requirements are applicable to all service, loading, and storage areas. Owners are encouraged to locate the types of features listed in this subsection where they are not visible from off-site or from public areas of a site, so that screening is unnecessary.
 - b. Placement.
 - (1) All service areas shall be placed at the rear, on the side of, or inside buildings.
 - (2) No service area shall be visible from a public right-of-way or from adjacent residential areas.
 - (3) Service areas and access drives shall be located so they do not interfere with the normal activities of building occupants or visitors on driveways, walkways, in parking areas or at entries.
 - c. Outside storage areas and loading docks.
 - (1) All storage areas, service areas, and loading docks not screened by an intervening building shall be screened from view from any public street right-of-way. In addition, storage and loading areas must be screened from view from any adjoining property when that property requires a buffer as identified in UDO Table 8.890, Buffer/Screen Impact.



Loading Area Placement and Screening

- (2) An opaque screen consisting of one or a combination of the following shall be used:
 - (a) Freestanding walls, wing walls, or fences;
 - (b) Earthen berms in conjunction with trees and other landscaping; or
 - (c) Landscaping, that must be opaque and eight feet in height within 18 months of planting.
 - (3) Screening shall be a minimum height of eight feet to screen truck berths, loading docks, areas designated for permanent parking or storage of heavy vehicles and equipment or materials.
 - (4) Screening shall be long enough to screen the maximum size trailer that can be accommodated on site. Sites that can accommodate a full size tractor-trailer shall provide a 48-foot length wing wall, where wing walls are used.
- d. Shopping cart storage. All shopping carts shall be stored inside the building they serve. Shopping cart corrals shall be prohibited.
- e. Refuse facility screening. All refuse facilities, including new refuse facilities placed on an existing development, shall be large enough to accommodate a trash dumpster and shall be completely screened from view of public streets and adjoining nonindustrial used properties by:



Refuse Facility Screening

- (1) Meeting the requirements of the other sections of this section; or
- (2) Screening on three sides by a minimum six-foot masonry wall surrounded by evergreen landscaping. An opening shall be situated so that the container is not visible from adjacent properties or public streets and the opening shall be a metal clad opaque gate or an alternate approved metal framed gate with black high density mesh screen. Chain-link gates are not permitted. Gates must have tie backs to secure in the open position.

f. Design of screening. All screening shall be complementary to the building served in landscaping approach and through the use of similar colors and material palette.

D. Multi-family residential development standards.

- 1. Purpose. The purpose of the multi-family residential development standards is to enhance the quality and character of the built environment in the City. More specifically, the purposes of this section are to:
 - a. Encourage high quality development as a strategy for investing in the ADP;
 - b. Emphasize the unique character anticipated for the ADP;
 - c. Maintain and enhance the quality of life for the City's citizens;
 - d. Shape the City's appearance, aesthetic quality, and spatial form;
 - e. Protect and enhance property values;
 - f. Provide property owners, developers, architects, builders, business owners, and others with a clear and equitable set of parameters for developing land within the ADP;
 - g. Promote the sustainability of both the structure and the overall community; and
 - h. Promote the establishment of a gateway into the historic downtown.
- 2. Design standards. Design standards in this subsection apply to all new multi-family development.
 - a. Minimum building separation (for individual free standing buildings). Multi-family structures shall be separated pursuant to the standards of the Building Code.



Courtyard Orientation



Perimeter Street Orientation

- b. Building orientation.
- (1) Individual buildings within a multi-family development shall be oriented to:
 - (a) Common open space, such as interior courtyards or on-site natural areas or features;
 - (b) Perimeter streets;
 - (c) Other residential buildings; or
 - (d) Through-access drives.
 - (2) To the maximum extent practicable, individual buildings shall be oriented or arranged in a manner to enclose common open spaces such as gardens, courtyards, recreation or play areas, that shall contain a minimum of three of these features:
 - (a) Seasonal planting areas,
 - (b) Trees,
 - (c) Pedestrian-scaled lighting,
 - (d) Gazebos or other decorative shelters,
 - (e) Seating,
 - (f) Play structures for children, or
 - (g) Natural features or areas, unless the City determines that for preservation reasons the buildings should avoid the feature or area.
- c. Entrance orientation.
- (1) Primary entrances and façades shall not be oriented towards parking lots, garages, or carports.
 - (2) All individual multi-family buildings shall comply with at least two of the following requirements:
 - (a) At least one main building entry faces an adjacent public street;
 - (b) A building entrance faces a courtyard or common open space that has a direct and visible connection to an adjacent public street;
 - (c) A building entry is connected to a public sidewalk by a system of interior walkways; or
 - (d) The pedestrian entries to the site from the public right-of-way are emphasized with enhanced landscaping, special paving, gateways, arbors, or similar features.

- (3) All ground-floor units with frontage along the primary street shall have an entrance that faces the street. Individual multi-family buildings located with multiple street frontages shall provide entrances to the building along each local street frontage.



Ground-Floor Unit Entrances

- (a) Exterior entrances from a public sidewalk or common open space are permitted for dwelling units on the ground floor.
 - (b) Exterior entrances shall be raised from the finished ground-floor level of the sidewalk a minimum of two feet.
- (4) Dwelling units above the ground floor shall have interior unit entrances including fire stair towers.
- d. Private common space. Individual multi-family building developments shall provide private common open space for recreation, including uses such as swimming pools, sport courts, playgrounds with equipment, and/or community gardening. Required landscaping is excluded from open space calculations.



Four-Sided Design

3. Building design.
- a. Four-sided design. All sides of a multi-family building shall display a similar level of quality and architectural detailing as on the front elevation.

b. Building mass and articulation.

- (1) The elevations of all multi-family buildings shall be articulated through the incorporation of at least three or more of the following:



Multi-Family Building Articulation

- (a) Balconies;
 (b) Bay or box windows;
 (c) Porches or covered entries;
 (d) Dormers or other variations in the roof plane;
 (e) Accent materials such as brick, stone, or stucco with banding highlights;
 (f) Shutters;
 (g) Variation in window sizes and shapes; or
 (h) Vertical elements that demarcate building modules.
- (2) Multi-family buildings shall provide concentrated unit access points. Access balconies and corridors running the length of the exterior of a building are prohibited.
- c. Vertical articulation.
- (1) For all structures three stories or more in height, the base (first 20 feet) of a building shall be distinguished from the remainder of the building by providing a minimum of three of the design elements listed above in subsection b.(1).
- (2) Multi-family buildings shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.
- d. Building length. The maximum length of any multifamily building shall be 180 feet without offsets to break up the building length.
- e. Transparency. At least 20 percent of all walls facing a public street shall contain windows or doorways.
- f. Design of multiple buildings.
- (1) Developments with multiple buildings shall incorporate a variety of distinct building designs according to the scale of the development.
- (2) Distinct building designs shall include one or more of the following:
- (a) A variation in length of 30 percent or more;
 (b) A variation in the footprint of the building of 30 percent or more;

- (c) A distinct variation in color and use of materials; or
- (d) A distinct variation in building height and roof form.

g. Materials. All material shall be durable and long-lasting. The following materials are acceptable for multi-family residential construction:

- (1) Brick, concrete stucco, stone, stone facing, wood, glass in combination with metal, or similar, durable architectural materials as approved by the Planning Commission.
- (2) Vinyl siding is prohibited and EIFS may only be utilized in a limited portion for detailed architectural elements above the second story.

4. Parking location and layout.



Multi-Family Parking Located Behind Primary Structure

a. Location and layout.

- (1) To the maximum extent feasible, garage entries, carports, parking areas, and parking structures shall be internalized in building groupings or oriented away from street frontage.
- (2) Parking areas and freestanding parking structures (detached garages or carports) shall not occupy more than 30 percent of each perimeter public street frontage of a multi-family development.
- (3) To the maximum extent practicable, freestanding parking structures that are visible from perimeter public streets shall be sited so that the narrow end of the parking structure is perpendicular to the perimeter street.

b. Carports and detached garages.

- (1) Detached garages and carports shall incorporate compatible materials, scale, colors, architectural details, and roof slopes similar to those of the primary multi-family buildings.
- (2) Rear walls of detached garages over 40 feet in length that back onto the perimeter street shall be articulated or punctuated through the use of window openings or other similar techniques.

E. Mixed-use and commercial design standards.

- 1. Applicability. The design standards in this section apply to all mixed-use and commercial (nonresidential) structures.
- 2. Site layout and building organization.
 - a. Private common spaces.



Private Common Space

- (1) Required private common spaces. Mixed-use, commercial, and office development shall incorporate at least one on-site indoor or outdoor common space per building. Common space shall be visible and accessible and shall be located, where possible, along street frontages. Common spaces shall be connected, to the maximum extent practicable, to pedestrian areas, sidewalks, trails, or public open space in order to create functional pedestrian connectors.
 - (2) Features and amenities. The following features may be used to satisfy the private common space standard:
 - (a) Patio or plaza with seating and landscaping;
 - (b) Landscaped mini-parks or square;
 - (c) Rooftop or community garden; or
 - (d) Similar features as approved by the Director.
 - (3) Design. Private common spaces shall be constructed of materials that are of a comparable quality and be of a compatible design as the building they are attached to or the public space in which they are placed.
- b. Building orientation.



Buildings Arranged to Create Pedestrian-Friendly Spaces

- (1) Individual buildings. In cases where the long axis of a building is perpendicular to the primary street, the portion of the structure facing the primary street shall be configured with at least one operable entrance and one or more transparent windows as approved by the Director.
 - (2) Multi-building developments.
 - (a) Buildings shall be organized to promote a compact pattern of development, pedestrian-friendly spaces, streetscapes, areas of naturalized landscaping, and to screen parking areas.
 - (b) Buildings shall be arranged and grouped so that their primary orientation complements one another and adjacent, existing development by:
 - 1) Framing the corner of an adjacent street intersection or entry point to the development;
 - 2) Framing and enclosing a pedestrian and/or vehicle road or access corridor within or adjacent to the development site;
 - 3) Framing and enclosing on at least three sides parking areas, public spaces, or other site amenities;
 - 4) Framing and/or enclosing outdoor dining or gathering spaces for pedestrians between buildings; or
 - 5) Framing one or more areas of natural vegetation.
 - (3) Entrance orientation.
 - (a) To the maximum extent feasible, the principal building entrance shall face:
 - 1) An adjacent public street;
 - 2) An adjacent public plaza; or
 - 3) An adjacent primary public walkway.
 - (b) In cases where the principal entrance does not face the principal street, the entrance shall be connected to the street and adjacent parking areas with a sidewalk(s).
- c. Outparcel development.



Site Layout of Outparcel Development

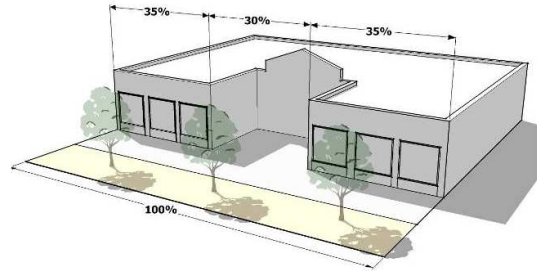
- (1) To the maximum extent practicable, outparcels and their buildings shall be clustered in order to define street edges, entry points, and intimate spaces for gathering or seating between buildings. The even dispersal of outparcel sites in a widely-spaced pattern along streets is strongly discouraged.

- (2) Spaces between buildings on outparcels shall be improved to provide small-scale pedestrian amenities such as plazas, seating areas, pedestrian connections, gathering spaces, or well-landscaped parking areas.
3. Streetscape design and character. The following standards apply in lieu of the standard sidewalk requirements:
- a. Public sidewalks required. In order to create an environment that is supportive of transit and pedestrian mobility, public sidewalks shall be provided along both sides of all streets in the mixed-use districts. Such sidewalks shall be at least ten feet in width and should not be more than 16 feet in width, unless otherwise approved as part of the design review process. The ten-foot minimum requirement shall apply regardless of the available right-of-way. Where required, the sidewalk shall extend onto private property to fulfill the ten-foot minimum requirement, with a sidewalk easement provided.
 - b. Delineation of sidewalk area. Sidewalks shall be organized into two distinct areas: A street tree/furniture area located adjacent to the curb, and a clear area.
 - (1) Street tree/furniture area. The street tree/furniture area shall have a minimum width of six feet (from face-of-curb) and shall be continuous and located adjacent to the curb. The area shall be planted with street trees at an average spacing of 20 to 30 feet on center, based on the mature canopy width of the tree species selected and in accordance with Article 8, Division III. The area also is intended for the placement of street furniture including seating, street lights, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus shelters, bicycle racks, public utility equipment such as electric transformers and water meters, and similar elements designed to city specifications and located in a manner that does not obstruct pedestrian access or motorist visibility, and subject to applicable requirements of this UDO.



Delineation of Sidewalk Area

- (2) Clear area. The clear area shall be a minimum width of six feet, shall be hardscaped, and shall be located adjacent to the street tree/furniture area. The clear area shall be unobstructed by any permanent or nonpermanent element for a minimum width of six feet and a minimum height of eight feet. Additional sidewalk width located between the clear area and the building may be used for outdoor dining or seating areas.



Building Set to Sidewalk Clear Area

- (3) Supplemental zone. A supplemental zone may be provided at the option of the applicant between the street-facing façade or a side-facing facade and the required clear area, to provide additional areas for outdoor dining, porches, terraces, landscape and water features, and plazas. A supplemental zone, if provided, may be a maximum of 20 feet deep and may extend up to 30 percent of the linear frontage of the development. The supplemental zone shall not provide any parking or vehicle circulation areas.
- (4) Improvement district. An improvement district or other long-term oversight board and funding mechanism shall be established to provide for the maintenance of required streetscape.
- c. Building placement. At least 70 percent of the building facade facing a public street shall be brought up to the clear area.
- d. Sidewalk entries.



Secondary Entry

- (1) Spacing. Sidewalk entries shall be provided to all buildings and individual units that front on the sidewalk.
- (2) Sidewalk entry hierarchy. Entrances into residential buildings in mixed-use areas are encouraged to follow a hierarchy of sizes and functions as follows:
 - (a) Carriage way: A centrally located twelve-foot wide entrance at sidewalk level for visual and direct access to a private courtyard.

- (b) **Secondary entry:** A six-foot wide entrance with ornamental entrance gate and defined by a stoop with low cheek walls and planters at the sidewalk. Mailboxes, bike racks, and trash receptacles should be grouped around these secondary entries.
 - (c) **Other entries:** Home office and retail storefront entries which are either at grade or stooped shall be sized to accommodate specific requirements of the individual space.
 - e. **Utilities.** Transformers, switchgear, and related utility service equipment shall not be located above-ground in pedestrian access easements. Building service panels are to be located on the inside of all buildings.
 - f. **Paving.** Paving is intended to highlight or accentuate special areas along the ground plane while at the same time complementing the design of adjacent building and streetscape elements.
4. **Mix of uses.** A diverse range of commercial, office, residential, and civic uses is desired within the ADP, zoned Planned Mixed Use (PMIX). The appropriate mix of uses will vary by its location, size, and the surrounding development contexts. Generally, the ADP should be followed to create the appropriate mix of uses.



Active Street-Level Uses and Outdoor Gathering Spaces

- a. **Ground-floor uses.**
 - (1) **Intent.** The incorporation of commercial uses such as retail shops and restaurants at the street level is strongly desired within the mixed-use districts to promote a more active environment for pedestrians and support for residential and office uses located within the same building (on upper floors) or nearby.
 - (2) **Standards.**
 - (a) **Location.** Commercial uses shall be concentrated adjacent to transit stops, major public spaces, and in other areas where a high level of pedestrian activity and visibility is desirable. If a limited portion of a structure's ground level will be devoted to commercial space, such space shall be located along those facades adjacent to or most visible from transit corridors, primary street frontages, or major pedestrian walkways.
 - (b) **Design and use of commercial space.** Ground-floor commercial spaces should not be used for residential units. However, residential unit leasing offices, fitness centers, and related accessory uses are appropriate for commercial ground floor use in a mixed use developments.

- b. Residential uses. Residential uses, where included, shall be incorporated within a mixed-use development to be visually and/or physically integrated with commercial (nonresidential) uses. This shall be achieved by ensuring that residential uses meet at least one of the following:
 - (1) Residential uses are vertically located above street-level commercial uses;
 - (2) Residential uses are horizontally integrated into site development to provide a transition between the highest intensity uses within the center or development and the adjacent neighborhood; and
 - (3) A pedestrian circulation system (i.e., sidewalks, crosswalks, trails, etc.) is provided that reduces conflict between pedestrian and vehicular movements and increases pedestrian activity between residential and nonresidential uses.
5. Parking standards for mixed-use districts. The purpose of parking area requirements is to ensure that the parking areas themselves are not the dominant feature of the mixed-use development. These requirements severely restrict on-site surface parking (other than incidental parking in association with residential development leasing offices, or head-in or parallel spaces to support retail uses) and encourage physical consistency throughout the development, including the appearance of parking garages. In all mixed-use districts, the following standards apply:
 - a. Allowable parking. On-street parking shall not be designated per individual business or occupancy but may count toward the minimum parking requirements for the entire structure along the adjacent frontage. Parallel parking, head-in parking along streets, and/or minimal surface parking is permitted subject to approval through the site plan or development plan process and approval of a maintenance agreement.
 - b. Bicycle parking design and location.
 - (1) Bicycle parking facilities shall include a rack or storage facility (e.g., locker) that enables bicycles to be secured. Where racks are used, they shall meet the following standards:
 - (a) The bicycle frame and one wheel can be locked to the rack with a high-security, U-shaped shackle lock if both wheels are left on the bicycle;
 - (b) A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components; and
 - (c) The rack must be securely anchored.
 - (2) Bicycle racks and storage facilities shall be accessible without moving another bicycle.
 - (3) Bicycle racks and storage facilities shall be located in convenient, visible, well-lit areas with easy access and near main entrances of all commercial, residential, and institutional buildings. Such locations shall be clearly noted with signage.
 - (4) The racks and storage facilities shall be located so they do not interfere with pedestrian traffic and shall be protected from potential damage by motor vehicles.
 - (5) Bicycle parking shall not be within any required landscape area nor interfere with any pedestrian pathway.
 - c. Parking lot screening. In all mixed-use districts, all surface parking lots adjacent to a public street shall be screened using one of the following methods below:
 - (1) An informal hedge at least three feet in height at maturity consisting of a double row of shrubs planted three feet on-center in a triangular pattern; or
 - (2) Berming of the grade to at least two and one-half feet in height above the finish grade of the parking lot, and with slopes no greater than 2:1. Slopes shall be covered with shrubs spaced a maximum of three feet on center. Trees and flowering plants may be included in the berm plantings where the Director finds that long-term maintenance will be provided.

- d. Parking structure design. The off-street parking required by mixed-use and non-residential development may be located in a parking structure. Such structure shall be subject to the following standards:
- (1) Design.
 - (a) Parking structures shall be constructed of materials of similar quality and shall be compatible in appearance with adjacent buildings and shall contain lighting sufficient for security as approved by the City.
 - (b) Ground floor facades of parking structures not occupied by active public uses shall be articulated through the use of three or more of the following architectural features.
 - 1) Windows or window-shaped openings with decorative mesh or similar features as approved by the Director;
 - 2) Masonry columns;
 - 3) Decorative wall insets or projections;
 - 4) Awnings;
 - 5) Changes in color or texture of materials;
 - 6) Approved public art;
 - 7) Integrated landscape planters; or
 - 8) Other similar features approved by the Director.
 - (2) Entry design. Vehicle entries to off-street parking structures shall be integrated into the placement and design of adjacent buildings or oriented away from the primary street frontage. At a minimum, parking structures shall have user vehicles access from a location that minimizes conflicts with pedestrian circulation.
 - (3) Wrapping of parking structure. Where feasible, the ground floor of parking structures in mixed-use or non-residential districts shall be wrapped with active public uses along at least 60 percent of the ground-floor street frontage. Parking structures with ground floors that are not wrapped with active public uses on the sides facing a public street or open to public view shall not:



Parking Structure

- (a) Abut street intersections or public/civic use areas,
- (b) Be adjacent to public squares, or
- (c) Occupy sites that are the terminus of a street vista.

6. Building design.

**Franchise Design Consistent With
Surrounding Structures**

a. Four-sided design.

- (1) All sides of a building shall be architecturally finished with equal levels of materials and detailing. Blank walls void of architectural details or other variation are prohibited.
- (2) Exceptions from the above standard may be granted for those areas of the building envelope that the applicant can demonstrate are not visible from adjacent development and public spaces.
- (3) Corporate or franchise architecture is discouraged in favor of architecturally compatible designs. The Director may require photographic examples of the more minimized corporate architecture in the designs and completed structure by the same company in other communities.

b. Consistent architectural theme.

- (1) The architectural design within a multi-building development of structures (including freestanding outparcel structures) shall be organized around a consistent architectural theme in terms of the character, materials, texture, color, and scale of buildings. Themed restaurants, retail chains, and other franchise-style structures shall adjust their standard architectural model to be consistent with a development's architectural character.
- (2) All buildings in a single development, whether developed at a single time or in phases, shall share at least four architectural features in order to create continuity within the overall development. These features include, but are not limited to, the following:
 - (a) Overhangs,
 - (b) Canopies or porticos,
 - (c) Recesses/projections,
 - (d) Arcades,
 - (e) Raised corniced parapets over the entrance,
 - (f) Peaked roof forms,
 - (g) Arches,
 - (h) Outdoor patios,
 - (i) Tower elements (at strategic locations),

- (j) Display windows,
 - (k) Integral planters that incorporate landscaped areas or seating areas, and
 - (l) Public art/sculptures.
- c. Building materials and colors.
- (1) Permitted materials. Building materials shall consist of brick, stone, precast masonry, and stucco. Pre-authorized use of limited amounts of conditional materials may be approved including architectural metal, CMU's and exterior insulated finishing systems (EIFS).
 - (2) Mix of materials.
 - (a) No single building material shall cover more than 80 percent of the front building façade. Windows and doors shall not be counted as additional building materials.
 - (b) Structures 20,000 square feet or less shall require a minimum of two distinct building materials on all facades to provide architectural detail and interest.
 - (c) Structures over 20,000 square feet shall require a minimum of three distinct building materials on all facades to provide architectural detail and interest.
 - (3) Prohibited Materials. The following materials are prohibited as primary cladding or roofing materials:
 - (a) Aluminum siding or cladding,
 - (b) Plastic or vinyl siding,
 - (c) Exposed aggregate, and
 - (d) Wood shingles.
 - (4) Façade colors.
 - (a) Colors of paint, stains, and other finishes or materials shall complement each other.



Mix of Building Materials

- (b) Generally, no more than four colors per building are permitted.
 - (c) Fluorescent colors are prohibited.
 - (d) Primary colors are prohibited.
 - (e) The use of stark white is discouraged.
- (5) Transparency and glazing.
- (a) At least 25 percent of all walls facing a public street shall contain windows or doorways.
 - (b) Glazing shall be effectively clear, and shall not exceed 40 percent reflectance. Divided-light windows are encouraged. Materials that create noticeable glare or which restrict the

ability of the public to view the inside of a structure from the outside are generally prohibited but may be allowed in limited locations in structures intended for financial or other uses with documentable safety concerns.

(c) Energy conserving window films and coatings are permissible within these standards.

d. Gateways. Buildings located at entrances to a development demarcate a gateway that will create an overall identity, set the tone for the development, and mark arrival or entry.

(1) At major entry points of a development with three or more buildings, buildings shall be organized along the street and at the intersection to create a gateway.

(2) Architectural features shall be incorporated into the facades of buildings at major entry points to help emphasize arrival or entry points into the development. These features may include, but are not limited to:

- (a) Eaves,
- (b) Planters,
- (c) Mounted signs,
- (d) Pilasters,
- (e) Tower elements,
- (f) Water features, or
- (g) Arcades.

7. Building massing and form.

a. Vertical articulation. Buildings greater than two stories or taller than 30 feet shall be designed to reduce apparent mass by including a clearly identifiable base, body, and top, with horizontal elements separating these components. The component described as the body must constitute a minimum of 50 percent of the total building height.



Vertical Articulation

b. Horizontal articulation. Buildings shall be designed to reduce apparent mass by dividing facades into a series of smaller components. No individual component shall have a length of more than 60 feet. Components shall be distinguished from one another through two or more of the following:

- (1) Variations in roof form and parapet heights;
- (2) Pronounced recesses and projections;
- (3) Distinct changes in texture and color of wall surfaces;

- (4) Ground level arcades and second floor galleries/balconies;
 - (5) Protected and recessed entries; and
 - (6) Vertical accents or focal points.
- c. Relationship to surrounding development. New developments that are significantly larger than adjacent existing development in terms of their height and/or mass shall provide a development transition using an appropriate combination of the following techniques:



**Appropriate Transition in Building
Height and Mass**

- (1) Wrapping the ground floor with a building element or integrated architectural feature (e.g., pedestrian arcade) that is the same height as the adjacent structure;
- (2) Graduating building height and mass in the form of building step-backs or other techniques so that new structures have a comparable scale with existing structures; or
- (3) Orienting porches, balconies, and other outdoor living spaces away from the shared property line to protect the privacy of adjacent residents where applicable.

d. Entrances and pedestrian areas.

- (1) Primary entries and pedestrian frontages shall be clearly visible from the street and accentuated from the overall building façade by:



**Entrance Design and
Pedestrian Areas**

- (a) Differentiated roof, awning, or portico;
(b) Covered walkways or arcades;

- (c) Projecting or recessed entries from the surrounding building facade;
 - (d) Detailed doors and doorways with transoms, sidelights, trim details, and/or framing; and
 - (e) Windows within doorways equivalent in size to 50 percent of door surface area.
- (2) Secondary entrances shall have minor architectural detailing that adds visual interest to that portion of the façade.
- e. Roofs.
- (1) Roofline articulation. Variations in roof lines shall be used to add interest and reduce the scale of large buildings. Roof features shall complement the character of the overall development.
 - (2) Flat roofs. Flat roofs shall include parapets that adhere to articulation requirements for the main face of the structure. The average height of the parapet shall not exceed 15 percent of the height of the supporting wall, unless rooftop equipment cannot be sufficiently screened. A three-dimensional cornice treatment is encouraged for parapets. Parapets shall look complete from all sides if visible at any distance from the ground.
 - (3) Overhanging eaves. Overhanging eaves shall extend no less than three feet past the supporting walls.
 - (4) Roof pitch. Pitched roofs shall have a pitch consistent with the majority of buildings within 1,000 feet. This requirement excludes roofs for entries and dormers.
 - (5) Architectural elements. Architectural elements that add visual interest to the roof, such as dormers and masonry chimneys, are encouraged.
 - (6) Roof materials.
 - (a) Asphalt shingles, industry-approved synthetic shingles, standing seam metal or tile roofs are allowed.
 - (b) Wood shingles are prohibited. Corrugated metal, tar paper, and brightly-colored asphalt shingles may be permitted by the Director where they will not be visible from a roadway, public park, or residential district or use.
- f. Awnings, canopies, arcades, and overhangs. Structural awnings are encouraged at the ground level to enhance the articulation of the building and provide shade.
- (1) The material of awnings and canopies shall complement the building.
 - (2) Awnings shall not be internally illuminated.
 - (3) Canopies shall not exceed 40 linear feet without a break.
 - (4) Awnings shall not extend more than five feet over the sidewalk, unless otherwise approved by the Director, up to a maximum of 10 feet, and are in keeping with the architectural style of the building.
 - (5) Canopies shall respect the placement of street trees and lighting and shall not interfere with them.
 - (6) All large canopies that require structural columns for support shall have a minimum six-foot masonry (or other approved material) finish measured from the finished grade. Materials used on columns and canopies shall be complementary to the building.
8. Compatibility standards.
- a. Applicability. The compatibility standards in this subsection only apply when nonresidential or mixed-use development is proposed adjacent to lots used by or zoned for detached or attached single-family structures in a residential district outside of the ADP.

- b. Use limitations. Where these compatibility standards apply, the following uses or features shall be prohibited as principal or accessory uses:
 - (1) Public address/loudspeaker systems;
 - (2) Outdoor storage; and
 - (3) Uses providing delivery services via large tractor trailers (not including package delivery services).
- c. Off-street parking location.
 - (1) Off-street parking shall be established in one or more of the locations listed below. The locations are listed in priority order; the applicant shall select the highest feasible location from this list, and shall demonstrate why that application was selected over other alternative locations.
 - (a) Adjacent to off-street parking lots serving nonresidential uses on abutting lots;
 - (b) Adjacent to lot lines abutting nonresidential development;
 - (c) Adjacent to lot lines abutting mixed-use development;
 - (d) Behind the building;
 - (e) In front of the building; or
 - (f) Adjacent to lot lines abutting residential uses.
 - (2) In cases where an off-street parking lot serving a nonresidential use is located on an abutting lot, connection between the two parking areas via a cross-accessway with a minimum width of 12 feet and a maximum width of 24 feet is strongly encouraged. A cross-access easement shall be recorded.
- d. Relationship to surrounding uses.
 - (1) Multi-building developments shall be configured to locate the tallest and largest structures within the core of the site and provide a gradual decrease in building height and mass towards adjacent residential land use.



**Gradual Decrease in Building Height
and Mass Towards Adjacent
Residential Uses**

- (2) Horizontally integrated mixed-use developments shall locate nonresidential uses away from lots in adjacent residential areas.

- (3) Medium to high density housing shall be incorporated to the maximum extent feasible both within and around the development to facilitate connections between residential and non-residential uses.
- e. Façade configuration.
 - (1) Service functions like refuse collection, incidental storage, and similar functions shall be integrated into the architecture of the building unless an alternate location places these functions farther from adjacent residential uses.
 - (2) Windows shall be arranged to avoid direct lines-of-sight into abutting residential uses.
 - (3) Multi-story structures with balconies, patios, or other public gathering spaces more than 24 feet above grade shall orient these features to avoid direct views into lots in low- and medium-density residential districts.
 - f. Landscaping/screening.
 - (1) Screening shall not interfere with public sidewalks, vehicular cross-accessways, or improved pedestrian connections.
 - (2) Any parking designated for trucks, recreational vehicles and other large vehicles shall be placed in a location which is not adjacent to either any street or to any residentially zoned property.
 - g. Operation.
 - (1) Nonresidential uses with outdoor components (e.g., outdoor dining, performance venues) located adjacent to lots in a residential district shall curtail outdoor activities by 10:00 p.m.
 - (2) Loading or unloading activities shall take place only between the hours of 7:00 a.m. and 11:00 p.m.
 - (3) Alternate hours of activities may be approved through the conditional use permit process.
9. Green design. To the maximum extent practicable, new buildings are encouraged to incorporate one or more of the following features:



Commercial Building With Solar Panels

- a. Opportunities for the integration of renewable energy features in the design of buildings or sites, such as: Solar, wind, geothermal, biomass, or low-impact hydro sources;
- b. Energy-efficient materials, including recycled materials that meet the requirements of this Code;

- c. Materials that are produced from renewable resources;
- d. A green roof, such as a vegetated roof, or a cool roof;
- e. Materials and design meeting the U.S. Green Building Council's LEED-NC certification requirements; or
- f. A greywater recycling system.

Sec. 5.650. Area development plan (ADP) permitted uses.

A. ADP permitted uses. The following uses are permitted throughout the ADP unless further modified in each "Specific Area" below or listed under "E. ADP Prohibited Uses":

1. CP-2 office and retail uses permitted by right (P) in Table 6-1 of the Unified Development Ordinance.
2. Loft dwellings.
3. Multi-family residential apartments, market rate, age restricted and senior.
4. Drug store including drive-up window.
5. Financial services, including drive-up window and drive-through facility, as a "C" use such as banks and credit unions.
6. Bars and taverns as a "C" use.
7. Hotel.
8. Massage therapy as a "C" use.
9. Restaurant, general as a "C" use.
10. Civic or fraternal organization as a "C" use.
11. Research, design, marketing and production needs of the general business community.
12. Other uses specifically approved as part of a Preliminary Development Plan or further modified from the "Specific Area Uses" or "Prohibited Uses".
 - Uses shown as "C" uses must comply with the conditions established in UDO Article 6, Division II unless further modified through the approval process.

B. LS Gateway—Specific area uses.

1. Rooftop restaurants.
2. Medical clinic.
3. Fitness center.

C. LS mixed use—Specific area uses.

1. Restaurants/coffee shops including drive-through.
2. Indoor fitness/recreation center.
3. Convenience store (C-Store).
4. Business and vocational schools.
5. Churches.

D. LS arts and entertainment center—Specific area uses.

1. Rooftop restaurants.

2. Restaurants/coffee shops located within a larger building.
3. Artist studio, video production labs.
4. Performing arts.
5. Hospital, medical clinic prohibited.
6. Restaurant—Drive-up and drive-thru services prohibited.

E. ADP prohibited uses.

1. Automotive/truck related uses.
2. Retail—Big box in excess of 80,000 square feet on one level.
3. Call centers.
4. Industrial uses.
5. Outdoor storage.
6. Indoor storage facility.
7. Office warehouse.
8. Pet and animal hospitals.
9. Adult business, entertainment, personal services, bookstores, novelties and similar uses.
10. Title loan, check cashing and unsecured loan businesses.
11. Appliance repair unless accessory to the primary retail business, i.e., servicing what is being sold on the premises.
12. Construction material sales and service.
13. Car wash indoor or outdoor or automated.
14. Equipment rental/lease.
15. Building or ground maintenance.
16. Bus terminal.
17. Day care except as an accessory use located within a larger building complex for a permitted business use.
18. Exterminating service.
19. Martial arts studio except when associated with a fitness center.
20. Pet grooming/pet motel.
21. Plumbing and heating equipment dealers.
22. Radio and TV repair.
23. Repair services non-automotive.
24. Reupholstery or furniture repair.
25. Tattoo parlor, permanent cosmetic services, body piercing studio.
26. Used merchandise sales, including thrift stores, second hand sales, refurbished equipment etc.

Sec. 5.660 Signage.

Refer to development plan sign package or UDO Article 9, Signs.

PROOFS

ARTICLE 6.

USE STANDARDS

Division I. General Provisions

- Sec. 6.010. Other applicable regulations.
- Sec. 6.020. Permitted, conditional and special use tables.
- Sec. 6.030. Minimum lot size.
- Sec. 6.040. Minimum principal building setbacks.
- Sec. 6.050. Maximum structure heights.
- Sec. 6.060. Additional height and yard regulations.
- Secs. 6.070—6.100. Reserved.

Division II. Uses Permitted With Conditions

Subdivision 1. General Provisions

- Sec. 6.110. Intent and interpretation.
- Sec. 6.120. Identification and determination of uses subject to conditions.

Subdivision 2. Uses

- Sec. 6.130. Adult business/adult entertainment business.
- Sec. 6.140. Adult personal service.
- Sec. 6.150. Agricultural sales and service.
- Sec. 6.160. Agriculture operation.
- Sec. 6.170. Appliance repair service.
- Sec. 6.180. Automotive repair shop—Minor repair.
- Sec. 6.190. Automotive service station.
- Sec. 6.200. Automotive upholstery shop.
- Sec. 6.210. Automotive rental agency.
- Sec. 6.220. Bank/financial services.
- Sec. 6.230. Bank/financial service stand-alone ATM.
- Sec. 6.240. Bank/financial service drive through facility.
- Sec. 6.250. Bar/tavern.
- Sec. 6.260. Check cashing and payday loan business.
- Sec. 6.270. Church, temple or synagogue.
- Sec. 6.280. Civic or fraternal club.
- Sec. 6.290. Construction materials sales and services.
- Sec. 6.300. Construction contractor—With machinery, equipment and storage.
- Sec. 6.310. Convenience store.
- Sec. 6.320. Dance club.
- Sec. 6.330. Drug store (pharmacy) with drive up window/facility.
- Sec. 6.340. Dry cleaners with drive-up window or drive-through facility.
- Sec. 6.350. Electric repair shop (see repair services-non automotive).
- Sec. 6.360. Fast food restaurant with drive-through.
- Sec. 6.370. Horse riding stable, track or polo field (commercial).
- Sec. 6.380. Martial arts studio.
- Sec. 6.390. Massage therapist/massage facility.
- Sec. 6.400. Pawn shop.
- Sec. 6.410. Pet motel or training with outdoor exercise area.
- Sec. 6.420. Plant nursery/garden center/greenhouse (commercial in AG and RDR districts only).
- Sec. 6.430. Recreation facility or area, commercial (indoor and/or outdoor).
- Sec. 6.440. Repair services, automotive.
- Sec. 6.450. Repair services, non-automotive.
- Sec. 6.460. Restaurant, drive-in.

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- Sec. 6.470. Restaurant, drive-up.
- Sec. 6.480. Restaurant, drive-through.
- Sec. 6.490. Restaurant, general.
- Sec. 6.500. Seasonal sales.
- Sec. 6.505. Short term rentals.
- Sec. 6.510. Swimming pools, subdivision.
- Sec. 6.520. Title loan business.
- Sec. 6.530. Unsecured loan business.
- Sec. 6.540. Utility building and services.
- Sec. 6.550. Veterinarian.
- Sec. 6.560. Yoga studio.
- Secs. 6.570—6.600. Reserved.

Division III. Special Use Permits

Subdivision 1. General Provisions

- Sec. 6.610. Statement of intent.
- Sec. 6.620. When special use permit required.
- Sec. 6.630. Special use permit; application—Contents and submission requirements.
- Sec. 6.640. Consideration of special use permit applications.
- Sec. 6.650. Standards for approval.
- Sec. 6.660. Special use permits—Transferability, lapse, expiration, revocation and renewal.
- Sec. 6.670. Right to continue.
- Sec. 6.680. Conditions to constitute amendment of regulations and restrictions.
- Secs. 6.690—6.720. Reserved.

Subdivision 2. Specified Special Uses

- Sec. 6.730. Asphalt plant.
- Sec. 6.740. Automotive sales, lease and rentals.
- Sec. 6.750. Aviation field, airport or heliport.
- Sec. 6.760. Bed and breakfast homestay.
- Sec. 6.770. Bed and breakfast inn.
- Sec. 6.780. Boat (boat dealer) and recreational vehicle sales and service.
- Sec. 6.790. Boats, recreational vehicles and maintenance equipment storage.
- Sec. 6.800. Cemetery, mausoleum or crematory.
- Sec. 6.810. Billboards/outdoor display.
- Sec. 6.820. Concrete batch plant.
- Sec. 6.830. Convalescent, nursing or retirement home.
- Sec. 6.840. Day care, group.
- Sec. 6.850. Equipment sales and services.
- Sec. 6.860. Garden center, plant nursery or greenhouse.
- Sec. 6.870. Golf driving range.
- Sec. 6.880. Golf, miniature outdoor.
- Sec. 6.890. Group home for the disabled.
- Sec. 6.900. Gun club, skeet or trap shoot, and outdoor target or archery range.
- Sec. 6.910. Halfway house.
- Sec. 6.920. Heavy equipment sales and service.
- Sec. 6.930. Hospital, substance abuse treatment facility or mental health facility.
- Sec. 6.940. Hotel or motel.
- Sec. 6.950. Industrial activity.
- Sec. 6.960. Landfill, sanitary or demolition.
- Sec. 6.970. Loft dwelling unit.
- Sec. 6.980. Manufactured home park.
- Sec. 6.990. Manufactured home sales.
- Sec. 6.1000. Massage therapy, in home.

USE STANDARDS

- Sec. 6.1010. Mining.
- Sec. 6.1020. Mini-warehouse facility.
- Sec. 6.1030. Oil and gas production.
- Sec. 6.1040. Off-premise directory signs.
- Sec. 6.1050. Outdoor sale or lease of motor vehicles/equipment.
- Sec. 6.1060. Outdoor secondary sales of motor vehicles.
- Sec. 6.1070. Penal or correctional institution.
- Sec. 6.1080. Plant nursery, garden center or greenhouse (excluding seasonal sales).
- Sec. 6.1090. Produce stand, outdoor offsite.
- Sec. 6.1100. Railroad lines, yards or station.
- Sec. 6.1110. Recreational facility or area (outdoor/commercial).
- Sec. 6.1120. Recreational facility or area (outdoor/non-commercial).
- Sec. 6.1130. Recreational vehicles sales, lease or rental.
- Sec. 6.1140. Recycling collection facility.
- Sec. 6.1150. Reservoir, water supply or storage facility.
- Sec. 6.1160. Salvage yard, tow lot, scrap yard, junkyard or automobile wrecking yard.
- Sec. 6.1170. Sewage treatment or garbage processing/disposal facility.
- Sec. 6.1180. Solid waste transfer station.
- Sec. 6.1190. Swimming pool, commercial.
- Sec. 6.1200. Telecommunication towers/antennas.
- Sec. 6.1210. Theater, drive-in.
- Sec. 6.1220. Theater, performing arts.
- Sec. 6.1230. Tow lot.
- Sec. 6.1240. Travel trailer camp.
- Sec. 6.1250. Truck sales, lease or rental.
- Sec. 6.1260. Underground space.
- Secs. 6.1270—6.1300. Reserved.

Division IV. Accessory Uses and Structures

Subdivision 1. General Requirements for Accessory Uses and Structures

- Sec. 6.1310. Intent, definition and interpretation.
- Sec. 6.1320. Relationship to principal use.
- Sec. 6.1330. Location, number and height of accessory use/structure.

Subdivision 2. Permitted Accessory Uses and Structures

- Sec. 6.1340. AG Agricultural District—Permitted accessory uses and structures.
- Sec. 6.1350. Residential districts—Permitted accessory uses and structures.
- Sec. 6.1360. Commercial and industrial districts—Permitted accessory uses and structures.
- Sec. 6.1370. Commercial and industrial facilities—Permitted accessory uses.
- Sec. 6.1380. Accessory uses permitted by interpretation.

Subdivision 3. Specialty Accessory Uses

- Sec. 6.1390. Accessory use in religious, educational and community buildings.
- Sec. 6.1400. Home occupation—Accessory use in residential dwelling.
- Sec. 6.1410. Hospital—Related accessory uses.
- Sec. 6.1420. Hotel and motel—Related accessory uses.
- Sec. 6.1430. Kennel—Accessory use to veterinarian.
- Sec. 6.1440. Outdoor storage in PI industrial districts—Accessory use.
- Sec. 6.1450. Solar collectors—Accessory use.
- Sec. 6.1460. Tattoo/permanent cosmetic services/body piercing services as accessory use to primary use in district planned office (PO).

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Subdivision 4. Permitted Temporary Accessory Uses

Sec. 6.1470. Permitted temporary accessory uses.

Subdivision 5. Prohibited Accessory Uses and Structures

Sec. 6.1480. Prohibited accessory uses and structures.

Secs. 6.1490, 6.1500. Reserved.

Division V. Special Events and Mobile Food Vending

Subdivision 1. Special Events

Sec. 6.1510. Purpose and intent.

Sec. 6.1520. Definitions.

Sec. 6.1530. Permit required.

Sec. 6.1540. Exemptions.

Sec. 6.1550. Fees for special event permits.

Sec. 6.1560. Application requirements.

Sec. 6.1570. Performance standards.

Sec. 6.1580. Special event signs.

Sec. 6.1590. Consideration of special event application.

Subdivision 2. Mobile Food Vending

Sec. 6.1600. Definitions.

Sec. 6.1610. Permit required.

Sec. 6.1620. Exemptions.

Sec. 6.1630. Fees for mobile food vendor permits.

Sec. 6.1640. Application requirements.

Sec. 6.1650. Performance standards.

Sec. 6.1660. Mobile food vending signs.

Sec. 6.1670. Consideration of mobile food vendor application.

DIVISION I. GENERAL PROVISIONS**Sec. 6.010. Other applicable regulations.**

- A. The following sections or articles further regulate uses within each zoning district, the requirements of which shall be satisfied as applicable to any proposed development.
- B. Airports, flood plains, historic districts, residential cluster development and transportation corridors.

Applicable standards regulating development in or near airports, flood plains, historical districts, residential cluster subdivisions or major transportation corridors are contained in Article 5 (Overlay Districts).
- C. Design standards. Applicable standards regarding design requirements for residential, office, commercial and industrial development are contained in Article 8, Division 1 (Design Standards).
- D. Accessory uses and uses permitted with conditions. Applicable standards regulating accessory uses and uses permitted with conditions are contained in Divisions IV and II of this article respectively. (Accessory Uses and Structures and Uses Permitted with Conditions).
- E. Special use permits. For any use listed as a special use in Table 4-1, applicable standards regulating uses subject to special use permits are contained in Division III of this article (Special Use Permits).
- F. Parking requirements. Applicable standards regulating parking are contained in Article 8, Division II (Parking).
- G. Sign regulations. Applicable standards regulating signs are contained in Article 9 (Sign Regulations).
- H. Landscaping, buffering and tree protection. Applicable regulations regulating landscaping, buffering and tree protection are contained in Article 8, Division 3 (Landscaping, Buffering and Tree Protection).

Sec. 6.020. Permitted, conditional and special use tables.

- A. Uses that are permitted by right or permitted by right but with conditions and uses permitted as special uses are shown in Table 6-1.
- B. In a PMIX District, permitted uses are specified as part of the zoning approval for each development.
- C. Any use not shown as a permitted, conditional or special use in a zoning district is specifically prohibited in that district.
- D. Uses that are allowed in the PMIX District pursuant to Table 6-1 may be modified by the Governing Body when it is determined that a better overall plan can be achieved.

Table 6-1
List of Permitted, Conditional and Special Uses

Use is permitted by right: P

Use is permitted by right but with conditions: C

Use may be permitted as a special use: S

Per approved plan: *

Use is not permitted:

	AG	RDR	RLI	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
PRINCIPAL USES																			
Agriculture																			
Agriculture Operation	C	C																	
Horse Riding Stable, Track or Polo Field (Commercial)	C	C																	*
Plant nursery, garden center, greenhouse (Commercial)	C	C											S	S		S			*
Residential																			
Dwelling, Single-Family Detached	P	P	P	P	P	P	P	P	P	P	P	P							*
Dwelling, Single-Family Attached (Townhouse)					P	P	P	P	P	P	P				P				*
Dwelling, Two-Family ("Duplex")					P	P	P	P							P				*
Dwelling, Three-Family ("Triplex")						P	P	P							P				*
Dwelling, Four-Family ("Fourplex")						P	P	P							P				*
Dwelling, Multi-Family (Apartment)								P							P				*
Dwelling, Loft															P	P	P		*
Dwelling, Zero-Lot Line Development					P	P	P	P	P	P	P				P				*
Short Term Rentals	C				C	C	C	C	C	C					C				
Convalescent, Nursing or Retirement Home	S	S	S	S	S	S	S	S	S	S		S	S	S					*

	AG	RDR	RLL	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Group Home for Persons w/Disabilities, Hospice, or Special Care	S	S					S	S					S	S					*
Halfway House	S	S					S	S					S	S					*
Manufactured Home Park	S	S																	*
Offices																			
Accounting, Auditing or Bookkeeping Office									P	P	P	P	P	P	P	P	P		*
Advertising Agency									P			P	P	P	P	P	P		*
Bank												C	C	C	C	C	C	C	C*
Bank Drive-through												C	C	C	C	C	C	C	C*
Brokerage for Securities or Commodities									P			P	P	P	P	P	P		*
Building Contractor or Construction Contractor Firm/Office (No Machinery, Equipment or Storage)												P	P	P	P	P	P	P	*
Business Office, General									P	P	P	P	P	P	P	P	P	P	*
Business Office, Professional or Trade Organization									P	P	P	P	P	P	P	P	P	P	*
Check cashing, business (See Unsecured Loan Business)																			
Employment or Personnel Agency												P	P	P	P	P	P		*
Engineering, Architectural or Other Professional Office									P	P	P	P	P	P	P	P	P	P	*
Financial Services												C	C	C	C	C	C		C
Financial Services with drive-up window or Drive-through facility												C	C	C	C	C	C		C
Insurance Company or Carrier									P			P	P	P	P	P	P	P	*
Legal Services Office									P			P	P	P	P	P	P	P	*
Management and Public Relations Service									P			P	P	P	P	P	P	P	*
Medical or Dental Offices or Labs												P	P	P	P	P	P	P	*

	AG	RDR	RLL	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Political Organization Office									P		P	P	P	P	P	P	P		*
Real Estate Office									P		P	P	P	P	P	P	P		*
Secretarial or Court Reporting Service									P	P	P	P	P	P	P	P	P		*
Title Loan Business												C	C	C	C	C	C		C*
Unsecured Loan Business												C	C	C	C	C	C		C*
Retail Sales and Services																			
Adult Business														C		C			
Adult Entertainment Business														C		C			
Adult Personal Services														C		C			
Agricultural Sales and Services	C	C	C											C		C	C		*
Airline Ticket Office												P	P	P	P	P	P	P	*
Ambulance Service															P	P	P		*
Apparel and Accessory Stores										P			P	P	P				*
Appliance Repair Service													C	C		C	C		*
Appliance Store													P	P	P	P			*
Arts and Crafts Studio											P		P	P	P	P	P		*
Audio/Video Sales and Rentals													P	P	P	P			*
Automotive Parking Garage or Lot											P	P	P	P	P	P	P		*
Automotive Parts and Supply Store													P	P		P	P	P	*
Automotive Rental Agency													C	C		C	C	P	*
Automotive Repair Services — Major Repairs													S	S		S	S		*
Automotive Repair Shop — Minor Repair													C	C		C	C		*
Automotive Sales or Lease													S	S		S	S		*
Automotive Service Station													C	C		C	C	C	*
Automotive Tire Store													P	P		P	P	P	*

	AG	RDR	RLL	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Automotive Upholstery Shop (see Repair Services in Division II of this article)														C		C	C		*
Automotive Washing (See Car Wash)																			
Bakery (Retail)											P	P	P	P	P	P	P		*
Banquet Facilities														P	P	P			*
Bar/Tavern														C	C	C			*
Barber Shop									P		P	P	P	P	P	P			*
Beauty Shop									P		P	P	P	P	P	P			*
Beauty Supplies Store													P	P	P	P			*
Bed and Breakfast Inn (4—12 rooms)	S	S	S	S	S	S	S	S	S		P		S	S	S				*
Bed and Breakfast, Homestay (1—3 rooms)	S	S	S	S	S	S	S	S	S		P		S		S				*
Boat Dealers														S		S	S		*
Boats, Recreational vehicles and maintenance equipment storage	S	S	S	S	S	S	S	S				S	S	S		S	S	S	*
Book Store, News Dealers and Newsstands											P	P	P	P	P				*
Building or Ground Maintenance														P		P	P	P	*
Bus Terminal														P		P	P		*
Business or Vocational School												P	P	P		P	P	P	*
Camera and Photographic Supply Stores											P	P	P	P	P				*
Car Wash, Full Service Indoor														P		P	P	P	*
Car Wash, Self Service Bays														S	S	P	P		*
Catalog Sales and Direct Selling Office												P	P	P	P				*
Catering Service												P	P	P	P	P			*
Cemetery or Mausoleum	S	S	S	S	S	S	S	S											*
Club House or Country Club	C	C	C	C	C	C	C	C	C			C	C	C					*

AG	RDR	RLI	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
													C*	C*	C*			*
Cocktail Lounge see Bar/ Tavern																		*
Commercial Art or Graphic Design Service									P	P	P	P	P	P	P	P	P	*
Computer or computer Software Store											P	P	P	P				*
Computer Programming Repair or Data Processing Service											P	P	P	P	P	P		*
Construction Materials Sales and Services												C			C	C	C	*
Convenience Store — C- Store											C	C	C	C	C	C	C	C*
Crematories												S		S	S	S		*
Custom Order Shop										P	P	P	P	P	P	P		*
Dance Club												C*			C*			*
Dance Studios or Schools												P	P	C				*
Day Care Center (over 10 persons)										P	P	P	P		P	P		*
Day Care, Group (5—10 persons)	S	S	S	S	S	S	S	S	S	P	P	P	P		P	P		*
Direct Mail Advertising Service											P	P	P	P	P	P		*
Drug Store (Pharmacy)												P	P	P	P	P	P	*
Drug Store (Pharmacy) with Drive-Up Window/ Facility												C	C	C	C	C	C	*
Dry Cleaners (Drop-Off/ Pick-Up Only)												P	P	P	P	P	P	*
Dry Cleaners with Drive-Up Window or Drive- through Facility												C	C	C	C	C	C	*
Electrical Repair Shops (See Repair Services Non-Automotive												C	C		C	P	P	*
Electronic Equipment Sales or Service												P	P	P	P	P	P	*
Equipment Rental — In- cludes All Motorized Equipment Not Listed Elsewhere												S			S	S	S	*

	AG	RDR	RLL	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Equipment Sales and Service (Heavy)													S			S	S	S	*
Exterminating Services													P			P	P		*
Financial Services												C	C	C	C	C	C	C	C
Financial Services with Drive-up Window or Drive-through Facility												C	C	C	C	C	C	C	C*
Freight Agency or Shipping Coordinator																P	P	P	*
Funeral Home Services										P			P			P			*
Furniture and Equipment Store Lease/Rental													P	P	P	P	P	P	*
Garden Center, Plant Nursery or Greenhouse	C	C	C										S	S		S			*
General Merchandise Store													P	P	P	P		P	*
Gift, Novelty or Souvenir Shop										P	P	P	P	P	P	P			*
Golf Driving Range (Commercial) or Illuminated (Non-Commercial)	S												S				S		*
Golf, Miniature (Outdoor)													S			P			*
Grocery Store (General)													P	P	P	P			*
Grocery Store (Limited)													P	P	P	P		P	*
Hardware Store													P	P	P	P		P	*
Health Club or Fitness Center												P	P	P		P	S	S	*
Heavy Equipment Sales and Rental																S	S	S	*
Hobby, Toy and Game Shop												P	P	P	P				*
Home Furniture and Furnishings Store													P	P	P	P	P	P	*
Hospital												S		S		S			*
Hotel or Motel												S		S	S	S	P	P	*
Interior Designer									P		P	P	P	P	P	P			*
Jewelry Repair											P	P	P	P	P	P			*
Jewelry Store												P	P	P	P				*
Kennel W/Outside Runs																	P*	P	*

	AG	RDR	RLI	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Laundromat, Coin Operated													P	P		P	P	P	*
Laundry, Dry Cleaning or Garment Services													P	P		P	P	P	*
Linen and Diaper Services													P	P		P	P	P	*
Limousine/Taxi Service													P	P		P	P	P	*
Liquor Store													P	P		P	P	P	*
LP Gas or Fuel Oil Sales																S	S	S	*
Luggage or Leather Goods Store													P	P	P				*
Marital Arts Studio												P	P	P	C	P	P		
Massage Therapist (In-home as Home Occupation)	C	C	C	C	C	C													
Massage Therapy/Parlor (as defined herein)										C	C	C	C	C	C	C			*
Manufactured Home Sales																S	S		*
Motorcycle Sales, Rental or Service (No Outdoor Display)													P	P		P	P		*
Musical Instrument Store											P		P	P	P				*
Outdoor Gun Club, Skeet or Trap Shoot or Archery Range	S																S		*
Pawn Shop														C					
Paint or Wallpaper Store													P	P	P	P			*
Personal Enrichment School or Tutoring												P	P	P	P	P		P	*
Pet Grooming													P	P	P	P	P	P	
Pet Motel or Training														P	P	P	P	P	*
Pet Motel or Training with Outdoor Exercise Area														C		P	P	P	*
Photocopying and Duplicating Services													P	P	P	P		P	*
Photography Service										P	P	P	P	P	P	P		P	*
Plumbing and Heating Equipment Dealers														P	P	P	P	P	*
Produce Stand, Outdoor (off-site)													S	S		S	S		*

	AG	RDR	RLL	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Radio or TV Repair												P	P	P	P	P		P	*
Recording Studio													P	P	P	P			*
Recreation Facility or Area, Commercial or Non-Commercial (Indoor)													C	C		C	C	C	*
Recreation Facility or Area, Commercial (Outdoor)												S	S	S		S	S		*
Recreation Facility or Area, Non-Commercial (Outdoor)	S	S	S										S	S		S	S		*
Recreation Vehicle Sales, Lease or Rental													S	S		S	S	S	*
Repair Services, Automotive Major													S	S		S	S	S	
Repair Services, Automotive Minor													C	C		C	C	C	*
Repair Services, Non-Automotive												P	P	P		P	P	P	*
Restaurant — Carry-out												P	P	P	P	P	P	P	*
Restaurant — Delivery												P	P	P	P	P	P	P	*
Restaurant — Drive-in													C	C		C	C	P	*
Restaurant — Drive-up													C	C		C	C	P	*
Restaurant — Drive-through													C	C		C	C	P	*
Restaurant — General													C	C	C	P	P	P	*
Restaurant — Limited											P		P	P	P	P	P	P	*
Reupholstery or Furniture Repair Shop													P	P	P	P	P	P	*
Sewing, Needlework or Fabric Store											P		P	P	P				*
Shoe Repair Shop											P		P	P	P			P	*
Specialty Retail, (Gifts, Collectibles, Antiques, Cards, etc.)											P	P	P	P	P				
Sporting Goods Store or Bicycle Shop													P	P	P	P		P	*
Stationery Store											P	P	P	P	P				*

	AG	RDR	RLL	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Tattoo Parlor/Permanent Cosmetic Services/Body Piercing Studio														P			P		*
Television or Radio Broadcast Station														P	P	P	P		*
Theater (except Drive-in)														P	P	P			*
Theater, Drive-in	S															S	S		*
Theater, Performing Arts	S								P	P			P	P		S	S		*
Title Loan Business									C	C			C	C	C	C	C		C*
Travel Agency or Tour Operator									P	P			P	P	P	P		P	*
Travel Trailer Camp	S	S	S																*
Truck Sales and Lease													S			S	S		*
Unsecured Loan Business									C	C			C	C	C	C	C		C*
Used Merchandise Store (Excluding Pawn Shops)										P			P	P	P	P			*
Veterinarian	C									C			C	C		C	C	C	*
Yoga Studio									P	P			P	P	C	P	P		
Manufacturing, Industrial, Transportation and Storage																			
Apparel and Other Fabric Products																P	P		*
Asphalt Plant																	S		*
Aviation Field, Airport and Heliport																		P	*
Bakery (Wholesale)																P	P	P	*
Bottling Works																P	P	P	*
Cement, Lime, Gypsum and Plaster of Paris Manufacture																	S		*
Chemical and Allied Products																	S		*
Computer Equipment																P	P	P	*
Concrete Batch Plant	S																S		*
Construction Contractor — With Machinery, Equipment and Storage																C	C	C	*
Electronic Equipment and Components																P	P	P	*
Fabricated Metal Products																	P	P	*

	AG	RDR	RLL	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Food and Kindred Products																P	P	P	*
Furniture and Fixtures																P	P	P	*
Garbage Processing Facility																			*
Industrial Park (May include Retail Uses)																	C		*
Landfill Sanitary and Demolition	S																S		*
Leather Products (Not Including Tanning and Finishing)																	P		*
Mining	S																S		*
Mini-Warehouse — Indoor													C			C	C	C	
Mini-Warehouse Facility																S	S	S	*
Miscellaneous Manufacturing Industries																	S	S	*
Office/Warehouse																P	P	P	*
Oil and Gas Production																			*
Precision Instruments																P	P	P	*
Printing and Publishing																P	P	P	*
Railroad Lines, Yards or Station														S		S	S		*
Recycling Facility																	P		*
Research Service and Laboratory																P	P	P	*
Rubber and Plastics Products																	P	P	*
Salvage Yard, Scrap Yard, Junkyard and Automobile Wrecking Yard																	S		*
Sewage Treatment Facility	S																S		*
Sign Manufacture																P	P	P	*
Solid Waste Transfer Station	S																S		*
Stone, Clay, Glass and Concrete Products																	S	S	*
Tow Lot																	S		*
Transportation Equipment																	P	P	*

	AG	RDR	RLI	R-1	RP-1	RP-2	RP-3	RP-4	PRO	NFO	TNZ	PO	CP-1	CP-2	CBD	CS	PI	AZ	PMIX
Trucking and Courier Service																P	P	P	*
Underground Space	S															S	S		*
Warehousing and Distribution																P	P	P	*
Welding Repair Shop																	P	P	*
Semi-Public Uses and Utilities																			
Cemetery or Mausoleum	S	S	S	S	S	S	S	S	S										*
Church or Place of Worship	C*	C*	C*	C*	C*	C*	C*	C*	C*		C	C*	C*	C*	C*	C*	C*		*
Civic or Fraternal Organization											P	C	C	C	C	C	C		*
Fire Station - Municipal	C	C	C	C	C	C	C	C	C		C	C	C	C	C	C	C	C	*
Governmental Administration Building											P	P	P	P	P	P	P		*
Library											P	P	P	P	P				*
Museum or Art Gallery											P	P	P	P	P				*
Penal or Correctional Institution																			*
Post Office											P	P	P	P	P	P	P	P	*
Recreational Facility or Area (Non-Commercial)	S	S	S	S	S	S	S	S	S								S	S	*
Reservoir, Water Supply or Storage Facility	S	S	S	S	S	S	S	S	S								S	S	*
Sewage Treatment Facility	S																		*
School	P	P	P	P	P	P	P	P	P		P	P	P	P	P				*
Swimming Pool (Commercial)													S	S					*
Swimming Pool, Subdivision	C	C	C	C	C	C													*
Swimming Pool, Public	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	*
Telecommunication Tower/Antenna Mount	S	S	S									S	S	S	S	S	S		*
Utility Building and Services	C	C	C	C	C	C	C	C	C			C	C	C	C	C	C	C	*
ACCESSORY USES (See Division IV of this article)																			

Sec. 6.030. Minimum lot size.

Every property upon which a principal use may be located shall meet or exceed the following requirements for its respective zoning district:

Table 6-2
Minimum Lot Sizes

<i>Zoning District</i>	<i>Density*</i>	<i>Minimum Lot Size (per unit)</i>	<i>Minimum Lot Width Major Streets**</i>	<i>Minimum Lot Width Other Streets</i>
AG	2 units/10 acres (under the same ownership)	10 acres minimum for either 1 or 2 DU's	330 feet	330 feet
RDR	1 unit/acre	1 acre	150 feet	150 feet
RLL	NA	.5 acre	NA	90 feet
R-1	4 units/acre	8,400 s.f.	NA	70 feet
RP-1	4 units/acre 6/acre w/bonuses	6,600 s.f.	NA	60 feet (s.f.) - Clusters may vary (determined at preliminary plan approval)
RP-2	7.5 units/acre	6,000 s.f. (Single-Family) 4,500 s.f. (Duplex)	NA	60 feet (Single-Family); Clusters may vary (determined at preliminary plan approval) 80 feet (Duplex)
RP-3	10 units/acre	4,000 s.f.	NA	50 feet (s.f.) — Clusters may vary (determined at preliminary plan approval) 35 feet per unit for Duplex, Triplex or Quadplex
RP-4	12 units/acre	3,500 s.f.	Per Approved Plan	Per Approved Plan
PRO	Max. .25 FAR (Maximum Building Size 2,500 s.f.)	NA	NA	NA
NFO	N/A	60% Max. Lot Coverage	NA	NA
TNZ	NA	80% Max. Lot Coverage	NA	NA
PO	Max. .55 FAR	1 Acre	175 feet	NA
CP-1	Max. .20 FAR	20,000 s.f.	100 feet	NA
CP-2	Max. .55 FAR	20,000 s.f.	100 feet	NA
CBD	Max. 1.0 FAR	NA	NA	NA
CS	Max. .65 FAR	NA	NA	NA
PI	Max. 1.0 FAR	NA	NA	NA
AZ	Per Approved Plan	NA	NA	NA
PMIX	Densities and lot sizes established as part of zoning approval for each development	As specifically approved per development plan	Per Approved Plan	100 feet

*FAR — Floor Area Ratio: Ratio of building square footage to lot square footage.

** Major streets include highways and existing and proposed 4-lane streets.

NA — Not Applicable.

Sec. 6.040. Minimum principal building setbacks.

All principal buildings on a lot shall be set back from the street rights-of-way lines and property lines bounding the lot no less than the distances shown in Table 6-3:

Table 6-3
Minimum Principal Building Setbacks

Zoning District	Front Yard*		Side Yard ++	Rear Yard
	Major Street**	All Other Streets		
AG, RDR	100 feet or as established by existing homes on the same side of street	50 feet or as established by existing homes on the same side of street	50 feet	50 feet
RLL	30 feet	30 feet	10 feet	30 feet
R-1	NA	30 feet	7.5 feet	30 feet
RP-1	50 feet	20 feet Bldg. and 25 feet Garage (Front facing) 20 feet (side entry garage)	5 feet	20 feet; 4 feet (Alley Entry Garage)
RP-2	50 feet	"	"	"
RP-3	50 feet	20 feet Bldg. and 25 feet Garage	SF and 2F- 5 feet Multifamily: 10-feet from lot line and 20 foot separation between buildings	SF and 2F - 20 feet; 4 feet (Alley Entry Garage) MF 30 feet
RP-4	50 feet	20 feet	10-feet from lot line and 20-foot separation between buildings	20 feet
PRO	15 feet minimum or within 5 feet of the established median setback of the structures on the adjoining property		15 feet	15 feet
NFO	15 feet minimum or within 5 feet of the established median setback of the structures on the adjoining property		5 feet (except for zero lot line development)	4 feet (Alley Entry Garage)
TNZ	0—15 feet Max. or within 5 feet of the median setback of the structures on adjoining property		5 feet except for zero lot line developments	15 feet; (Alley garage 4 feet)
PO	15 feet Arterial; 0 feet other streets if main entry and any display windows face street otherwise, 15 feet		15 feet, 0 feet for interior lot lines, 20 feet between buildings	20 feet
CP-1	Max. of 0—5 feet for Building	Max. of 0—5 feet for Building	None Required	None Required
CP-2	15 feet Arterial; 0 feet other streets if main entry and any display windows face street, otherwise 15 feet		10 feet, 0 feet for interior lot lines	20 feet
CBD	Max. of 0—5 feet for Building	Max. of 0—5 feet for Building	None Required	None Required
CS	20 feet		20 feet	20 feet
PI	20 feet		10 feet	20 feet
AZ	Same as PI	Same as PI	Same as PI	Same as PI
PMIX	Setbacks established as part of zoning approval for each planned development			

* Front yard setback may be reduced by 5 feet if garage is accessed from alley.

** Major streets include highways and existing and proposed 4-lane streets.

++Not applicable for townhouses, except for end units.

Sec. 6.050. Maximum structure heights.

The maximum height of all structures in each zoning district (except as provided in the subsections below) shall be as follows:

Table 6-4
Maximum Structure Heights

<i>Zoning District</i>	<i>Maximum Structure Height in feet (stories)</i>
AG, RDR, RLL	40
R-1, RP-1	40 (3 stories)
RP-2	40 (3 stories)
RP-3	45 (3 stories)
RP-4	50 (4 stories)
PRO	40 (3 stories)
NFO	40 (3 stories)
TNZ	40 (3 stories)
PO	75 (5 stories)
CP-1	35 (3 stories)
CP-2	40 (3 stories)
CBD	50 (4 stories)
CS	50 (4 stories)
PI	NA
AZ	FAA Approved
PMIX	Height established as part of zoning approval for each Planned Development

Sec. 6.060. Additional height and yard regulations.

A. Height.

1. Exemptions. The following are exempt from the district height standards:
 - a. Agricultural buildings such as but not limited to barns, silos, windmills, grain elevators, and other farm structures, but not including dwellings.
 - b. Cooling towers, gas holders, or other industrial structures where required as part of the manufacturing process.
2. Additional regulations. The regulations and requirements as to height of buildings, and area of lots which may be occupied by build-

ings, yards and other regulations and requirements in the foregoing sections of this ordinance, shall be subject to the following exceptions and additional regulations:

- a. In any district, public or semi-public buildings, such as hospitals, hotels, churches, sanitariums or schools, either public or private, where permitted, may be erected to a height not exceeding 75 feet, provided that such buildings shall have yards the depth and width of which shall be increased one foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.
- b. Parapet walls and false mansards shall not extend more than six feet above the

height limit. Flagpoles, chimneys, cooling towers, electric display signs, elevator bulkheads, penthouses, finials, gas tanks, grain elevators, stacks, storage towers, radio, television or microwave towers, ornamental towers, monuments, cupolas, domes, spires, standpipes, and necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the City of Lee's Summit, Missouri.

B. Yard exceptions and additional regulations.

1. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projections of sills, belt courses, canopies, cornices, chimneys, buttresses, ornamental features and eaves. None of the above projections shall extend into a court or into a minimum yard more than 36 inches.
2. An open fire escape may project into a required side yard not more than half the width of such yard, but not more than four feet. Fire escapes, solid floored balconies and enclosed outside stairways may project not more than four feet into a required rear yard.
3. In computing the depth of a rear yard for any building where such yard abuts an alley, one-half of such alley may be assumed to be a portion of the rear yard.
4. Condominium ownership shall not constitute violation of the lot and yard requirements of this ordinance.
5. Irregular lots, only within districts R-1 and RP-1, lots that are irregular in shape, i.e., the lot dimensions are such that it would be difficult to place a home within the building envelope established by the required setbacks (as determined by the Director), may be averaged. Examples of such lots may include:
 - a. Lots that get significantly narrower from front to back.
 - b. Lots where side lot lines are not equal in length thereby producing an odd shaped lot.
 - c. Lots referred to as "flag" lots that have a very narrow access and then open into normal size and shaped lots may utilize the averaging only if the resulting area beyond the narrow access meets one of the other criteria as mentioned above. In order to determine the dimension allowed for the rear yard, each side of the existing or proposed structure shall be extended in a straight line to its point of intersection with the property line. One additional measurement shall be included in the calculation and shall be determined by drawing a perpendicular line from the center of the structure to the property line. An average of these three measurements shall equal a minimum of 30 feet in R-1 and 20 feet in RP-1.
6. Corner lots in Districts R-1 and RP-1. (See Table 6-5)
 - a. On corner lots where no adjacent interior lot faces the side street, there shall be a side yard on the street side of not less than 15 feet.
 - b. On corner lots where adjacent interior lots have been platted fronting the street the required setback shall be either equal to the front yard setback of the adjacent interior lot or may be reduced by not more than five feet.
7. Homes angled on corner lots, in R-1 and RP-1 Districts where a home is to be angled on a corner lot the two front yard setbacks may both be reduced by five feet according to its respective district requirement. The other lot lines shall maintain a minimum setback of seven and one-half feet. (See Table 6-5).
8. Single-family homes shall be a minimum of 720 square feet.

Table 6-5
Corner Lot Minimum Principal Building Setbacks

<i>Situation</i>	<i>Front Street</i>	<i>Side Street</i>	<i>Side Yard</i>	<i>Rear Yard</i>
Corner lot to corner lot	30 feet (R-1) 20 feet for building (RP-1) 25 feet for garage (RP-1))	15 feet (R-1) and (RP-1)	7.5 feet (R-1) 5 feet RP-1)	30 feet (R-1) 20 feet (RP-1)
Corner lot to Interior lot	25 feet (R-1) 25 feet (RP-1) *See Table 5-3 for exceptions	25 feet (R-1) 25 feet (RP-1) *See Table 5-3 for exceptions	7.5 feet (R-1) 5 feet (RP-1)	30 feet (R-1) 20 feet (RP-1)
For Homes Angled on Corner Lots				
Corner lot to corner lot	25 feet (R-1) 15 feet (RP-1)	25 feet (R-1) 15 feet (RP-1)	7.5 feet (R-1) and (RP-1)	7.5 feet (R-1) and (RP-1)

Secs. 6.070—6.100. Reserved.

DIVISION II. USES PERMITTED WITH CONDITIONS

SUBDIVISION 1. GENERAL PROVISIONS

Sec. 6.110. Intent and interpretation.

It is the intent of this article to identify certain activities or structures, which, if the use or structure complies with specifically identified conditions, shall be treated as a permitted use. For the purposes of this chapter, these uses shall be known as "Uses Permitted with Conditions." The regulations that govern uses subject to conditions are set forth in this article.

Sec. 6.120. Identification and determination of uses subject to conditions.

A. Pre-Application conference. A pre-application conference is required if applicant intends to operate a use or develop a structure that is intended to be occupied by a use set forth in this article. The purpose of the conference is to advise the applicant of any additional information required to determine whether the proposed use qualifies as a use permitted with conditions. Within ten days of the receipt of all information requested, the Director shall inform the applicant if the use as proposed by the applicant qualifies as a use subject to conditions pursuant to this article.

B. It is anticipated that there may be instances in which applicant may not know at the time of the pre-application conference all of the uses to which a structures in a development will be put, therefore, applicant may seek a determination on whether a proposed use qualifies as a use permitted with conditions from the Director at any time. This request shall be submitted in writing with such information, as the Director shall request. Within ten days of receipt of all the requested information, the Director shall inform the applicant in writing of whether the proposed use qualifies as a use subject to conditions.

C. No person, however, shall have any right to operate a use identified in this article as a Use Subject to Conditions unless all of the conditions specified in the section related to that use are currently and continuously complied with. It shall be a violation of Section 1.150 of this chapter to operate any use delineated in this article without complying with the applicable conditions.

SUBDIVISION 2. USES

Sec. 6.130. Adult business/adult entertainment business.

An adult entertainment business may include such business as an adult media outlet, adult motion pic-

ture theater or adult night club. An adult entertainment business shall be permitted, subject to the following conditions and restrictions:

- A. All applicable licensing requirements of Chapter 3 of the City Code shall be satisfied; and
- B. All adult entertainment businesses shall be located in appropriate zoning districts, pursuant to the uses specified in Section 6.010 and Table 6-1 of this chapter.
- C. All conditions and restrictions of Section 6.140 Adult personal services shall also apply.

Sec. 6.140. Adult personal service.

An adult personal service may include a bath house, body painting studio, escort service or bureau, dating service or bureau, or modeling studio. An adult entertainment business shall be subject to the following conditions and restrictions:

- A. All requirements of the Lee's Summit General Code of Ordinances, Chapter 3. Adult Services.
- B. Such use shall not be established within 1,250 feet of any church, school, day care facility, public building, public park, hospital or area zoned or used for residential purposes.
- C. No more than two uses regulated in Sections 6.130 and 6.140 may be located within 1,250 feet of each other. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the uses noted above.
- D. The 1,250-foot restriction between such regulated uses may be waived by the Governing Body after review and recommendation by the Commission, if the applicant demonstrates by substantial and competent evidence that:
 1. The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this chapter will be observed,

2. The proposed use will not enlarge or encourage the development of a "blighted area" as defined in the Revised Statutes of Missouri,
3. The establishment of such use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of community renewal, and
4. All applicable regulations of this chapter will be observed.

Sec. 6.150. Agricultural sales and service.

Agricultural sales and service, such as feed and seed stores, must be operated in accordance with county and state health department regulations and are required to be located at least 200 feet from any residential district or property line.

Sec. 6.160. Agriculture operation.

- A. Commercial greenhouses, garden center or plant nursery.
 1. All plant stock not enclosed within a structure shall be set back at least 50 feet from any property under separate ownership or from residentially zoned property.
 2. Sufficient hard surface parking shall be provided on site to serve the anticipated need.
 3. Parking areas for customers must be paved.
 4. Fencing and screening must be provided in accordance with Article 8, Division III.
 5. All lighting and electrical wiring must meet applicable codes.
 6. All plant stock not enclosed within a structure shall be set back at least 50 feet from a residential property line.
 7. No merchandise shall be within the required yard setbacks.
 8. Greenhouses shall be maintained in good operating conditions.
 9. All outside storage of planting materials (soils, sand, peat moss, etc.), nutrients, pest sprays, etc. shall be screened from view within commercial districts.

10. See "garden center" as an accessory use if use is accessory to other commercial operations.
- B. kennel, fish hatchery, apiary and aviary. A kennel with outside runs, fish hatchery, apiary or aviary shall be located not less than 200 feet from any property under separate ownership or from residentially zoned property.
- C. Livestock, including poultry and fur-bearing animals.
1. Minimum parcel size is ten acres.
 2. All livestock buildings or feeding areas shall be set back not less than 200 feet from any property under separate ownership or from residentially zoned property.
 3. There shall be at least 5,000 square feet of fenced lot area not covered by the principal structure for each animal (does not include poultry).
 4. Poultry houses shall be spaced 100 feet from one another and shall be set back not less than 200 feet from any property in separate ownership or from residentially zoned property.
- D. Stable.
1. A private stable shall be allowed on a lot having an area of more than one acre, provided that it is located not less than 100 feet from the front lot line, nor less than 30 feet from any side or rear lot line. On such lots, there shall not be kept more than one horse, pony or mule for each 40,000 square feet of lot area.
 2. Where such stable exists or animals are kept, the owner or keeper shall maintain the premises in compliance with all applicable state, county and municipal sanitary and health regulations.
 3. A stable shall be set back not less than 200 feet from any property under separate ownership or from residentially zoned property.
- E. Tenant dwelling for persons employed on land used for bona fide agricultural purposes. Dwellings may not be rented for any purposes other than provide housing for persons employed by the agricultural operations upon which the dwelling is located.
- Sec. 6.170. Appliance repair service.**
(See Repair services, nonautomotive.)
- Sec. 6.180. Automotive repair shop—Minor repair.**
(See Repair services, automotive.)
- Sec. 6.190. Automotive service station.**
(See Repair services, automotive.)
- Sec. 6.200. Automotive upholstery shop.**
(See Repair services, automotive.)
- Sec. 6.210. Automotive rental agency.**
Automotive rental agency provided:
- A. Automobiles stored on site shall be contained in a separate area not in required parking spaces.
 - B. Two hundred feet minimum distance from residential district or use.
- Sec. 6.220. Bank/financial services.**
- A. Lighting requirements. Light levels shall be in accordance with the following standards:
1. Indoor-lobby. Light levels of sufficient intensity to provide for high resolution video data recording from the digital video surveillance cameras in accordance with the camera manufacturer's specifications.
 2. Outdoor. Minimum lighting levels of five footcandles shall be maintained at the stores entrance or shall be sufficiently lit to provide for high resolution video data recording of outside activity within 50 feet of the store entrance.
- B. Employee protection required.
1. Hard-wired phone shall be installed inside walk-in vaults or other emergency measure shall be provided that is acceptable to the CPTED Review Committee.

- 2. Banning disguises, i.e., no caps, sunglasses or visors, etc.
- C. Video surveillance camera(s), two-color digital high definition, required.
 - 1. To maintain view of cash register counter.
 - 2. To maintain view of all public and/or employee entrances into building/tenant space.
 - 3. To maintain view of customers leaving via a door mounted pinhole camera to be positioned at a height of between four and five feet from the bottom of the door.
 - 4. Capable of providing a minimum storage of 30 days of video surveillance data.
- D. Alarm system required.
 - 1. Alarm system shall be monitored off-site.
 - 2. Silent panic alarm shall be provided at each cash register.
 - 3. Each teller and each employee directly accessible to the public shall be provided a remote alarm to wear on their person.
 - 4. Provide alarm activation inside walk-in vaults.
- E. Automatic door lock required. An automatic door lock capable of being locked from any cash transaction counter shall be provided.
- F. Visibility maintained.
 - 1. Unobstructed line of sight shall be maintained at all times from the cash register to the front door.
 - 2. Window areas shall be free from posters, flyers and other such visibility blockers.
- G. Height strips shall be required at each public entrance in direct view of employees.
- H. "No loitering/trespass" signs shall be posted at the front entry to the building.
- I. Annual review required.
 - 1. An annual review of security measures shall be performed by each establishment with assistance from the Police Department.
 - 2. In the event of a robbery, the establishment where the robbery occurred shall, within 15 days of the event, schedule a review of

security measures with the Police Department to determine steps to be taken to help deter additional robberies including, but not limited to, adding surveillance cameras, adding new lighting or increase the amount of existing lighting, adding a bullet resistant glass bandit barrier or man trap, adding landscaping for controlled access, etc.

- 3. In the event of an additional robbery where the Police Department's recommendations have not been implemented from a previous robbery, grounds may exist for revocation of the business license.

Sec. 6.230. Bank/financial service stand-alone ATM.

- A. Lighting requirements.
- B. Video surveillance camera(s), two-color digital high definition, required:
 - 1. To maintain view of vehicle occupants.
 - 2. To maintain view of drive through stalls.
 - 3. Capable of providing a minimum storage of 30 days of video surveillance data.
- C. View from street to be maintained.

Sec. 6.240. Bank/financial service drive through facility.

- A. Provided there is a minimum of five-car stacking for a single window/lane or three car stacking per lane, for multiple lanes, measured from the point of service delivery, i.e., drive-up window, or delivery tube station.
- B. Provided on-site traffic circulation is not impeded by the required car stacking mentioned above.
- C. Lighting requirements.
 - 1. Undercanopy lighting shall include flush mounted LED fixtures.
 - 2. Minimum lighting levels of five footcandles shall be maintained at each delivery tube station.

D. Employee protection required.

1. Bullet resistant glass shall be used at all window viewing stations of each teller handling cash transactions at drive through facilities.

E. Video surveillance camera(s), two-color digital high definition, required.

1. To maintain view of cash register counter.
2. To maintain view of all drive through stalls at delivery tube station.
3. Capable of providing a minimum storage of 30 days of video surveillance data.

F. Alarm system required.

1. Alarm system shall be monitored off-site.
2. Each teller shall be provided a remote alarm to wear on their person.
3. Silent panic alarm shall be provided at each cash register/transaction station.

G. Annual review required.

1. An annual review of security measures shall be performed by each establishment with assistance from the Police Department.
2. In the event of a robbery, the establishment where the robbery occurred shall, within 15 days of the event, schedule a review of security measures with the Police Department to determine steps to be taken to help deter additional robberies similar to those listed for banks and financial institutions.
3. In the event of an additional robbery where the Police Department's recommendations have not been implemented from a previous robbery, grounds may exist for revocation of the business license.

Sec. 6.250. Bar/tavern.

- A. Provided the front entrance of the facility is 300 feet or greater distance from any existing school

or church, or residential district (RDR, RLL, R-1, RP-1, RP-2, RP-3, and RP-4) or residential use in any district, with the following exceptions:

1. A bar/tavern located in the CBD district shall have no distance requirement from any existing residential use within the CBD district.
2. A bar/tavern located in a CBD or CP-2 district shall have no distance requirement from any existing loft dwelling use which is located within a CBD or CP-2 district.
3. A bar/tavern located in a CBD or CP-2 district shall have a 100-foot distance requirement from the front entrance of the facility to any existing residential use which is located within a TNZ or PO district.
4. A bar/tavern located in the M-150 Corridor Development Overlay districts CDO-MR, CDO-MC, or CDO-ME shall have no distance requirement from any multi-family (apartment) or loft dwelling unit within any M-150 CDO-MR, MC or ME district.

Sec. 6.260. Check cashing and payday loan business.

(See Unsecured loan business.)

Sec. 6.270. Church, temple or synagogue.

A church, temple or synagogue, including associated accessory uses such as day care services, provided that:

- A. Buildings shall be located not less than 50 feet from the boundary of adjoining property zoned for residential use;
- B. Primary driveway access for any such use with more than 5,000 square feet of floor area shall be from a collector or arterial street; and
- C. Primary driveway access for any such use with more than 10,000 square feet of floor area shall be from an arterial street.

Sec. 6.280. Civic or fraternal club.

A civic or fraternal club located in a residentially zoned area, with respect to which:

- A. All structures are at least 50 feet from any property line.

- B. Parking area is screened in accordance with the standards for parking lot screening.
- C. The exterior of the building maintains a residential character and blends harmoniously with surrounding residential properties.

Sec. 6.290. Construction materials sales and services.

- A. A construction materials sales and services operation, such as a building supply or home improvement center, is permitted to store materials outside, provided such materials are located to the side or rear of the property and fully screened from view.
- B. Seasonal sales materials may be stored outside in front of the building provided that such materials shall be limited to placement adjacent to the front wall and outside of any paved travel way including parking areas and drive aisles. And further provided that a six-foot minimum width sidewalk separate the materials from any paved travel way or parking area. Seasonal sales intended to be displayed, stored or open for sale longer than 90 days shall be enclosed by a permanent decorative fence i.e., painted steel fence with brick pilasters as approved by the Director. See Section 6.500 Seasonal sales for additional restrictions. The Director's decision may be appealed to the City Council in writing requesting the reason for the appeal and asking for a time to be heard.

Sec. 6.300. Construction contractor—With machinery, equipment and storage.

- A. All storage of machinery and equipment shall be placed in the rear or sides of the building and screened from street views with an opaque fence of sufficient height to hide the storage area.
- B. Storage areas not readily visible from any street need not provide screening.

Sec. 6.310. Convenience store.

- A. Lighting requirements. Light levels shall be in accordance with the following standards:
 1. Indoor-lobby. Light levels of sufficient intensity to provide for high resolution video data

recording from the digital video surveillance cameras in accordance with the camera manufacturer's specifications.

2. Outdoor. Minimum lighting levels of five footcandles shall be maintained at the store entrance or shall be sufficiently lit to provide for high resolution video data recording of outside activity within 50 feet of the store entrance.
 3. Pump islands. Under-canopy minimum lighting levels of 10.0 footcandles with a maximum of 30.0 footcandles shall be maintained at each pumping station.
- B. Video surveillance camera(s), two-color digital high definition, required.
 1. To maintain view of cash register counter.
 2. To maintain view of all public and/or employee entrances into building/tenant space.
 3. To maintain view of customers leaving via a door mounted pinhole camera, to be positioned at a height of between four and five feet from the bottom of the door.
 4. Capable of providing a minimum storage of 30 days of video surveillance data.
 - C. Alarm system required.
 1. Alarm system shall be monitored off-site.
 2. Silent panic alarm shall be provided at each cash register.
 3. Employees shall be provided a remote alarm to wear on their person.
 - D. Automatic door lock required. An automatic door lock capable of being locked from the cash transaction counter shall be provided.
 - E. Visibility maintained.
 1. Unobstructed line of sight shall be maintained at all times from the cash register to the front door.
 2. Window areas shall be free from posters, flyers and other such visibility blockers.
 3. Displays set up in front of the window area, inside or outside, shall not inhibit the view from the front counter or cash transaction area.

4. The floor area at the cash register shall be elevated a minimum of six inches above floor grade to assist employee surveillance throughout the store.
- F. Drop safes, bolted to floor shall be required.
 - G. Height strips shall be required at each public entrance in direct view of employees.
 - H. "No loitering/trespass" signs shall be posted at the front entry to the building.
 - I. Annual review required.
 1. An annual review of security measures shall be performed by each establishment with assistance from the Police Department.
 2. In the event of a robbery, the establishment where the robbery occurred shall, within 15 days of the event, schedule a review of security measures with the Police Department to determine steps to be taken to help deter additional robberies including, but not limited to, adding surveillance cameras, adding new lighting or increase the amount of existing lighting, requiring a minimum of two employees on a given shift, etc.
 3. In the event of an additional robbery where the Police Department's recommendations have not been implemented from a previous robbery, grounds may exist for revocation of the business license.

Sec. 6.320. Dance club.

- A. Provided the front entrance of the facility is 300 feet or greater distance from any school, church or residential district or use.

Sec. 6.330. Drug store (pharmacy) with drive up window/facility.

- A. Provided there is a minimum of three-car stacking measured from the point of service delivery, i.e., drive-up window or pneumatic tube, etc.
- B. Provided on-site traffic circulation is not impeded by the required car stacking mentioned above.

Sec. 6.340. Dry cleaners with drive-up window or drive-through facility.

- A. Provided there is a minimum of two-car stacking measured from the point of service delivery, i.e., drive-up window, door or pneumatic tube, etc.
- B. Provided on-site traffic circulation is not impeded by the required car stacking mentioned above.

Sec. 6.350. Electric repair shop (see repair services-non automotive).

Sec. 6.360. Fast food restaurant with drive-through.

(See Restaurant, drive-through.)

Sec. 6.370. Horse riding stable, track or polo field (commercial).

A commercial horse riding stable, track or polo field:

- A. Shall be located on a site of at least ten acres, and
- B. All structures shall be located at least 200 feet from any property.

Sec. 6.380. Martial arts studio.

- A. Limited to 12 students per class.
- B. Limited to one class at a time.
- C. One hour minimum time lapse between classes to lessen the parking impact on surrounding businesses.

Sec. 6.390. Massage therapist/massage facility.

- A. See definitions in Article 15 of this chapter.
- B. See Chapter 28, Division 2 of the Code of Ordinances for licensing requirements.

Sec. 6.400. Pawn shop.

A pawn shop shall be allowed provided that the following conditions can be met:

- A. A minimum of 5,280 feet distance between similar businesses.

- B. A minimum distance of 1,500 feet from any church, school, day care facility, public park or hospital.
- C. A minimum distance of 500 feet from any residential district or use.
- Note: All distances shall be measured from the front door of the pawn shop to the property line of the other use.
- D. Lighting requirements. Light levels shall be in accordance with the following standards:
1. Indoor-lobby. Light levels of sufficient intensity to provide for high resolution video data recording from the digital video surveillance cameras in accordance with the camera manufacturer's specifications.
 2. Outdoor. Minimum lighting levels of five footcandles shall be maintained at the stores entrance or shall be sufficiently lit to provide for high resolution video data recording of outside activity within 50 feet of the store entrance.
- E. Video surveillance camera(s), two-color digital high definition, required:
1. To maintain view of cash register counter.
 2. To maintain view of all public and/or employee entrances into building/tenant space.
 3. To maintain view of customers leaving via a door mounted pinhole camera, to be positioned at a height of between four and five feet from the bottom of the door.
 4. Capable of providing a minimum storage of 30 days of video surveillance data.
- F. Alarm system required.
1. Alarm system shall be monitored off-site.
 2. Silent panic alarm shall be provided at each cash register.
 3. Employees shall be provided a remote alarm to wear on their person.
- G. Automatic door lock required. An automatic door lock capable of being locked from the cash transaction counter shall be provided.
- H. Visibility maintained.
1. Unobstructed line of sight shall be maintained at all times from the cash register to the front door.
 2. Window areas shall be free from posters, flyers and other such visibility blockers.
- I. Banning disguises, i.e. no caps, sunglasses or visors, etc.
- J. Drop safes, bolted to floor shall be required.
- K. Height strips shall be required at each public entrance in direct view of employees.
- L. "No loitering/trespass" signs shall be posted at the front entry to the building.
- M. Annual review required.
1. An annual review of security measures shall be performed by each establishment with assistance from the Police Department.
 2. In the event of a robbery, the establishment where the robbery occurred shall, within 15 days of the event, schedule a review of security measures with the Police Department to determine steps to be taken to help deter additional robberies including, but not limited to, adding surveillance cameras, adding new lighting or increase the amount of existing lighting, adding a bullet resistant glass bandit barrier or man trap, requiring a minimum of two employees on a given shift, etc.
 3. In the event of an additional robbery where the Police Department's recommendations have not been implemented from a previous robbery, grounds may exist for revocation of the business license.
- Sec. 6.410. Pet motel or training with outdoor exercise area.**
- A pet motel or training facility with an outdoor exercise area shall be set back a minimum of 200 feet

from the property line of a residential use or residential district and 100 feet from outdoor seating areas of commercial uses.

Sec. 6.420. Plant nursery/garden center/greenhouse (commercial in AG and RDR districts only).

Parking shall be provided and paved with either asphalt or concrete.

Sec. 6.430. Recreation facility or area, commercial (indoor and/or outdoor).

A commercial indoor and/or outdoor recreation facility or area shall be allowed provided the front entrance is 300 feet or greater distance from any residential district or use.

Sec. 6.440. Repair services, automotive.

Repair services on equipment or vehicles, with respect to which:

- A. All activities are conducted within a building or fully screened area;
- B. Outside storage is confined to the rear of the property and visually screened in accordance with the buffer standards of Article 2;
- C. Do not generate noise, odors, or fumes that can be detected beyond the walls of the building in which the use is housed; and
- D. Overhead doors are to remain closed to eliminate associated noise from such uses that are within 300 feet of any residential district or use. (Ventilation, exhaust and air circulation should be considered by the prospective business operator and/or owner when the enactment of this condition is present. Such use may require special fans, air conditioning, etc.).

Sec. 6.450. Repair services, non-automotive.

Repair services on nonautomotive equipment provided:

- A. All activities are conducted totally within a building; and

- B. Provision of services does not generate noise, odors, or fumes that can be detected beyond the walls of the building in which the use is located.

Sec. 6.460. Restaurant, drive-in.

Restaurant, drive-in provided:

- A. All drive-in stations are screened from view of adjoining properties and streets to eliminate glare from automobile lights;
- B. Access is provided from a commercial collector street or internal drive, not a residential street;
- C. Building, drive and parking, including individual stations, shall be a minimum of 100 feet from any residential district or use;
- D. Outdoor music shall not be audible at the property line.

Sec. 6.470. Restaurant, drive-up.

Restaurant, drive-up provided:

- A. Drive-up window is a minimum of 100 feet from any residential district or use;
- B. Minimum five-car stacking from window is provided;
- C. Drive-up lane is screened from view of adjoining residential district or use; and
- D. Drive-up lane is a minimum of 100 feet from any residential district or use.

Sec. 6.480. Restaurant, drive-through.

Restaurant, drive-through provided:

- A. A minimum of five-car stacking from order box;
- B. Order box is screened from view and located to project sound away from residential districts or uses;
- C. Drive-through lane screened from view by high impact screen in accordance with Article 8, Division III in order to eliminate glare; and

- D. A minimum distance of 100 feet to any residential district or use shall be maintained to the order (speaker) box or pick-up window.

Sec. 6.490. Restaurant, general.

- A. Restaurant, general stand-alone facility (individual building on separate lot or parcel) shall provide a minimum distance of 100 feet measured from the building to any residential district (RDR, RLL, R-1, RP-1, RP-2, RP-3, and RP-4) or residential use, with the following exceptions:
 - 1. A restaurant, general located in the CBD district shall have no distance requirement from any existing residential use within the CBD district.
 - 2. A restaurant, general located in a CBD or CP-2 district shall have no distance requirement from any existing loft dwelling use which is located within a CBD or CP-2 district.
 - 3. A restaurant, general located in a CBD or CP-2 district shall have a 100 foot distance requirement from the building to any existing residential use which is located within a TNZ or PO district.
 - 4. A restaurant, general located in the M-150 Corridor Development Overlay districts CDO-MR, CDO-MC, or CDO-ME shall have no distance requirement from any multi-family (apartment) or loft dwelling use within any M-150 CDO-MR, MC or ME district.
- B. Restaurant, general in-line tenant space facility (located in a strip center or series of attached commercial shops) shall provide a minimum distance of 50 feet measured from the building in which located to any residential district (RDR, RLL, R-1, RP-1, RP-2, RP-3, and RP-4) or residential use. Same exceptions apply as stated in Subsection A. above.
- C. Access is provided from a commercial street or internal drive from a commercial street.

Sec. 6.500. Seasonal sales.

- A. Seasonal sales limited to 90 days (See Division V of this article, Special Events).
- B. Seasonal sales areas intended for sales longer than 90 days shall install permanent decorative

fencing with brick or masonry pilasters to separate such sales from travel ways. Such sales areas shall first be approved by the Director prior to their placement. The following requirements shall govern their location:

- 1. A maximum of ten percent of the total number of parking spaces dedicated to the primary business intending to operate seasonal sales shall be used;
- 2. No fire lane or emergency access area shall be used at any time for either the sale of goods or pick-up or loading area;
- 3. No handicapped parking spaces shall be used or interfered with at any time;
- 4. Reasonable traffic flow shall be maintained in and around the sales area.

Sec. 6.505. Short term rentals.

- A. Location:
 - 1. Parcels greater than one acre in size; or
 - 2. Located within the Old Town Master Development Plan area as shown in the comprehensive plan; and
 - 3. Short term rentals are only allowed in single-family dwelling units or two-family dwelling units (duplex).
- B. The owner or a local representative must occupy a dwelling unit on the same parcel or an adjacent parcel.
- C. A maximum of two rooms shall be rented.
- D. A maximum of four unrelated guests or a family are permitted.
- E. The owner must obtain a business license with the City.
- F. The owner shall pay license taxes in accordance with Chapter 28, Division 7.
- G. The owner or local representative must provide their contact information to the City.
- H. Chapter 17, Article IX, Section 17-254, Regulations regarding control of noise and sound, must be posted in each room for rent.

- I. Units must be provided with:
 1. A functioning fire extinguisher;
 2. A smoke alarm in each bedroom;
 3. Child-proofed electrical outlets;
 4. A map identifying escape routes;
 5. Emergency contact information for the owner;
 6. Carbon monoxide detection as require by code.

Sec. 6.510. Swimming pools, subdivision.

- A. Subdivision swimming pools to be located on platted tracts or common areas within an existing subdivision shall be allowed as a permitted use with conditions provided:
 1. The swimming pool, including concrete apron or deck structure and any associated mechanical equipment or other pool appurtenances, is setback from all property lines by a minimum distance of 20 feet;
 2. A medium impact screen is provided per Article 8, Division III of this chapter along any common property line shared with a residential dwelling; and
 3. Lighting of the swimming pool area, except by low level bollard type lighting or wall pack with 90-degree cutoffs, shall only be provided by special use permit, SUP (see Division III of this article).
- B. Subdivision swimming pools to be located on a platted lot (or lots) within an existing subdivision shall be allowed as a permitted use with conditions provided:
 1. The lot(s) on which the swimming pool is to be located is either owned or is to be owned and under the control of the homes association; and
 2. A medium impact screen, per Article 8, Division III of this chapter, is placed on all common property lines to any adjoining residential lots within the subdivision and located on a three-foot tall berm; or in lieu thereof, a six foot tall opaque vinyl fence with a low impact screen placed between the fence and property line; or

3. A six-foot tall opaque vinyl fence with a medium impact screen planted between the fence and property line, per Article 8, Division III of this chapter, is placed on all shared property lines of residential property not within the subdivision; and
4. The swimming pool, including concrete apron or deck structure and any associated mechanical equipment or other pool appurtenances, is setback from all property lines by a minimum distance of 20 feet; and
5. Lighting of the swimming pool area, except by low level bollard type lighting or wall pack with 90-degree cutoffs, shall only be provided by special use permit, SUP (see Division III of this article).

Sec. 6.520. Title loan business.

(See Unsecured loan business.)

Sec. 6.530. Unsecured loan business.

Such businesses are allowed provided the following conditions can be met:

- A. A minimum of 5,280 feet distance between similar businesses.
- B. A minimum of 500 feet distance from any residential district or use.
- C. A minimum of 1,500 feet distance from any church, school, day care facility, public building, public park or hospital.

All distances shall be measured from the front door of the loan business to the property line of the other use.

In addition to the conditions above, businesses performing on site cash transactions shall meet the following requirements.

- D. Lighting requirements. Light levels shall be in accordance with the following standards:
 1. Indoor-lobby. Light levels of sufficient intensity to provide for high resolution video data recording from the digital video surveillance cameras in accordance with the camera manufacturer's specifications.

2. Outdoor. Minimum lighting levels of five footcandles shall be maintained at the stores entrance or shall be sufficiently lit to provide for high resolution video data recording of outside activity within 50 feet of the store entrance.
- E. Employee protection required.
 1. Banning disguises, i.e., no caps, sunglasses or visors, etc.
- F. Video surveillance camera(s), two-color digital high definition, required.
 1. To maintain view of cash register counter.
 2. To maintain view of all public and/or employee entrances into building/tenant space.
 3. To maintain view of customers leaving via a door mounted pinhole camera, to be positioned at a height of five feet from the bottom of the door.
 4. Capable of providing a minimum storage of 30 days of video surveillance data.
- G. Alarm system required.
 1. Alarm system shall be monitored off-site.
 2. Silent panic alarm shall be provided at each cash register.
 3. Each employee shall be provided a remote alarm to wear on their person.
- H. Automatic door lock required. An automatic door lock capable of being locked from any cash transaction counter shall be provided.
- I. Visibility maintained.
 1. Unobstructed line of sight shall be maintained at all times from the cash register to the front door.
 2. Window areas shall be free from posters, flyers and other such visibility blockers.
- J. Drop safes, bolted to floor shall be required.
- K. Height strips shall be required at each public entrance in direct view of employees.
- L. No loitering/trespass signs shall be posted at the front entry to the building.
- M. Annual review required.
 1. An annual review of security measures shall be performed by each establishment with assistance from the Police Department.
 2. In the event of a robbery, the establishment where the robbery occurred shall, within 15 days of the event, schedule a review of security measures with the Police Department to determine steps to be taken to help deter additional robberies including, but not limited to, adding surveillance cameras, adding new lighting or increase the amount of existing lighting, adding a bullet resistant glass bandit barrier or man trap, etc.
 3. In the event of an additional robbery where the Police Department's recommendations have not been implemented from a previous robbery, grounds may exist for revocation of the business license.

Sec. 6.540. Utility building and services.

A building or premises for public utility services authorized by the Public Service Commission or by permit of the Governing Body, provided the building or premises is enclosed, landscaped in accordance with the provisions of Article 8, Division III, and is in keeping with the appearance of the neighborhood.

Sec. 6.550. Veterinarian.

- A. A veterinarian, with respect to which, all buildings and activities are located at least 100 feet from any property zoned or used for residential purposes.
- B. When all activity is conducted totally inside of the building the standard district setback shall apply.

Sec. 6.560. Yoga studio.

- A. Limited to 12 students per class.
- B. Limited to one class at a time.

- C. One hour minimum time lapse between classes to lessen the parking impact on surrounding businesses.

Secs. 6.570—6.600. Reserved.

DIVISION III. SPECIAL USE PERMITS

SUBDIVISION 1. GENERAL PROVISIONS

Sec. 6.610. Statement of intent.

The division of the City into zoning districts is based on the principle that similar conditions prevail throughout a particular district. Some uses of land are not appropriate as a "permitted use" in certain districts and are designated as special uses. These uses may be approved at a particular location because of factors or reasons not applicable to the zoning district as a whole. Special uses may have a unique impact on the adjoining uses of land, and are therefore subject to individualized considerations as to location and conditions of use to protect and promote the basic purposes of this chapter. A special use permit is issued by the Governing Body following the procedures set forth in Article 2.

Sec. 6.620. When special use permit required.

- A. Special uses. Uses for which a special use permit is required are listed within this article and noted as "special uses" in Article 4.
- B. Uses not designated. Uses not specifically set forth as "permitted uses", "prohibited uses" or as "uses subject to conditions" elsewhere in this chapter shall be deemed to be "special uses" unless otherwise determined. The Commission and Governing Body may consider granting a special use permit for such uses in accordance with the requirements of Article 2.

**Sec. 6.630. Special use permit; application—
Contents and submission requirements.**

The following items shall be submitted in support of an application for a special use permit:

- A. All general application requirements contained in Article 2.

- B. A preliminary development plan accompanied by the number of copies required by the Director, containing all information set forth in Article 2, except when the SUP is for use of an existing building or property and where no substantial changes are proposed per Article 2.

- C. A comprehensive narrative description of the use sought, both as to function and operation, and as to structures, installations, equipment or surface improvements, changes or other requirements incidental to such use.

- D. The length of term of the use after the date of issuance of the permit, if applicable.

- E. Special conditions relating to the operation of the proposed use(s), site development and other pertinent descriptive factors.

- F. Color photographs of surrounding structures within 185 feet and elevation drawings of the proposed special use in sufficient detail to determine compliance with the zoning district regulations in which the special use is to be located.

- G. See this subdivision "General Provisions" and Subdivision 2 for "Specified Special Uses."

Sec. 6.640. Consideration of special use permit applications.

- A. Public hearing required. Consideration of all applications for special use permit shall require a public hearing before the Commission and Governing Body, with publication notice, notice to surrounding property owners, and postings of signs as required by Article 2.

- B. Procedures. Except as provided, the procedures for Commission and Governing Body consideration of special use permit applications shall conform to the procedures set forth in Article 2.

- C. Protest petition. Protest petitions may be filed pursuant to Article 2.

Sec. 6.650. Standards for approval.

- A. Special uses may be approved by action of the Governing Body after recommendation from the Commission using the procedures set forth in

Article 2. Special uses may be approved with conditions including, but not limited to, requirements for special yards, open spaces, buffers, fences, walls, and screening; the installation of landscaping and maintenance; provisions for erosion control; requirements for street improvements, dedications, limitations on ingress and egress movements into and out of the site, and traffic circulation; limitation on signage; limitation on hours of operation and other characteristics of operation; conditions specifically listed under the individual special use and other conditions deemed necessary to insure compatibility with surrounding land uses.

B. In considering any application for a special use permit, the Commission and Governing Body may give consideration to the criteria listed below, to the extent they are pertinent to the particular application.

1. Character of the neighborhood;
2. Compatibility with adjacent property uses and zoning;
3. Suitability of the property for which the special use is being requested;
4. Extent to which the proposed use will negatively impact the aesthetics of the property and adjoining properties;
5. Extent to which the proposed use will injure the appropriate use of, or detrimentally affect, neighboring property;
6. Impact on the street system to handle traffic and/or parking;
7. Impact of additional storm water runoff to the existing system or to the water shed area if no storm sewer is available;
8. Impact of noise pollution or other environmental harm;
9. Potential negative impact on neighborhood property values;
10. Extent to which there is need of the proposed use in the community;
11. Economic impact upon the community;

12. Extent to which public facilities and services are available and adequate to satisfy the demand generated by the proposed use;
13. Comparison of the benefit gained to the public health, safety and welfare of the community if approved versus the hardship imposed upon the landowner if the requested application is denied;
14. Conformance to the UDO, and current city policies and ordinances;
15. Recommendation of professional staff;
16. Consistency with permitted uses in the area in which the special use is sought.

Sec. 6.660. Special use permits—Transferability, lapse, expiration, revocation and renewal.

A. Transferability.

1. A special use permit may be conveyed with the land only if the transferor has obtained a building permit for one or more structures authorized by the special use permit and construction of at least ten percent of the project has been completed in terms of the total expected cost of the project. The transfer of a permit in which these conditions have not been satisfied shall be invalid. Nothing in this article shall be construed to alter the expiration date of permits or the authority of the Governing Body to revoke a permit.
2. A permit cannot be assigned or transferred to a different parcel of land.
3. Every entity attempting to convey a special use permit shall give notice in writing to the Director within 72 hours after having sold, transferred, given away or otherwise disposed of an interest in or control of a parcel of land for which a special use permit has been issued. Such notice shall include the name and address of the successor in interest or control of the parcel. Receipt of such notice shall not constitute acceptance of an invalid transfer.

B. Lapse. Unless a building permit for one or more structures authorized by the special use permit has been obtained and at least ten percent of the

total expected cost of the project has been expended, the special use permit shall lapse and become void unless the applicant applies for any building permit incident to the proposed use within two years of the date of approval by the Governing Body. Upon the written request of the property owner and for good cause shown, the Director may grant one extension of not more than one year. An application for extension will be considered only if it is submitted, in writing, prior to the expiration of the initial period.

C. Expiration. A special use permit shall be valid for a specific period of time if so stated in the permit. A permit may be renewed upon application to the Governing Body, subject to the same procedures, standards, and conditions as an original application. A special use permit for a lawful nonconforming special use may be granted or renewed without correcting the nonconforming aspects of the special use if the Governing Body finds that all standards set forth in Section 6.650, Standards for approval have been met. All regulations in Article 10 regarding lawful nonconforming uses shall apply to the extension of a nonconforming special use pursuant to this paragraph.

D. Revocation procedure.

1. Grounds of revocation. Any special use permit granted by the Governing Body in accordance with this chapter is subject to revocation for any or all of the following reasons:

- a. Non-compliance with all the conditions of approval established in the ordinance granting such special use permit;
- b. A change from the original use or the intensity of the original use for which the permit was issued resulting in a change in impact upon the surrounding neighborhood per Section 6.650, Standards for approval;
- c. Expiration of the special use permit;
- d. Violation of any provisions of this chapter; or
- e. Violation of any provisions of the Code of Ordinances pertaining to the use of land, construction or uses of buildings or structures, or activities conducted on the

premises by the permit holder, agents of the permit holder or tenants and is declared to be a nuisance to the neighborhood in which located.

2. Procedure for revocation.

- a. Revocation proceedings may be initiated by the Director or his or her designee.
- b. Notice of intent to revoke shall be mailed to the permit holder's last known address stating the grounds for the intended revocation, and the date, time and place of the hearing.
- c. The matter will then be placed on a designated Planning Commission agenda for hearing, which may be continued for good cause shown.
- d. The matter will then be forwarded to the City Council with the Commission's findings and recommendation.
- e. The City Council will consider the findings and recommendation of the Commission in rendering their final decision.
- f. No special use permit shall be revoked unless a majority of the City Council is satisfied by a preponderance of evidence that grounds for revocation exist.

E. Renewal. A special use permit may be renewed using the same procedure as was used for the original approval set forth in this article. The Governing Body may grant a renewal containing modifications, but only for existing conditions, without the submission of a preliminary development plan.

Sec. 6.670. Right to continue.

- A. The issuance of a special use permit gives no vested rights to the permit holder.
- B. The rights conferred by the authorization of a special use under this article shall not become effective until the project is constructed and the use actually started.
- C. A right to continue a specially permitted use shall only exist provided all conditions of the special

use permit and all other City ordinances have been met and continue to be met, and until duly revoked under this article.

- D. The right to continue a special use authorized under this article shall last only as long as specified by the special use permit.
- E. As of the effective date of this chapter, existing permits shall be subject to the provisions for transferability as expressed in this chapter.
- F. Uses that are allowed without a special use permit prior to the effective date of this chapter, but are designated as special uses in this chapter, shall be allowed to continue as nonconforming uses if the requirements of Article 10 are satisfied.

Sec. 6.680. Conditions to constitute amendment of regulations and restrictions.

All conditions imposed pursuant to Section 6.650.A., Standards for approval, and all conditions and restrictions imposed pursuant to any section of this division, shall constitute amendments, modifications, or changes to, or supplementation of, the regulations and restrictions of the use of buildings, structures, or land as set forth in this chapter.

Secs. 6.690—6.720. Reserved.

SUBDIVISION 2. SPECIFIED SPECIAL USES

Sec. 6.730. Asphalt plant.

(See Industrial activity.)

Sec. 6.740. Automotive sales, lease and rentals.

(See Outdoor sale or lease of vehicles/equipment.)

Sec. 6.750. Aviation field, airport or heliport.

An aviation field, airport or heliport includes the sale of aviation fuel. A special use permit may be granted under such restrictions as the Governing Body may impose on the land, buildings or structures, within the approach, transitional, horizontal or conical zone, as

defined in Section 5.010 to promote safety of navigation and prevent undue danger from confusing lights, electrical interference or other hazards.

Sec. 6.760. Bed and breakfast homestay.

A bed and breakfast homestay property shall be subject to the following conditions and restrictions:

- A. Appearance. If located in an existing residence, the exterior residential appearance of the dwelling unit shall not be changed. If an addition is to be made to an existing residence or a new structure is to be constructed, building elevations shall be submitted for approval, and a residential appearance shall be maintained.
- B. Rooms. The maximum number of guest rooms shall be three.
- C. Parking location. Parking areas shall be located on the side or rear of the property and shall be screened from adjacent residential properties by a solid screen fence or wall.
- D. Food service. Food service may be provided to guest rooms. No cooking or food preparation will be allowed in guest rooms. Approval must be received from the Jackson County Health Department.
- E. Codes. The bed and breakfast homestay shall comply with all applicable requirements of the International Building Code, the International Fire Code and the International Residential Code, as adopted by the City of Lee's Summit.
- F. Inspections. The Fire Department and other city departments shall be permitted to perform inspections as in any other business.
- G. Length of stay. No person shall be an occupant of a bed and breakfast homestay for more than 14 consecutive days.
- H. Other criteria. In determining whether a bed and breakfast homestay is an appropriate use in the proposed location, the Commission and Governing Body may consider the following:
 1. Whether the use is appropriate in view of the use, development and zoning of adjacent and nearby property.

2. Whether the use will adversely affect the existing use or usability of adjacent or nearby property.
3. Whether the use is in conformity with the policy and intent of the comprehensive plan.
4. Whether there are existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the proposed use.

Sec. 6.770. Bed and breakfast inn.

A bed and breakfast inn property shall be subject to the following conditions and restrictions:

- A. Appearance. If located in an existing residence, the exterior residential appearance of the dwelling unit shall not be changed. If an addition is to be made to an existing residence or new structure is to be constructed, building elevations shall be submitted for approval, and a residential appearance shall be maintained.
- B. Ownership. The owner of the residence is not required to reside on the premises. If the owner does not live on the premises, a resident manager or resident employee shall be required, while guests are present.
- C. Rooms. The maximum number of guest rooms shall be 12.
- D. Parking location. Parking areas shall be located on the side or rear of the property and shall be screened from adjacent residential properties by a solid screen fence or wall.
- E. Food service. Restaurant facilities or food service shall be optional; and any such facilities or service shall require the approval of the Jackson County Health Department. No cooking or food preparation will be allowed in guestrooms.
- F. Codes. The residence shall comply with all applicable requirements of the International Building Code, International Fire Code and the International Residential Code, as adopted by the City of Lee's Summit.

G. Inspections. The Fire Department and other city departments shall be permitted to perform inspections as in any other business.

H. Landscaping and screening. A bed and breakfast inn shall be subject to the landscaping requirements of Article 9.

I. Length of stay. No person shall be an occupant of a bed and breakfast inn for more than 14 consecutive days.

J. Other criteria. In determining whether a bed and breakfast inn is an appropriate use in the proposed location, the Commission and Governing Body may consider the following:

1. Whether the use is appropriate in view of the use, development and zoning of adjacent and nearby property.
2. Whether the use will adversely affect the existing use or usability of adjacent or nearby property.
3. Whether the use is in conformity with the policy and intent of the comprehensive plan.
4. Whether there are existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the proposed use.

Sec. 6.780. Boat (boat dealer) and recreational vehicle sales and service.

(See Outdoor sale or lease of vehicles/equipment.)

Sec. 6.790. Boats, recreational vehicles and maintenance equipment storage.

A special use permit is required for storage of boats, recreational vehicles and maintenance equipment, whether in open or enclosed yards. Such facility shall meet the following conditions:

- A. The facility is to be located on land owned by, leased by, or under the control of the users or an association.
- B. Open yards are to be properly screened by means of a solid, sight-obscuring fence, not less than

six feet in height. Screening directly adjacent to land zoned residential shall incorporate planted buffers as required in Article 8, Division III.

- C. All parking areas and access drives shall be paved.
- D. The requirements of the "exterior building materials design standards" in Article 8, Division 1, Subdivision 5, of this chapter shall apply to all applicable buildings.

Sec. 6.800. Cemetery, mausoleum or crematory.

- A. A cemetery, mausoleum or crematory shall be subject to the following conditions and restrictions:
 1. All applicable state regulations are met.
 2. Access is via an arterial or collector roadway.

Sec. 6.810. Billboards/outdoor display.

(See Article 9 of this chapter.)

Sec. 6.820. Concrete batch plant.

(See Industrial activity.)

Sec. 6.830. Convalescent, nursing or retirement home.

A convalescent, nursing or retirement home shall be subject to the following conditions and restrictions:

- A. The property shall have a minimum lot area of 40,000 square feet and shall have a minimum lot width of 200 feet.
- B. Not less than 500 square feet of lot area is provided for each patient/resident.
- C. Side yards shall be increased to double the side yard required in the district.
- D. The architecture of the facility shall maintain a residential character.

Sec. 6.840. Day care, group.

Group day care is a special use in a residential structure occupied by a day care provider that cares

for between five and ten persons for care for any part of a 24-hour day. The following requirements shall apply:

- A. The permit shall be issued to a particular provider. A change in the day care provider shall require another public hearing.
- B. All applicable state licensing requirements must be met. Proof of a current state license shall be required.
- C. Adequate access shall be provided that allows for pick-up and discharge of children or adults without creating traffic disruption on adjacent streets.
- D. Adequate outdoor space shall be provided for recreation purposes without creating a disturbance to surrounding properties.
- E. Usual hours of operation are limited to 6:00 a.m. to 6:00 p.m.

Sec. 6.850. Equipment sales and services.

(See Outdoor sale or lease of vehicles/equipment.)

Sec. 6.860. Garden center, plant nursery or greenhouse.

(See Plant nursery, garden center or greenhouse (excluding seasonal sales).)

Sec. 6.870. Golf driving range.

Sec. 6.880. Golf, miniature outdoor.

Sec. 6.890. Group home for the disabled.

- A. Defined. Group home facility for the disabled is a residential facility for the care of individuals who, upon completion of a course of treatment in a facility that provides an extensive treatment program for individuals with disabling emotional disturbances, are in need of an interim structured living situation to allow for their resocialization and reintegration into community living, or for permanent housing of developmentally disabled individuals. A group home facility does not include any home in which eight or fewer unrelated mentally retarded or physically handicapped persons reside (RSMo 89.020).

- B. A group home facility shall be subject to the following conditions and restrictions:
1. The maximum number of persons in a facility shall not exceed ten individuals and two resident staff members.
 2. Parking shall be indicative of the neighborhood in which located.
 3. The facility shall be a secondary facility operated and maintained by a facility that provides intensive treatment for individuals with disabling emotional disturbances or a contract facility wherein the individuals remain under the jurisdiction of the County or the State or a facility operated for developmentally disabled.
 4. The property shall have a minimum lot area of 20,000 square feet.
 5. There shall be a minimum building size of 250 square feet per resident and resident staff.
 6. There shall be no sign advertising the nature of the use.
 7. The facility shall not be used as a residence for substance abusers or sex-offenders.
 8. At the time of original approval no facility shall be located within 1,000 feet of another such facility or of a halfway house, a convalescent home, nursing home, retirement home, a children's nursery or a day care home. However, the Governing Body shall have the authority to waive this requirement, provided that the facilities are separated by a major thoroughfare, railroad track, major waterway or other comparable man-made or natural barrier.
 9. The residential character of the structure shall be maintained.

Sec. 6.900. Gun club, skeet or trap shoot, and outdoor target or archery range.

A gun club, skeet or trap shoot, and outdoor target or archery range shall be subject to the following conditions and restrictions:

- A. Being located on a site of at least two acres.

- B. A two-year time limit renewable by the Governing Body after a public hearing.
- C. Must be able to demonstrate that all measures have been or will be taken to minimize any risk to adjoining properties stemming from the activities associated the use of guns and/or archery equipment.

Sec. 6.910. Halfway house.

A halfway house for parolees, prisoners, or juvenile shall be subject to the following conditions and restrictions:

- A. Paving and screening of all parking area.
- B. No more than four residents (excluding resident staff).
- C. No exterior evidence of such use and no sign advertising such use.
- D. The residential character of the structure shall be maintained.
- E. There shall be a minimum building size of 300 square feet for each resident and resident staff.
- F. At the time of original approval, no facility shall be located within 1,000 feet of another such facility, or a group home, or a convalescent center, or a children's nursery or boarding home, or a day care home. However, the Governing Body shall have the authority to waive this requirement if the facilities are separated by a major thoroughfare, railroad track, major waterway or other comparable man-made or natural barrier.

Sec. 6.920. Heavy equipment sales and service.

(See Outdoor sale or lease of vehicles/equipment.)

Sec. 6.930. Hospital, substance abuse treatment facility or mental health facility.

A hospital, substance abuse treatment facility or mental health facility shall be subject to the following conditions and restrictions:

- A. Health and sanitation requirements as may be imposed by the Governing Body and the Health Authorities of the City, County, or State.

- B. A minimum lot area of 20,000 square feet.
- C. The provision of at least 300 square feet of lot area for each patient or guest.

Sec. 6.940. Hotel or motel.

Sec. 6.950. Industrial activity.

An industrial activity that uses or produces materials that can be offensive or dangerous by nature shall be subject to a special use permit. Such activity may include:

- A. Acid manufacture.
- B. Asphalt plant.
- C. Cement, lime, gypsum or plaster of paris manufacture.
- D. Chemical and allied products.
- E. Concrete batch plant.
- F. Distillation of bones.
- G. Explosive manufacture or storage.
- H. Fertilizer manufacture or storage.
- I. Gas manufacture.
- J. Garbage, offal, or dead animal reduction, processing or dumping.
- K. Hides and skins (storage, curing, and tanning).
- L. Meat or fish packing or storage plant.
- M. Meat processing.
- N. Miscellaneous manufacturing industries not permitted by right elsewhere.
- O. Petroleum or its products (refining of oil and gas).
- P. Processing or disposal plant, sewage or garbage.
- Q. Smelting of tin or copper, mining of iron ores.
- R. Stockyard or slaughter house.
- S. Stone clay glass and concrete products.
- T. Tar distillation or manufacture.
- U. Toxic waste or hazardous materials disposal site.
- V. Wholesale storage of Class I liquids.

- W. Wood distillation plant (charcoal, tar, turpentine, etc.).

Sec. 6.960. Landfill, sanitary or demolition.

A sanitary or demolition landfill is subject to a special use permit and all requirements of Chapter 25 of the Lee's Summit General Code of Ordinances and all applicable State laws.

Sec. 6.970. Loft dwelling unit.

A loft dwelling unit above a detached garage, accessory to a principal dwelling, in an R-1 single-family residential district within the "Old Lee's Summit" area as described in the Downtown Master Plan, as that area outside the "Downtown Core" between Chipman Road on the north, M-291 Highway on the east and Highway 50 on the west and south. A minimum lot size of 15,000 square feet or greater shall be required. Such loft dwelling units are subject to the special use permit standards of this article.

Sec. 6.980. Manufactured home park.

A. Definitions.

1. Manufactured home. A dwelling fabricated in an off-site facility for installation or assembly at the building site, bearing a label certifying that it is constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act (42 U.S.C. 5401—5445), which first became effective on June 15, 1976.
2. Single sectional manufactured home. A manufactured home built in only one section at the factory, which section is transported over the road and forms a single-family residential structure at the site.
3. Multi-sectional manufactured home. A manufactured home built in two or more sections at the factory, which two sections are transported over the road separately with assembly into a single-family residential structure at the site.
4. Manufactured home lot. A parcel of land for the placement of one single or multi-sectional manufactured home and its accessory buildings for the exclusive use of its occupants.

5. Manufactured home park. A parcel of land under single ownership that has been developed into lots for the placement of manufactured homes for residences.
6. Manufactured home stand. That part of an individual manufactured home lot which has been reserved for the placement of the manufactured home, appurtenant structures or additions.
7. Recreational vehicle. Vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use and of such size and weight as to not require special highway movement permits when drawn by a motorized vehicle.
8. Seal. A device, label or insignia issued by the Missouri Public Service Commission, U.S. Department of Housing and Urban Development, or its agent, to be displayed on the exterior of the manufactured home to evidence compliance with applicable codes.

B. General.

1. Within a manufactured home park no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:
 - a. Single and multi-sectional manufactured homes.
 - b. Parks, playgrounds, community centers and non-commercial recreational facilities.
 - c. Structures and uses required for the operation of a public utility, the performance of a governmental function, or the operation or maintenance of the manufactured home park.
2. In a manufactured home park, recreational vehicles shall not be occupied as living quarters and manufactured home sales lots shall not be permitted, but manufactured homes may be sold on lots they occupy in residential use.
3. Commercial and service establishments intended to serve only persons within the man-

ufactured home park may be constructed once a manufactured home park contains at least 100 manufactured home lots ready for occupancy. These establishments may occupy, including related parking area, no more than five percent of the area of the manufactured home park.

4. Prior to the placement of a manufactured home for residential purposes within the corporate limits of Lee's Summit, a permit for the manufactured home shall be issued by the Building Official, subject to compliance with all provisions of this chapter.
5. A manufactured home shall not be temporarily or permanently parked, stored or occupied on any public street or alley, nor on any lot or parcel within the City of Lee's Summit, except when in complete conformity to zoning and other applicable ordinances.
6. Manufactured homes that do not bear a seal dated on or after June 15, 1976, shall not be permitted within the corporate limits of the City of Lee's Summit.

C. Approval process for a manufactured home park. In addition to information required of all development plans, plans related to a manufactured home park shall contain the following elements:

1. General layout of development with number of manufactured home lots and their approximate dimensions.
2. Location of parking areas, size and capacity.
3. Location and size of park and playground area.
4. Location and type of accessory convenience building.
5. Proposed street system for both public and private streets with setback lines indicated.
6. General landscaping and screening plan.
7. Typical layout of manufactured home lot showing size of lot, stand location and type, outdoor living area, location of refuse receptacles, walkways, parking area, curb and gutter location, and any other improvements included within the development.

8. Gross and net density of proposed project and parking ratio.

D. General site planning.

1. Location. The development shall front on a primary thoroughfare or have frontage on a collector street and/or frontage road which has direct access to a primary thoroughfare.
2. Access points. Minor streets shall not be connected with streets outside the park such that said minor streets will be used by through traffic. No lot within the manufactured home park shall have direct vehicular access to a street bordering the development.
3. Peripheral yard setbacks. All sides of the manufactured home park shall have a 25-foot setback along exterior boundaries. Such yard may be used to satisfy open space depth requirements for individual lots, but shall not contain parking pads, carports, recreational shelters or storage structures.
4. Landscaping. Along the property lines of the manufactured home park, fences or vegetative screening or a combination of fences and vegetative screening shall be provided.
5. Storm shelters. The development shall provide a storm shelter or shelters. Such shelter facilities shall provide 15 square feet of unobstructed floor space per manufactured home space in structures either below ground or above ground with walls and roof designed to withstand a wind load of 200 miles per hour. The maximum distance to the entrance of the shelter from any manufactured home stand shall be 1,000 feet. Provisions shall be made for adequate emergency lighting and ventilating. At the time of submission of the building permit, the developer shall submit storm shelter drawings and certifications by an architect or engineer licensed in the State of Missouri that such proposed facilities meet the design standards of this section.

E. Minimum standards.

1. Minimum park size.
 - a. No manufactured home park shall have a site smaller than 20 acres.

- b. The minimum tract width for portions used for general vehicular entrances and exits only shall be 100 feet; portions containing lots for dwellings and buildings, the minimum tract width shall be 200 feet. The tract shall be and remain in one ownership and shall be designed for the purpose of renting and/or providing spaces for placement of manufactured homes.

2. Density. The maximum number of manufactured home units allowed within the manufactured home park shall be five units per acre.
3. Minimum lots. No manufactured home park shall contain less than 100 lots, and at least 28 lots must be finished and ready for use with required storm shelter facilities prior to occupancy.
4. Maximum lot coverage. A manufactured home and its accessory building(s) shall occupy not more than 35 percent of the lot area, except as follows:
 - a. When a roofed area, such as a carport or outdoor recreation shelter, is open for 40 percent or more of its perimeter, its lot coverage shall be computed as one-half the area covered by the roof.
 - b. When the manufactured home lot is adjacent to and has direct access to approved common open space not less than ten feet in minimum width, an additional five percent of the lot area may be occupied.
5. Outdoor living area. An outdoor living area, commonly known as a patio, shall be provided on each lot equal to at least ten percent of its area. In no case shall such area be less than 300 square feet nor need be more than 500 square feet. The minimum horizontal distance of such area shall be not less than 15 feet. The outdoor living area shall be surfaced with concrete, asphalt or other approved hard surface. The parking area may not be considered to meet the requirements of outdoor living area.

6. Spacing. All manufactured homes, including structural additions thereto, shall be located at least 20 feet from any other manufactured home, permanent building, interior roadways or common parking lot for more than two vehicles.
7. Parking requirements. A minimum of two all weather parking spaces shall be provided for each manufactured home lot. These spaces may be located on the lot or in parking areas located not more than 60 feet from the manufactured home. Parking spaces shall be located off the public street or private drive. When parking is provided on each individual manufactured home lot, the minimum distance from roadway or street curb to manufactured home shall not be less than 25 feet. No parking area for more than two vehicles shall be designed in a manner to cause such vehicles to back out into the park's main road network.
8. Common open space.
- No less than ten percent of the gross area of any manufactured home park shall be devoted to common recreational areas and facilities. Such open space shall be separate and aside from the open space provided on each manufactured home space. Said open space shall be sodded and/or landscaped or otherwise designed and made available for recreational use.
 - One principal recreation and community area shall be provided that contains at least one-half of the total required open space. However, no principal recreation and community area need be larger than two and one-half acres.
 - To be countable as common recreational area, interior-block ways for pedestrians or cyclists shall be at least ten feet in width and form parts of a system leading to a principal designation. Such ways may also be used for installation of utilities.
 - To be countable as common recreational area, interior-block play areas for small children or other interior-block areas shall contain at least 1,000 square feet and be at least 20 feet at its smallest dimension.
9. Stands and skirts. Each manufactured home space shall contain a Portland cement or asphaltic concrete stand on which the manufactured home will be situated. Each home shall be equipped with skirts on all sides and such skirting shall be of a finished nature and installed within 30 days of home placement.
10. Anchoring. Each manufactured home shall be secured to the ground by use of anchors and tie-downs so as to resist wind overturning and sliding. Anchors and tie-downs shall be installed according to the rules and regulations of the State of Missouri and the Missouri Public Service Commission.
- Sec. 6.990. Manufactured home sales.**
(See Outdoor sale or lease of vehicles/equipment.)
- Sec. 6.1000. Massage therapy, in home.**
- Adherence to Code of Ordinances. Massage therapy to be conducted as a home occupation where the therapy is to take place in the home of the licensed massage therapist shall meet all requirements of Chapter 28, Division 2 of the Code of Ordinances of the City of Lee's Summit.
 - Inspections. The massage facility shall be available for inspection in accordance with Chapter 28, Division 2 of the Code of Ordinances of the City of Lee's Summit.
 - Intensity of use. There shall be only one licensed therapist per address operating at the home. No more than one room shall be used for massage therapy and the appointment times shall be spaced out during the day to eliminate patients waiting for their massage therapy appointment.
 - Hours of operation. Hours of operation shall be limited to 7:00 a.m. to 9:00 p.m.

Sec. 6.1010. Mining.**A. Permits.**

1. Open face quarry, sand or gravel pit for the purpose of removing, screening, crushing, washing, or storage of clay, stone, gravel; concrete batching plant; asphalt plant; and related industries.
 - a. No permit shall be issued until the location, development plan and method of operation, including necessary structures, have been submitted to and approved in writing by the Commission and Governing Body.
 - b. Such operation shall make provision for the preservation or restoration of the ground surface and cover and shown on the Development Plan.
 - c. The special use permit shall not exceed five years but may be renewed by the Governing Body after public hearing.
 2. Underground mine.
 - a. No permit shall be issued until the location, development plan and method of operation, including necessary structures, have been submitted to and approved in writing by the Commission and Governing Body.
 - b. The permit shall be for a limited period of time not to exceed ten years, and shall be subject to regulations and restrictions prescribed by the Governing Body.
- B.** Prior to initiation of mining activities an application for a special use permit must be submitted that provides the following:
1. Written stipulations that the activity will not have any harmful impacts on the environment (air, water, natural landscape), neighboring residents and businesses, or to livestock.
 2. A specific development plan indicating the extent of the area proposed to be mined and time schedule for completion of mining operations.
 3. Information as to how the operation will be buffered and methods to assure that no harmful off-site impacts will occur.
 4. A transportation plan detailing routes to be used by vehicles serving the site, weight limits and traffic volumes.
 5. Information on hours of operation and procedures (on- and off-site) related to any on-site blasting that might occur.
 6. Profiles describing any proposed subsequent use of the mined-out areas.
 7. Adequate financial bonding for damages.
- C.** The removal area shall be completely enclosed with a fence not less than 6 feet in height.
- D.** An earthen berm shall be provided that shields all operations from ground level view along all property lines.
- E.** Where mining is occurring beneath agriculturally zoned properties the following conditions must be met:
1. All surface access to such underground mine must be from a heavy industrial district.
 2. No activities shall be conducted upon the surface of such mine or mined-out area other than as permitted in the agricultural district.
 3. Exhaust air vents, air shafts or other surface features necessary and incidental to the underground operation shall be enclosed on four sides to a height of at least eight feet. No noxious gas or fumes shall emanate from any exhaust air vent on the surface of such mine or mined-out area. Such facilities shall not exceed 45 feet in height and be no closer than 30 feet to any property line.

Sec. 6.1020. Mini-warehouse facility.

A mini-warehouse facility shall be subject to the following conditions and restrictions:

- A. In any non-industrial district, a mini-warehouse facility must be enclosed on all sides by a wall or earthen berm that shields the development from view.
- B. Colors selected must be of muted shades.
- C. Roof pitch shall be 1:3.

Sec. 6.1030. Oil and gas production.

Oil or gas production shall include wells, storage tanks, tank batteries, cleansers and separators. Oil and gas production shall be subject to the following conditions and restrictions:

- A. Oil or gas production shall meet all requirements of Chapter 18, Lee's Summit General Code of Ordinances, as well as all Missouri State Statutes and regulations of the Missouri Department of Natural Resources and the Environmental Protection Agency.
- B. All state permits shall be obtained prior to application for a special use permit.
- C. Any oil or gas well within 150 feet of a residential district shall be visually screened.
- D. Any storage tank shall be located at least 150 feet from the property line.
- E. Any oil or gas well shall be removed after 180 days of non-production, as determined by production records.

Sec. 6.1040. Off-premise directory signs.

(See Article 9.)

Sec. 6.1050. Outdoor sale or lease of motor vehicles/equipment.

- A. Outdoor sale or lease of motor vehicles (including automobiles, vans, sport utility vehicles (SUV's), trucks less than one ton, personal watercraft or motorcycles) shall be subject to the following conditions:
 1. Motor vehicles must be set back ten feet from all property lines or in compliance with the district's setback lines, whichever is greater.
 2. No fencing is permitted in the area forward of the main building or within the front yard setback if no building exists on the premises.
 3. All display or storage area must be paved and the motor vehicles arranged in an orderly manner.
- B. Outdoor sale or lease of manufactured homes, motor homes, recreational vehicles, boats, trucks one ton or greater, large motorized mainte-

nance, farming or construction equipment, and construction trailers shall be subject to the following conditions:

1. Structures and vehicles for sale, lease or rental, must be set back 30 feet from all property lines or in compliance with the district's setback lines, whichever is greater.
2. No fencing is permitted in the area forward of the main building or within the front yard setback if no building exists on the premises.
3. All display or storage area must be paved and the vehicles/equipment arranged in an orderly manner.

Sec. 6.1060. Outdoor secondary sales of motor vehicles.

Outdoor secondary sales of motor vehicles shall only be permitted as accessory sales at business locations where the primary business is vehicle related subject to the following:

- A. Primary motor vehicle related businesses shall include:
 1. Motor vehicle parts and supply.
 2. Motor vehicle repair services, both minor and major.
- B. Number and placement/display of accessory motor vehicles shall:
 1. Be limited to a maximum of five vehicles at any time.
 2. Be limited to existing parking spaces, for display purposes, in excess of the required parking spaces for the primary business use as determined by the Director on a case by case basis.
- C. Motor vehicle accessory sale locations shall be limited to specific areas identified in Figure 6-1 as follows:
 1. Major arterials. Allowed only within a one-quarter mile wide strip measured one-eighth mile from centerline on each side of the arterial.
 2. Entry gateways. Prohibited within one-quarter mile radius.
 3. Primary intersections. Prohibited within one-eighth mile radius.

- D. Minimum landscaping shall be required:
 1. Between street right-of-way and parking lot display of motor vehicles, and
 2. To include a 30-inch high berm with shrubbery and ornamental trees as approved by the Governing Body
- E. Signage.
 1. One sign per motor vehicle.
 2. Six square feet maximum area.
 3. Located inside motor vehicle

Sec. 6.1070. Penal or correctional institution.

A penal or correctional institution shall be subject to a special use permit.

Sec. 6.1080. Plant nursery, garden center or greenhouse (excluding seasonal sales).

A special use permit is required for a plant nursery, garden center or greenhouse as a primary use located in any district other than an agriculture district. The nursery, garden center or greenhouse shall meet the following restrictions or conditions:

- A. Parking areas for customers must be paved.
- B. Fencing and screening must be provided in accordance with Article 8, Division 3.
- C. All lighting and electrical wiring must meet applicable codes.
- D. All plant stock not enclosed within a structure shall be set back at least 50 feet from a residential property line.
- E. No merchandise shall be within the required yard setbacks.
- F. Greenhouses shall be maintained in good operating conditions.
- G. All outside storage of planting materials (soils, sand, peat moss, etc.), nutrients, pest sprays, etc., shall be screened from view within commercial districts.
- H. See "garden center" as an accessory use if use is accessory to other commercial operations.

Sec. 6.1090. Produce stand, outdoor offsite.

A special use permit is required for an outdoor offsite produce stand. All applicable Jackson County Health Department regulations shall also be met.

Sec. 6.1100. Railroad lines, yards or station.

Sec. 6.1110. Recreational facility or area (outdoor/commercial).

An outdoor commercial recreation facility or area such as an amusement park, a baseball or an athletic field, a race track or fairground with incidental concession facilities, picnic grounds, fishing, swimming and other types of commercial recreation facilities shall be subject to the following conditions and restrictions:

- A. The facilities shall be set back from the boundaries of adjoining property as follows:
 1. The facilities and grounds shall be a sufficient distance from any area zoned or used for residential purposes so that noise, traffic generation and other effects will not adversely impact the residential development.
 2. Where the property adjoins an area zoned or used for residential purposes, no building or facility shall be nearer than on 100 feet and no driveway or parking area shall be nearer than 50 feet of such boundary unless topography or other factors justify a lesser setback.
- B. The design and layout of the facility shall be in a fashion that minimizes sound and light at the property line.
- C. A sound amplification system or any other noise caused by the operation shall not exceed 65 decibels as measured at such boundary.
- D. Outdoor lighting shall be so designed that light sources are not visible from such boundaries and include shields or cutoffs at the light source to redirect light away from such boundaries.

- E. Access to the property shall be directly from arterial streets, and traffic generation and other effects will be handled so as not to adversely affect adjoining property.
- F. Landscaping, berming, or fencing shall be provided as required to minimize adverse effects and in accordance with the provisions of Article 8, Division 3 of this chapter.
- G. A permit may be issued for a specified period as well as for an unlimited time. If the permit is for a specified period of time, the Governing Body may renew the permit upon expiration.

Sec. 6.1120. Recreational facility or area (outdoor/non-commercial).

- A. A special use permit is required for an outdoor non-commercial recreational facility for team sports, for an accessory use to a subdivision, apartment development or church, or for any other non-commercial, principal recreation use if:
 - 1. It is lighted for night use,
 - 2. Is utilized for intensive play for leagues, tournaments or used by teams outside the subdivision, apartment development, church or other principal use to which the facility is accessory,
 - 3. Includes permanent or temporary spectator seating, or
 - 4. Is a baseball or softball field.
- B. The following setbacks from adjoining residentially zoned or used property boundaries shall apply:
 - 1. Courts and fields for one- or two-person teams (e.g., tennis courts) shall be set back at least 50 feet. Courts and fields for three- or more-person teams shall be set back at least 100 feet. All lighted courts and fields shall be set back 100 feet.
 - 2. Spectator seating areas shall be set back from such boundaries at least 100 feet and shall be located and oriented to minimize noise at such boundaries.

- 3. A fence more than six feet in height shall be set back from such boundaries a distance equal to the height of the fence.
- C. The design and layout of the recreation facility on the property shall be in a fashion that minimizes sound and light at the property line.
 - 1. A sound amplification system or any other noise caused by the operation shall not exceed those established by Lee's Summit's Noise Ordinance as measured at such boundary.
 - 2. Outdoor lighting shall be so designed that light sources are not visible from such boundaries and reflectors and baffles at the light sources direct light away from such boundaries.
- D. Access to the property shall be directly from arterial or collector streets, and traffic generation and other effects will be handled so as not to adversely affect adjoining property.
- E. Landscaping, berming, or fencing shall be provided as required to minimize adverse effects.

Sec. 6.1130. Recreational vehicles sales, lease or rental.

(See Outdoor sale or lease of vehicles/equipment.)

Sec. 6.1140. Recycling collection facility.

- A. Definitions.
 - 1. Recycling collection facility. A recycling collection facility is a facility for the deposit or drop-off of recyclable materials. A recycling collection facility is not a salvage yard. Such a facility does not do processing except limited baling, batching, and sorting of materials. It is designed to allow for a combination of bins, boxes, trailers, reverse vending machines, and other containers for the collection of recyclable materials.
 - 2. Recycling processing facility. A recycling processing facility receives material from the public and/or other recycling facilities and uses power-driven machinery to prepare materials for efficient shipment by such means as flattening, sorting, compacting, baling, shredding, grinding and crushing.

- 3. **Recyclable material.** Recyclable material is "feedstock" used for direct conversion to manufactured products. It includes, but is not limited to cans, bottles, plastic, and paper. Items composed of more than one material, such as salvaged vehicular parts, are generally not considered a recyclable material.

B. Applicability.

- 1. A special use permit for a recycling collection facility may be approved in any residential or non-residential district subject to the following conditions and restrictions:
 - a. In a residential district, the facility is located on the grounds of a church or school.
 - b. In all districts, the conditions specified in this section are met.
- 2. This section does not apply to the following facilities:
 - a. Temporary recycling collection facility (See Division IV of this article).
 - b. Recycling processing facility. A recycling processing facility is considered a salvage yard and is subject to a separate special use permit.

C. Conditions of special use permit approval.

- 1. The days and hours of operation are approved by the Governing Body.
- 2. A development plan is submitted showing traffic circulation on the site and showing how the sign, lighting, landscaping and fencing requirements of this chapter will be met.
- 3. Materials are not stored or deposited on the premises in such form or manner that they may be transferred off the premises by natural causes or forces.
- 4. Storage of materials is not allowed outside of the semi-trailers, bins, barrels or other appropriate containers.
- 5. Containers are painted and well maintained.
- 6. The site is kept clean and free of litter and debris, and weeds are controlled.
- 7. Rodents and other pests are controlled.

- 8. Activity is at least 150 feet from other property zoned or used for residential purposes.

Sec. 6.1150. Reservoir, water supply or storage facility.

Sec. 6.1160. Salvage yard, tow lot, scrap yard, junkyard or automobile wrecking yard.

Salvage yard, tow lot, scrap yard, junkyard, automobile wrecking yard or similar operation is subject to the following restrictions and conditions:

- A. The operation shall be enclosed by a fence or wall not less than eight feet in height that provides total visual screening. Such screening shall be maintained in good condition and meet the standards established for buffers in Article 8, Division 3 of this chapter.
- B. The storage of vehicles shall be on an all-weather treatment of asphalt or concrete. Vehicles shall be arranged in rows and not stacked upon one another.
- C. No such activity may be conducted within 100 feet of any property line or 200 feet of any property zoned or used for residential purposes. The incidental sale of auto parts removed from cars on the site shall be permitted.

Sec. 6.1170. Sewage treatment or garbage processing/disposal facility.

A sewage treatment or garbage processing/disposal facility shall meet all requirements of Chapter 18, Lee's Summit General Code of Ordinances and applicable State and Federal laws.

Sec. 6.1180. Solid waste transfer station.

A solid waste transfer station shall be subject to a special use permit.

Sec. 6.1190. Swimming pool, commercial.

Sec. 6.1200. Telecommunication towers/antennas.

- A. **Purpose.** The purpose of these standards is to establish general guidelines for the siting of com-

munication towers, antenna structures and antennas for commercial wireless telecommunications.

B. Goals.

1. Encourage the location of towers, where necessary, in non-residential areas;
2. Encourage the joint use of new and existing telecommunication tower sites and other antenna structures;
3. Encourage telecommunication towers, other antenna structures, and antennas to be configured in a way that minimizes the adverse visual impact on the community;
4. Encourage users of communication towers, other antenna mounts, and antennas to configure them in a way that minimizes the adverse visual impact of those structures;
5. Enhance the ability of the City to ensure that wireless telecommunications services are provided to the community quickly, effectively, and efficiently.

C. Minimize the potential adverse effects associated with telecommunication towers through the implementation of reasonable design, landscaping, and construction practices; and:

1. Conform to Federal and State laws that allow certain antennas to be exempt from local regulations.

D. Definitions.

1. Telecommunications tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like. Terms associated with tower shall mean as follows:
 - a. Alternative communication tower structure shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

b. Antenna shall mean any exterior apparatus or apparatuses designed for telephonic, radio, data, Internet, or television communications through the sending or receiving of electromagnetic waves including equipment attached to a tower or building for the purpose of providing personal wireless services including, for example, cellular, enhanced specialized mobile radio and personal communications services telecommunication services, and its attendant base station.

c. Antenna for non-commercial use shall mean any antenna external to a building, including any supporting structure such as a tower, which is not hand-carried while in use and is used for: Reception or electromagnetic signals, such as radio or television broadcasts or direct satellite television; or for transmission of electromagnetic signals by a licensed amateur radio operator or by means of an Earth-orbiting satellite communications device.

d. Antenna, panel shall mean an antenna or array of antennas that are flat and rectangular and designed to concentrate a radio signal in a particular area. Also, referred to as directional antennas.

e. Antenna support structure shall mean any mast, pole, tripod, tower or similar structure used to support an antenna.

f. Antenna system shall mean the combination of an antenna and antenna support structure.

g. Antenna system height shall mean the overall vertical length of the antenna system above grade. If such system is located on a building, the overall height shall include the height of the building.

h. Antenna tower shall mean a structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. A tower can be free-stand-

- ing (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), or either lattice or monopole construction.
- i. Antenna, whip shall mean an antenna that transmits signals in 360 degrees. They are typically cylindrical in shape and are less than six inches in diameter and measure up to 18 feet in height. Also called omni-directional, pipe, or stick antenna.
 - j. Coaxial cable shall mean a cable consisting of one or more cylinders with a single wire running down the center of each cylinder.
 - k. Mast shall mean any structure or part of an antenna that has vertical dimensions greater than five times its horizontal dimension that supports or lends support to any part of an antenna.
 - l. Microwave shall mean electromagnetic radiation with frequencies higher than 1,000 MHz; highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.
 - m. Microwave radio shall mean a line-of-sight radio transmission using very short wavelengths, corresponding to a frequency of 1,000 megahertz or greater.
 - n. Radio transmitting and receiving antenna shall mean an array or system of wires, tubing and supporting members mounted on a mast, tower or building, used for transmitting and/or receiving radio signals that include, but are not limited to, citizen band and other special frequencies.
 - o. Satellite parabolic or dish receiving antenna shall mean a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, bowl, or cornucopia. Such device shall be used to transmit or receive radio or electromagnetic waves between terrestrially or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas. See: Division IV, Table 6.IV-1 of this article.
 - p. Satellite relay shall mean an active or passive satellite repeater that relays signals between two earth terminals.
 - q. Standard residential receiving antenna shall mean an array made up of small metal tubing and supporting members that are commonly installed on or near residential buildings for the purpose of receiving television or radio signals. See: Division IV, Table 6.IV-1 of this article.
 - r. Telecommunications carrier shall mean a company that provides wireless services. Telecommunication carriers may or may not own the tower they are on; if they are not the owner they are typically leasing the space from a tower company.
 - s. Telecommunications facilities equipment shelter shall mean a facility, shelter, cabinet, shed, or vaults used to house and protect the electronic equipment necessary for processing wireless communications signals. Associated equipment may include, for example, air conditioning, backup power supplies and emergency generators.
 - t. Tower company shall mean a company that owns, operates and maintains the tower infrastructure.
 - u. Tower, guyed shall mean a monopole or lattice tower that is supported, in whole or in part, by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.
 - v. Tower, lattice shall mean a tower characterized by an open frame-work of lateral cross-members that stabilize the structure.

- w. Tower, monopole shall mean a telecommunication tower consisting of a single pole, constructed without guy wires and ground anchors.
 - x. Tower, self-supporting shall mean a lattice telecommunication tower that is constructed without guy wires and ground anchors.
 - y. Wireless telecommunication shall mean the transmission through the air of information in the form of electromagnetic or optical signals; including television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic or optical wireless communication.
 - z. Wireless telecommunication facility shall mean a facility including antennas and transmitting and receiving equipment for wireless telecommunication, including personal wireless services facilities.
- 4. Pre-existing communication tower, other antenna structure, and antenna. A pre-existing communication tower, other pre-existing antenna structure, and pre-existing antenna shall not be required to meet the requirements of this section except upon expiration of an existing special use permit.
 - 5. Principal or accessory use. An antenna, a communication tower, or an antenna structure, and equipment accessory to the same, may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna, telecommunication tower or other antenna structure, and equipment accessory to the same on such lot.
 - 6. Parcel boundaries. For purposes of determining whether the installation of a telecommunication tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

E. Applicability.

- 1. Antenna and antenna structure. An antenna and antenna structure, any portion of which is located within the City of Lee's Summit, shall be subject to this chapter, except as otherwise provided herein.
 - 2. Utility poles. The provisions of this chapter shall not apply to utility poles that are utilized for the support of electrical, telephone, cable television, or other similar cables and wires, are located on public rights-of-ways or easements for that purpose, and are a part of a system of such poles throughout the City of Lee's Summit.
 - 3. Amateur radio, receive-only antenna. The requirements of this section shall not govern any communication tower or the installation of any antenna that is:
 - a. Under 70 feet in height,
 - b. Owned and operated by a federally-licensed amateur radio station operator, or
 - c. Used exclusively for receive-only antennas.
- 7. Non-conforming use. A tower or other antenna structure that is constructed or installed in accordance with the provisions of this chapter, although an addition to the property, shall not be deemed to constitute the expansion of a non-conforming use or structure.

F. General requirements.

- 1. Federal requirements.
 - a. All wireless telecommunication facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antennas.
 - b. If such standards and regulations are changed, then the owner(s) of the wireless telecommunication facility governed

by this chapter shall bring such facility into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.

- c. Failure to bring a wireless telecommunication facility into compliance with such revised standards and regulations shall constitute grounds for the removal of the facility at the owner's expense. Any such removal by the governing authority shall be in the manner provided in this section.

2. Building codes and safety standards.

- a. To ensure the structural integrity of telecommunication towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the International Building Code (IBC) and the applicable standards for towers that are published by the Telecommunications Industry Association (TIA)/Electronic Industries Association (EIA), as amended from time to time. Tower owners shall conduct periodic inspections of telecommunications towers at least once every three years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Missouri. The results of such inspection(s) shall be provided to the Building Official.
- b. If, upon inspection, the Building Official concludes that a tower fails to comply with such codes and standards and is not a danger to persons or property, then a written notice will be sent to the owner of the tower with a copy of said notice to all of the known lease holders. Such notice shall include:
 - (1) A description of the property;
 - (2) A statement of the violation(s) and the reason the notice is being issued;

- (3) Statement that the owner shall have 30 days to bring such tower into compliance; and
- (4) A statement that the owner has a right to appeal the Building Official's findings to the Board of Appeals.

If the tower is not brought into compliance within the stated time period above, an extension may be requested by the owner. The extension request shall be in writing and include a proposed plan of action with a timeframe for completion of the work. The Building Official is authorized to grant in writing one or more extensions of time as deemed reasonable and appropriate; however, the owner shall provide proof that action is being taken. If tower is not brought into compliance within the stated time period and no extension is requested, the City may remove such tower at the owner's expense after notice is sent to the property owner and all known lease holders of a Notice Appeal Hearing and such hearing is held.

If, upon inspection, the Building Official concludes that a tower constitutes a danger to persons or property, then upon written notice being provided to the owner of the tower and any known lease holders, the owner shall have 15 days to inspect the tower and make the necessary repairs. If repairs are not made within the stated time period the City may take whatever action is necessary to remove or lessen the dangerous condition.

- 3. Special use permit. A telecommunications tower shall be subject to a special use permit, in accordance with the following considerations:
 - a. Setbacks. No new tower shall be constructed without setbacks from all property lines a distance equal to the height of the tower as measured from the base of the structure to its highest point or as otherwise authorized by the Governing Body in approval of the special use per-

- mit. Accessory structures shall be governed by the setbacks for that particular zoning district.
- b. Guy anchors. Guy anchor foundations shall be setback a minimum of ten feet from all property lines.
 - c. Separation distances. The following are the required separation distances from other towers and residential:
 - (1) A telecommunications tower over 90 feet in height shall be separated from any other telecommunications tower over 90 feet in height by a distance of at least one mile.
 - (2) A monopole telecommunications tower with all antennae totally concealed within the monopole shall be located a distance equal to the tower height from any existing single-family or two-family dwelling that is not on the same lot with the tower, any property zoned for single-family or two-family residential use, and any property where the future use indicated by the Comprehensive Plan is low density residential use.
 - (3) A monopole, lattice or guyed telecommunication tower with exposed antennae shall be located a distance of one and one-half times the tower height from any existing single-family or two-family dwelling that is not on the same lot with the tower, any property zoned for single-family or two-family residential use, and any property where the future use indicated by the Comprehensive Plan is low density residential use.
 - (4) These separation distances may be waived if the Governing Body legislatively determines the application of these requirements would effectively prevent the provision of wireless telecommunications services within the City.
 - d. Lighting. A telecommunications tower or other antenna structure shall not be artificially lighted unless such lighting is required by the FAA or other applicable authority. If lighting is required, the Governing Body may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Security lighting around the base of a communications tower or other antenna structure may be installed if the lighting complies with Article 8, Division 1 and no light is directed toward adjacent properties or rights-of-way.
 - e. Signage. Signs located at the telecommunications tower shall be limited to ownership, contact information, the FCC antenna registration number and any other warning signs required by the FCC. Commercial advertising is strictly prohibited.
 - f. Landscaping. A telecommunications tower facility shall be landscaped in accordance with Article 8, Division III to provide a buffer of plant materials that effectively screen the view of the telecommunications tower base and accessory structures from adjacent property. This may be waived by the Governing Body where natural growth and land forms provide an equivalent buffer. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be reduced or waived by the Governing Body.
 - g. Parking areas and drives. Parking areas and drives associated with the telecommunications tower shall be paved in accordance with this chapter and the Design and Construction Manual or as otherwise authorized by the Governing Body in the approval of a special use permit after making a determination that additional impervious coverage is not in the best interest of adjacent property owners.

- h. Security fencing. A telecommunications tower shall be enclosed by fencing not less than six feet in height and equipped with an appropriate anti-climbing device. The type of fence shall be in accordance with Article 8, Division III or as otherwise authorized by the Governing Body in the approval of the special use permit.
- i. Visual impact. To limit the visual impact of a telecommunications tower, to the extent feasible, the tower shall be:
 - (1) Located away from key public viewpoints;
 - (2) Located down-slope from the top of ridge lines, so that from key public viewpoints, a smaller portion of the height of the tower is viewed against the sky;
 - (3) Placed within forested areas with antennas just above the treeline;
 - (4) Located or be of such a height not to necessitate FAA coloring and lighting;
 - (5) Located in industrial areas;
 - (6) Of the minimum height necessary for operation of the telecommunication system, considering the visual trade-off of a greater number of towers at lower heights; and
 - (7) Located outside historic districts designated by the Governing Body and located unobtrusively so as not to be visible from historic structures.
- j. View of accessory equipment. Mobile or immobile equipment not used in direct support of a wireless telecommunications facility shall not be stored or parked on the site of the facility, unless repairs to the facility are being made.
- k. Design. The following standards shall apply:
 - (1) A telecommunications tower shall, subject of any applicable standards of the FAA, be painted a neutral color approved by the Governing Body, so as to reduce visual obtrusiveness;
 - (2) At a telecommunications tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment;
 - (3) If an antenna is installed on an antenna structure other than a telecommunications tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the antenna structure so as to make the antenna and related equipment as visually unobtrusive as possible; and
 - (4) Tower design will be evaluated on a case by case basis utilizing the following design preferences:
 - (a) Monopoles are highly encouraged;
 - (b) Stealth technology shall be incorporated into the placement of antenna utilizing architectural elements or structures whenever feasible. Such antenna placement is appropriate around window frames, doorways, along guttering, incorporated into penthouses, cupolas, steeples, etc.;
 - (c) Towers are to be architecturally compatible to the surrounding development(s); and
 - (d) However, the Governing Body shall not mandate design requirements which have been found to be unreasonable under Missouri law.
- 4. Accessory uses.
 - a. Accessory uses shall include only such structures and equipment as are necessary for transmission and receiving functions and satellite ground stations asso-

- ciated with them and shall not include broadcast studios, offices, vehicle storage area, or other similar uses.
- b. Accessory uses/structures shall be placed in an underground vault when located within visual sight of an historic property, or adjacent to or within the public right-of-way.
 - c. Accessory structures shall be in compliance with the requirements of this chapter.
5. Exceptions. The Governing Body may reduce the requirements of this section if the goals of this section would be better served thereby.
- G. Shared use (co-location). Although not required pursuant to this chapter, co-location is encouraged and supported by the City in the process of siting new facilities.
- H. All telecommunications towers over 50 feet in height shall be designed to accommodate antennas for more than one user.
- I. Abandonment and removal. If the use of any antenna mounted on a telecommunications tower ceases, and the antenna is not used for a continuous period of 12 months, the antenna shall be considered abandoned, and the owner of such antenna and tower shall remove it within 90 days of receipt of notice from the City notifying the owner of such abandonment. If such antenna and tower is not removed within said 90 days, the City may remove such antenna and tower at the owner's expense. In the event the owner is defunct or cannot be located, the property owner shall be held jointly and severally responsible for the removal of abandoned facilities. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the antennas on the tower.
- J. Replacement or alteration of an existing communication tower.
1. The Director may approve the replacement or alteration of an existing telecommunications tower under a current and valid special use permit if:
 - a. All conditions of this article are otherwise met.
 - b. The replacement or alteration does not result in an increase in height at or above 25 percent of the height of the existing telecommunications tower.
 2. All other replacements or alterations of telecommunications towers shall require a special use permit.
- K. Required submittals. The following items are required for any new tower application, existing tower renewal, or co-locate as indicated:
1. New towers. New towers require the submittal of the following items:
 - a. A preliminary development plan per Article 2;
 - b. A special use permit as detailed in this division; and
 - c. Supplemental technical studies as detailed below.
 2. Existing towers. The following items are required for existing telecommunication towers:
 - a. A special use permit renewal per this division; and
 - b. Supplemental technical studies as detailed below.
 3. Administratively-approved uses. The following uses (co-locations) are specifically permitted without a special use permit, subject to approval of a final development plan. The application shall follow the procedures set forth in Article 2:
 - a. Installing an antenna on an existing structure other than a telecommunications tower (such as a building, sign, light pole, water tower, or other free-standing non-residential structure), provided that:
 - (1) Such structure is not designated as a historic structure by the Governing Body,
 - (2) The antenna does not extend horizontally from the side of such structure farther than the minimum necessary for attachment, and
 - (3) Where the antenna extends horizontally from the side of a building, it is

- camouflaged by the use of materials, colors, textures, or screening that will visually blend the antenna into the building.
- b. Installing an antenna on any existing telecommunications tower of any height, including the placement of additional mounts or other supporting equipment used in connection with said antenna.
4. The Director, Commission, or Governing Body may require additional technical studies deemed necessary to fully evaluate the application. Should the services of an outside consultant be needed to evaluate any such technical studies, the cost of such services shall be borne by the applicant.
 5. Where required by the Director as essential to the evaluation of a proposed location, proposed mounting of an antenna shall be shown by an accurately-scaled photo simulation, from not less than three viewpoints approved by the Director.
 6. A map of the City and the first half-mile of all bordering communities showing the design of the applicant's entire existing and proposed wireless telecommunications network. Such map shall, at a minimum, indicate the exact location of all proposed and existing tower and antenna sites, their dimensions, specifications, and signal area coverage.
 7. Color photo simulations from several different angles showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property or properties and from adjacent roadways.
 8. A structural integrity study completed and certified by a licensed professional engineer. The study should include, at a minimum, the following items:
 - a. Tower type, age, manufacturer, model number, and all current and proposed antennas and their owners;
 - b. A review of wind and ice load design criteria under current conditions and with the proposed additions/changes; and
 - c. A statement indicating the condition of the tower's foundation.
 9. Tower owners shall provide documentation (i.e., a copy of the FCC Antenna Structure Registration and any other relevant documents) indicating that each telecommunications tower is in compliance with all federal requirements. A statement declaring that the existing tower is still in compliance and will remain so after any proposed alterations or additions shall be submitted when the structure is altered or antenna(s) added.
 10. A copy of an inspection report current within the last three years.
 11. Proof of general liability insurance for claims from injury or death and property damage in an amount approved by the City, but not less than \$2,000,000.00 per occurrence for personal injury and \$2,000,000.00 per occurrence for property damage with the City listed as an additional insured.
 12. The tower owner and/or landowner shall promptly notify the city within 30 days by certified or registered mail of the sale, transfer, or assignment of any tower or telecommunications facility. Each co-location shall be conditioned upon the co-locate obtaining the necessary approvals for the subject facility or site from the City prior to siting such facility.
- L. Pre-existing towers/non-conforming uses. All nonconforming telecommunication towers installed and in use on November 1, 2001 (which was the effective date of the Unified Development Ordinance) shall be allowed to continue their present usage as a legal non-conforming use and shall be treated as a non-conforming use in accordance with Article 10 of the UDO. Periodic structural integrity and inspection reports shall be submitted as required by this article.
 - M. Maintenance. Routine maintenance on an existing telecommunications tower shall be permitted without need for a new application unless the structure is being altered beyond what currently exists per the latest approved plan.

- N. Denial. Upon denial of a special use permit tower application by the Governing Body the applicant or any other person, official or agency who is aggrieved by the final decision may appeal the denial pursuant to Article 2. Upon denial of an administrative use, the applicant or any other person, official or agency who is aggrieved by the decision may appeal the denial pursuant to Article 11. In either case, written findings shall be made available to the applicant. The findings should recite the requirements of the ordinance and the failure of the applicant to meet one or more of them.
- O. Preemption. Nothing in this section shall apply to any application or circumstances where to do so would violate applicable and valid provisions of federal law or laws of the State of Missouri.

Sec. 6.1210. Theater, drive-in.

Sec. 6.1220. Theater, performing arts.

Sec. 6.1230. Tow lot.

(See Salvage yard, tow lot, scrap yard, junkyard or automobile wrecking yard.)

Sec. 6.1240. Travel trailer camp.

A travel trailer camp shall meet the following restrictions and conditions:

- A. Site criteria. The site selected for a travel trailer camp area shall be well drained and primarily designed to provide space for short-term occupancy to the traveling public. Location of the site may not necessarily front on a major roadway or thoroughfare, but it shall be directly accessible to the major roadway by means of a private road or public road on which it has frontage.
- B. Site size and ownership. The minimum tract size shall be five acres and must be in one ownership.
- C. Density. The maximum number of travel trailer spaces allowed within the travel trailer camp shall not be more than 20 per acre. Consideration shall be given to whether the camp and the density level are designed accordingly. The densities of overnight use may be higher than destination type since it primarily serves as a short

stopping point, while the destination type camp located at or near a scenic historical or outdoor recreational area provides for longer and extended stays of several days or weeks.

- D. Space design. Minimum width of a trailer space shall be 25 feet and it shall be so designed to provide space for parking both the trailer and towing vehicle off the roadway. No trailer unit shall be closer than ten feet to any other adjacent unit, structure or roadway and all spaces shall have direct access to the roadway. No unit shall be placed closer than 30 feet to any of the development property lines and shall be permanently maintained as a landscaped area.
- E. Common open space. The minimum open area required for a common use of the trailer camp shall not be less than ten percent of the gross area of the camp. Common open space shall be calculated as any open unoccupied area remaining after the dwelling spaces, buildings, roadways or streets, parking areas and the ten-foot permanent perimeter areas have been deducted. This open space shall be landscaped or otherwise designed and made available for recreational use.
- F. Parking areas. All parking areas and roadways shall be constructed and paved with a hard surface bituminous or concrete material.
- G. Lighting. The camp shall be provided with general outdoor lighting with a minimum of 0.3 foot-candles of general illumination.
- H. Landscaping. All yard areas and other open spaces not otherwise paved or occupied by structures shall be landscaped and shall be maintained.
- I. Central office. A central office or convenience establishment with an attendant shall be provided within the trailer camp to register guests and provide service and supervision to the camp.

Sec. 6.1250. Truck sales, lease or rental.

(See Outdoor sale or lease of vehicles/equipment.)

Sec. 6.1260. Underground space.**A. Defined.**

1. An underground space is space located entirely beneath the ground surface, except for entrances or portals, ventilation shafts and equipment and surface utility easements.
2. A special use permit for an underground space shall provide regulation of surface and underground (subterranean) uses that share the same vertical plane, but may be used differently than the ground surface.

B. Permitted uses.

1. Administrative and business offices.
2. Professional offices.
3. Arts and crafts studios.
4. Building and grounds maintenance services.
5. Commercial embalming services.
6. Exterminating services.
7. Laundry services.
8. Research services.
9. Light industrial uses.

C. The uses permitted on the surface above any underground space shall not be affected by the uses approved for the underground space.

D. Access to the underground uses shall be by rights-of-way through non-residentially-zoned lands.

E. Underground or bulk storage of chemicals outdoors shall be prohibited except for incidental storage in connection with testing services.

F. Underground space shall be developed in accordance with the provisions of Subterranean Space Building/Fire Code for the City of Lee's Summit, Missouri. In addition to information required of all development plans related to above and below ground conditions and improvements, plans for underground space shall contain the following elements:

1. Limits of the underground space.
2. Locations, size, pattern and spacing of pillars.
3. Location of existing and proposed portal entrances with a horizontal accuracy of plus or minus one foot.
4. Areas of other mines directly adjacent (within 100 yards).
5. Location of ventilation equipment and utility installations. These shall be screened from surrounding uses located within 300 feet away or they shall be contained in a structure that is architecturally compatible with surrounding development.
6. Location of all entrances, loading areas, portals and other exits. These shall be buffered with landscape materials in conjunction with earthen berms.

Highway Buffer and Gateways for Auto Related Uses

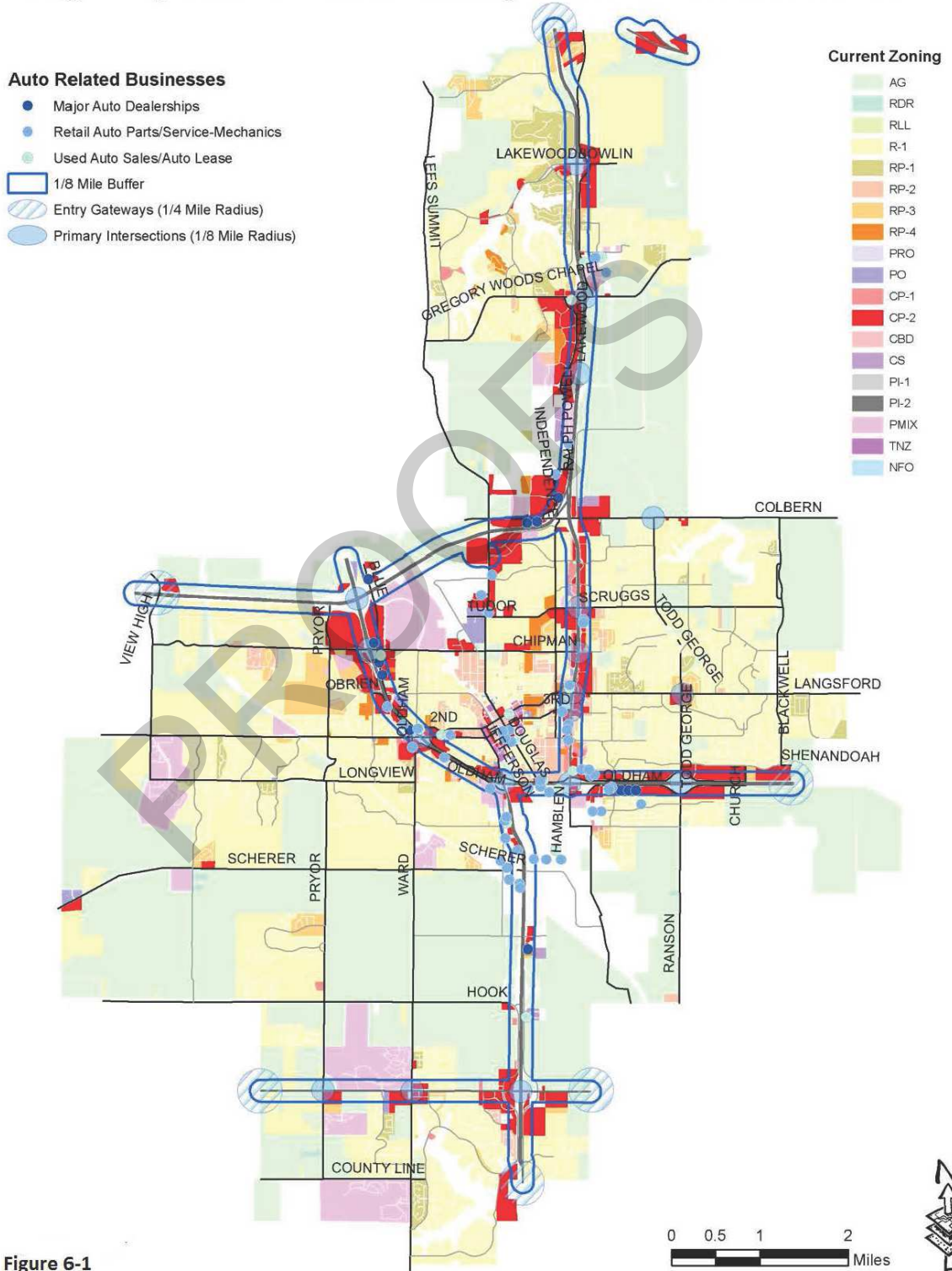


Figure 6-1

Secs. 6.1270—6.1300. Reserved.

DIVISION IV. ACCESSORY USES AND STRUCTURES

SUBDIVISION 1. GENERAL REQUIREMENTS FOR ACCESSORY USES AND STRUCTURES

Sec. 6.1310. Intent, definition and interpretation.

It is the intent of this article to regard certain uses and structures as being accessory to the principal use of the premises so that they may be carried on under the umbrella of the principal use. A use or structure will be considered "accessory" when it is being used in conjunction with the principal use and is incidental and integrally related to the principal use. All accessory structures are listed in Table 6.IV-1 with their respective requirements. Accessory structures not listed in Table 6.IV-1 shall be submitted to the Director for consideration and interpretation. An interpretation made by the Director may be appealed through the process provided for in Article 14 of this chapter.

Sec. 6.1320. Relationship to principal use.

- A. No accessory use or structure shall be allowed on any lot, except in the AG, Agricultural district, unless it is accessory to an existing principal use or structure on the lot on which it is to be located.
- B. Accessory structures shall not be permitted in a required front or side yard except as specifically provided in Table 6.IV-1.
- C. Residential accessory uses shall not be rented or occupied for financial consideration, except for an accessory dwelling unit as further provided for in this chapter.
- D. Construction of an accessory structure shall not commence until construction of the principal building has commenced.
- E. On a corner lot no accessory structure shall be located closer to the side street right-of-way line than the building setback line for the principal structure.
- F. When an accessory structure is attached to the principal structure by a breezeway, passageway,

or similar means, or is located within ten feet of the principal structure it shall comply with the yard requirements of the principal structure to which it is accessory.

- G. Accessory structures located in non-residential districts shall only be used by the owner, employees of the owner, or tenant of the premises.
- H. Accessory structures located in residential districts shall only be used by the owner or tenant of the principal structure located on premises except as further limited herein.

Sec. 6.1330. Location, number and height of accessory use/structure.

- A. Location and location exceptions. No accessory use or structure permitted by this article may be located except as specifically authorized in this article. (See Table 6.IV-1 "Special Conditions" for location and location exceptions.)
- B. Encroachments into easements or right-of-way. See City of Lee's Summit Encroachment Policy.
- C. Number. Any number of accessory structures is permitted provided that the lot coverage is not exceeded, except as further limited herein. The maximum impervious coverage for all residential uses in any district shall be 60 percent.
- D. Height requirements. (See Table 6.IV-1)

SUBDIVISION 2. PERMITTED ACCESSORY USES AND STRUCTURES

Sec. 6.1340. AG Agricultural District—Permitted accessory uses and structures.

- A. All uses listed in Section 6.1350.
- B. A second single-family dwelling, provided the primary and accessory dwellings are on the same parcel of land under single ownership and the parcel contains a minimum of ten acres.
- C. Loft dwelling above detached garage, barn or other such storage structure, provided:
 - 1. Additional parking is provided on site to accommodate the separate dwelling unit, other than the driveway for the principal structure;

2. Building codes can be met as they relate to the separation requirements between the structure and residential living unit; and
 3. One loft dwelling unit may be established above each structure listed above not to exceed three such loft dwelling units.
- D. Accessory dwelling units may also be laterally attached to accessory structures provided:
1. Additional parking is provided on site to accommodate the separate dwelling unit, other than the driveway for the principal structure;
 2. Building codes can be met as they relate to the separation requirements between the structure and residential living unit; and
 3. One accessory dwelling unit may be laterally attached to each structure listed above not to exceed three such attached dwelling units.
- E. Irrigation equipment used to water crops, such as a pump, pump housing, piping and compressor used to transfer and distribute water.
- F. Kennel. A commercial kennel with outside runs shall be located not less than 200 feet from residentially zoned property.
- G. Livestock pasturing.
1. Minimum parcel size: Ten acres;
 2. Minimum parcel size per animal: 5,000 square feet fenced area.
- H. Paved, gravel or grass storage areas for operational equipment and materials for any agricultural operation.
- I. Repair shop, windmill, shed, garage, barn, silo, windmill, bunk house or any incidental structure commonly required to serve the principal use.
- J. Roadside stand not exceeding 200 square feet offering for sale only products produced on the premises.
- K. Stable.
1. Minimum lot area: Ten acres.
 2. Setbacks (minimum):
 - a. Front yard: 100 feet.
 - b. Side yard/rear yard: 30 feet.
- c. From residentially zoned property: 200 feet.
3. Maximum of one horse, pony or mule per acre shall be kept.
 4. All premises where stables or animals are kept shall be in compliance with all applicable state, county and city sanitary and health regulations.
- L. Wells (not including oil or gas), ponds or lakes.

Sec. 6.1350. Residential districts—Permitted accessory uses and structures.

The following accessory uses and structures are permitted in residential zoning districts including, RDR, RLL, R-1, RP-1, RP-2, RP-3, RP-4, and TNZ:

- A. "Day care home" is a permitted accessory use to a principal residential use. "Day care home" is defined as a family home in which a day care provider resides and provides family-like care for one to four persons not related to the day care provider, for any part of the 24-hour day, without overnight stays. The residential accessory use does not include "day care, group," with five to ten persons, which requires a special use permit in certain residential districts and is a permitted use in certain commercial districts. (See Definitions in Article 15 and Permitted and Special Uses in Article 4.)
- B. Deck, porch, gazebo, arbor, and patio.
1. Decks are limited to the side and rear yard.
 2. Uncovered front porches may be constructed of materials listed in Subsection B.4. below provided the walking surface does not exceed a height of 30 inches measured from ground level and provided it does not encroach into the required front yard by more than five feet.
 3. Covered front porches may be constructed of materials listed in Subsection B.4. below provided they do not encroach into the required front yard and provided the supporting structure

underneath the walking surface is totally screened or enclosed by like materials or landscaping, not to include lattice.

4. Uncovered front porches not encroaching into the required front yard may be constructed of wood, composite materials, wrought iron, metal or masonry.
 5. Uncovered attached decks, associated with detached single-family and two-family laterally attached homes may encroach into a required rear yard by five feet. Attached decks on all other
 6. Gazebos may be attached to decks but must follow the setback requirements and not exceed the height of the principal structure.
 7. Arbors may be located in front, side and rear yards as decorative yard features provided no visual impairment to site distance triangles, as defined in Article 8, Division 1, is created.
 8. Concrete at-grade patios may extend to the property line provided that storm water runoff/discharge is not directed onto adjacent property creating a nuisance.
- C. Fence or wall.
1. Fence materials: Only wood, vinyl, steel, masonry or wrought iron materials may be used for residential fence construction.
 2. A fence or wall may be constructed to a maximum height of six feet above the average grade without a permit being required.
 - a. If a fence or wall exceeds six feet in height, a building permit for a fence shall be obtained from the Building Official.
 - b. A building permit for a fence shall be required for the replacement or reconstruction of 50 percent or more of the entire linear length of an existing fence that exceeds six feet in height.
 - c. A fence or wall exceeding six feet in height (including a retaining wall) that is required as part of a preliminary development plan shall have final development plan approval prior to the issuance of any fence permit.
 3. A retaining wall may be permitted where it is reasonably necessary due to the changes in slope on the site, where the wall is located at least two feet from any street right-of-way, and where the wall does not extend more than six inches above the ground level of the land being retained unless the building code requires a guardrail for safety purposes. (See also the city's encroachment policy for additional restrictions.)
 4. A fence or wall constructed prior to the adoption of this chapter that does not meet the standards of this article, but which met previous codes of the city when originally constructed, may be replaced and maintained resulting in a fence of the same size, type and material. However, no fence shall be replaced or reconstructed in a manner that obstructs the sight triangles as defined in Article 8, Division I of this chapter.
 5. In residential districts, the following restrictions and standards shall apply to all fences and walls (See also Table 6.IV-1):
 - a. Front yard. A decorative wall, or fence consisting of slats with a minimum of two-inch spacing not exceeding four feet in height may be constructed in a front yard and extend to the property line provided no sight distance triangle is compromised.
 - b. Rear yard. A fence or wall up to six feet in height may be constructed on the rear property line, subject to further restrictions of the city's encroachment policy.

- c. Side yard. A fence or wall may be constructed on the side property line provided that:
- A fence or wall over four feet in height shall not extend beyond the face of the house on the lot on which the house is located.
 - A fence or wall up to four feet or less in height may extend to the front property line, provided it does not obstruct the sight triangle and provided the fence materials meet the same requirements of (a) above for fences or walls extending into the front yard.
6. Subdivision fence, wall, entry monument/feature.
- a. Entry monument signs shall be governed by Article 9 of this chapter. A sign permit shall be obtained prior to installation of any sign.
 - b. Entry features such as decorative fences, walls, water features, and structures, that span the city right-of-way, and guard house/gatehouse are allowed provided they receive a license agreement and approval from the Governing Body.
7. Design standards.
- a. A fence or wall shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
 - b. All fence segments abutting an arterial or collector street, except on corner lots, shall provide one gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.
8. See the city's encroachment policy for additional restrictions on location of fences, walls, retaining walls, or other structures or features.
- D. Flag pole.
- E. Garage, carport or shed.
1. For any one-family or two-family dwelling, there shall be permitted one detached garage or storage building/shed. An attached garage or carport shall be subject to the same required setbacks as the main structure, unless access is from an alley. In this case the setback is the same as a detached garage or shed. A detached garage or shed shall be subject to the setbacks required for detached accessory buildings. (See Table 6.IV-1 for required setbacks, height/size limitations, and special conditions.)
 2. Carports may be attached to a detached garage or shed provided the carport does not exceed the size of the detached garage or shed.
 3. For any multi-family residential development, a detached garage or storage shed shall be subject to the setbacks required for detached accessory buildings.
 4. In all residential districts, the design and construction of any detached garage, carport (when approved as part of a PDP) or storage building/shed, larger than 120 square feet, shall be similar to or compatible with the design and construction of the main building. The exterior building materials and colors shall be similar to the main building or shall be commonly associated with residential construction.
 5. For any permitted non-residential use in a residential district (such as a church or school), a detached garage or storage shed shall be permitted provided the design and construction is compatible with the main building and the residential district requirements are not exceeded in the particular district in which located.
- F. Garden.
- G. Gatehouse/guardhouse at entrance to a subdivision or multi-family development. (See subdivision fence, wall, entry monument/feature above.)

- H. Greenhouse, non-commercial.
- I. Guesthouse.
- J. Hobby shop. A hobby shop may be operated as an accessory use by the occupant of a residential unit purely for personal enjoyment, amusement or recreation; provided that, the articles produced or constructed are not sold on the premises and provided that, such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes.
- K. Home occupation (see Section 6.1400).
- L. Horse pasturing, non-commercial. Horses may be pastured in RDR, RLL and R-1 districts provided the following conditions are met:
 1. Minimum lot size: One acre.
 2. Setbacks: None, except if a small structure is to be used in conjunction with the pasturing for providing shelter in inclement weather, then the structure shall be set back from all property lines a minimum of 30 feet.
 3. Accessory structure shall not exceed 250 square feet per acre not to exceed 1,000 square feet, or the height of the principal dwelling.
 4. Maximum of one horse per acre.
 5. Horse pasturing is not to be used for commercial gain and is only to be used for the pleasure of the owner or current occupants of the principal dwelling located on the same lot.
- M. Loft dwelling unit above detached garage. A single loft dwelling unit above a detached garage is permitted as an accessory use to a permitted single-family residential use in all "R" districts, except in R-1 districts within the "Old Lee's Summit" area as described in the Downtown Master Plan (see Division III of this article, Special Use Permits), provided:
 1. Additional parking is provided on site to accommodate the separate dwelling unit, other than the driveway for the principal structure;
 2. Building codes can be met as they relate to the separation requirements between the garage and residential living unit; and
 3. Loft dwelling units to be located within R-1 single-family zoning districts shall only be permitted on lots equal to 15,000 square feet or larger.
- N. Play house and play equipment including a jungle gym, skate board/bicycle ramp, swing set and similar structures.
- O. Recreational facility, non-commercial (outdoor), except as provided in Division III of this article, Special Use Permits. A non-commercial recreational facility is any outdoor playground, facility, baseball field, softball field, or any other outdoor non-commercial recreational use, which is an accessory use to a single-family residential use, a single-family residential subdivision, a medium- or high-density residential development, or a church, and which meets the following conditions:
 1. It shall not be lighted for night use.
 2. It shall not be utilized for intensive play for leagues, tournaments or used by teams outside the subdivision, apartment development, church or other principal use to which the facility is accessory.
 3. No permanent or temporary spectator seating shall be provided.
 4. The following setbacks from adjoining residentially zoned or used property shall apply:
 - a. Playgrounds for day care services for more than ten children shall be set back at least 20 feet.
 - b. Courts and fields for one- or two-person teams (e.g., tennis courts) shall be set back at least 50 feet. Courts and fields for three or more person teams shall be set back at least 100 feet.

- c. A fence more than six feet in height shall be set back from such boundaries a distance equal to the height of the fence.
- d. A batting cage shall only be located on a minimum lot size of one acre provided it is located no closer than 50 feet to any other residential structure.
- 5. The minimum lot area for an outdoor recreational facility for three- or more-person teams, including baseball and softball fields, shall be a minimum of one acre.
- 6. Backstops or other fencing shall be provided if needed to prevent encroachment of balls or other activities onto adjacent property.
- 7. The design and layout of the recreational facility on the property shall be such that it minimizes sound and light at the property line.
- 8. Access to the recreational facilities and to the property on which the recreational facility is located shall be designed to minimize the adverse impact on residential properties.
- 9. Landscaping, berming, or fencing shall be provided if needed to minimize adverse effects.
- P. Satellite dish antennae not exceeding one meter in diameter and attached to the principal structure.
- Q. Signs per Article 9 of this chapter.
- R. Solar collector (see Section 6.1450).
- S. Sport court (same as tennis court).
- T. Swimming pool, private.
- U. Swimming pool, subdivision (see Davison II of this article for conditions).
- V. Tennis court.

Sec. 6.1360. Commercial and industrial districts—Permitted accessory uses and structures.

- A. Dwelling unit for security, management or maintenance personnel.
- B. Fences and walls.
 - 1. Location. Fences and walls may be constructed on any side or rear property line but shall not be located in any required front yard setback or be closer to any public or private street than the required setback for a building. (See also the city encroachment policy for additional restrictions.)
 - 2. Fence materials may include those listed for residential uses as well as chain link. However, chain link fences shall not be used for screening purposes as slats are prohibited. Chain link may only be used for screening purposes when used in combination with evergreen trees or shrubs, planted on the outside of the fence, providing an opaque screen that satisfies the screening requirements in Article 8, Division III of this chapter.
- C. Flag poles.
- D. Food service and vending machines for tenants or employees.
- E. Gate house.
- F. Garden center. A garden center as an accessory use to a commercial center shall be fully contained within a screened -portion of the primary structure.
- G. Outdoor patios/decks. The following outdoor patios/decks shall be allowed as accessory uses with the conditions stated:
 - 1. Strip centers/in-line tenant space.
 - a. Outdoor patios/decks shall be set back a minimum of 100 linear feet from a residential district.
 - b. Outdoor patios/decks adjacent to a residential district shall:
 - (1) Provide a screened masonry wall from eight to ten feet in height around the patio/deck sides facing the residential district for the purpose of

establishing a visual screen and block noise emanating from the patio area to the residential district. The wall height shall be sufficient to obscure the sight to the outdoor patio/deck from any adjacent residential dwelling's viewing station including patio, deck or window.

- (2) Outdoor patios/decks that cannot meet the screening requirement of Subsection a. above are prohibited unless approved by the City Council.

Exception: When located within a development with a perimeter fence screen that provides the visual obscurity required in Subsection (1) above, then a six-foot height masonry screen wall shall be utilized for noise control.

2. Standalone/pad site.

a. Outdoor patios/decks associated with standalone and pad site businesses shall:

- (1) Provide a minimum setback of 100 feet to any residential district.
- (2) Provide four-foot high security fencing around the patio/deck area when no residential adjacent property exists.
- (3) Provide a screened masonry wall from eight to ten feet in height around the patio/deck sides when adjacent to residential.
- (4) Provide noise control as further established below.

b. Outdoor patios/decks located in front of businesses on a sidewalk shall:

- (1) Provide four-foot security fencing around the patio/deck perimeter.
- (2) Provide noise control as further established below.

3. Noise control for both in-line and standalone businesses shall be established per City Code.

H. Parking and loading areas.

I. Private/public parking structure.

J. Satellite dish antennae.

K. Signs per Article 9 of this chapter.

L. Solar collector (see Section 6.1450).

M. Storage lot for vehicles engaged in the business. Per approved development plan or special use permit.

N. Swimming pool, private. An indoor or outdoor swimming pool shall be allowed as an accessory structure/use to the following uses provided the district setbacks can be met:

- 1. Fitness centers.
- 2. Motels/hotels.
- 3. Multi-family dwellings, garden apartment buildings/complexes.
- 4. Clubs and organizations such as a YMCA.

Sec. 6.1370. Commercial and industrial facilities—Permitted accessory uses.

The following are accessory uses inside commercial and industrial facilities 60,000 square feet or larger provided that not more than 25 percent of the facility may be occupied by such accessory use or uses:

- A. Barber shops and hair salons;
- B. Banks and financial institutions;
- C. Blue printing, graphics and photostatting services;
- D. Business equipment, marketing display and repair;
- E. Child care services;
- F. Dry cleaning and laundry pickup and delivery;
- G. Florist;
- H. Gift shop;
- I. Newsstand;
- J. Optometrist and customary eye wear sales and service;
- K. Pharmacy/drug store;
- L. Restaurant/cafeteria;
- M. Vending machines.

Sec. 6.1380. Accessory uses permitted by interpretation.

Uses other than those listed herein may be determined to be accessory uses in any district based upon interpretation by the Director.

SUBDIVISION 3. SPECIALTY ACCESSORY USES**Sec. 6.1390. Accessory use in religious, educational and community buildings.**

Child care center, pre-school, Mother's Day Out and similar programs shall be permitted as an accessory use in religious, educational and community buildings.

Sec. 6.1400. Home occupation—Accessory use in residential dwelling.

Home occupations shall be permitted as an accessory use in residential dwellings in any district subject to the following provisions:

- A. Purpose and intent. It is the purpose and intent of these requirements to:
1. Maintain neighborhood integrity and preserve the residential character of neighborhoods by encouraging compatible land uses;
 2. Provide residents of the City with an option to utilize their residences as places to enhance or fulfill personal economic goals as long as the choice of home occupations does not infringe on the residential rights of neighbors;
 3. Establish criteria for operating home occupations in dwelling units; and
 4. Ensure that public and private services such as streets, sewers, water or utility systems are not burdened by home occupations to the extent that usage significantly exceeds that which is normally associated with a residence.
- B. General provisions. Home occupations shall be permitted as accessory uses within principal residential dwellings in any district pro-

vided they meet the following conditions and all requirements of the district in which located:

1. The home occupation must be clearly incidental and secondary to the primary residential use of the dwelling;
2. The home occupation must not change the outside appearance of the dwelling;
3. Exterior signage for a home occupation is prohibited;
4. The home occupation must not generate traffic, parking, sewerage or water use in excess of what is normal or customary in a residential neighborhood;
5. The home occupation shall not create a hazard to person or property, result in electrical interference, or become a nuisance in the neighborhood;
6. No outside storage of any kind related to the home occupation shall be permitted;
7. No persons other than self or family members residing on the premises, plus one additional person not residing on the premises, shall be employed or involved in any business activity related to the home occupation on the premises;
8. No more than 25 percent of the gross floor area of the dwelling unit shall be used for the operation of the home occupation. No accessory buildings shall be used in conjunction with a home occupation;
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 one 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;

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:
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.
 7. Upholstery and furniture making;
 8. Horse pasturing (does not include the accessory use of same);
 9. Pet grooming, except when:
 - a. Only one animal is groomed or kept on the premises at a time, except for pets owned by the groomer,
 - b. Only one person shall perform grooming services on the premises,
 - c. All grooming activities shall be by appointment only,
 - 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 animals shall be groomed per day;
 10. Animal grooming (except as provided in Subsection 8. above), 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, where photographs are taken on the premises, 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.

14. Massage therapy, (to be conducted in the licensed massage therapist's home) unless specifically approved as a special use under Division III of this article.

- E. Any proposed home occupation not specifically prohibited in this section may be permitted provided that all conditions listed above are observed.

Sec. 6.1410. 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.

Sec. 6.1420. Hotel and motel—Related accessory uses.

The following uses are accessory uses within a hotel or motel provided the use is located within the main hotel building and designed to serve the occupants and patrons of the hotel or motel: Restaurants; clubs; drinking establishments; banquet rooms; package sales of alcoholic liquor or cereal malt beverages;

sales of notions; newsstands; vending machines; barber shops and hair salons; arcades; and flower and gift shops.

Sec. 6.1430. Kennel—Accessory use to veterinarian.

Kennels for small animals shall be subject to the following conditions:

- A. A kennel with outside runs as an accessory use to a veterinarian shall be located at least 100 feet from any property zoned or used for residential purposes.

Sec. 6.1440. Outdoor storage in PI industrial districts—Accessory use.

In PI industrial districts, outside storage is restricted to new products manufactured or assembled on site or such materials that are used in conduct of the business and which shall meet the following conditions:

- A. The outside storage is to be located on land owned by, leased by, or under the control of the users.
- B. Outside storage shall be restricted to side or rear yards not within required yards and shall be screened from view of neighboring properties.
- C. Outside storage areas are to be properly screened by means of a solid, sight-obscuring fence, not less than six feet in height. A living screen may be substituted for the fence providing said screen shall provide a solid screen at planting. Fences used as screening directly adjacent to land zoned residential shall incorporate planted buffers as required in Article 8, Division III.
- D. All storage areas and access drives shall be paved.
- E. Outside storage of inoperative vehicles or equipment shall not exceed 72 hours.

Sec. 6.1450. Solar collectors—Accessory use.

Solar collectors are permitted accessory uses, provided that the following performance standards are met:

- A. Roof-mounted solar collector components servicing the collector panel shall be con-

cealed and all exposed metal shall be finished with similar colors to the structure on which it is mounted.

- B. Roof-mounted solar collectors located on front or side building roofs, which are visible from the public right-of-way, shall not extend above the peak of the roof plane on which they are mounted, and no portion of the solar collector shall extend more than 24 inches perpendicular to the point on the roof where it is mounted;
- C. Roof-mounted solar collectors located on the rear side of building roofs shall not extend above the peak of the roof plane on which they are mounted, and no portion of the solar collector shall extend more than four feet perpendicular to the point on the roof where it is mounted;
- D. Ground-mounted solar collectors shall not exceed eight feet in total height and shall be located within the rear yard at least 12 feet inside the property line; and
- E. All lines serving a ground-mounted solar collector shall be located underground.

Sec. 6.1460. Tattoo/permanent cosmetic services/body piercing services as accessory use to primary use in district planned office (PO).

Tattoo/permanent cosmetic services/body piercing services are restricted as an accessory use business located in a planned office, PO, zoning district as follows:

- A. The accessory use business shall only be provided by the licensed professional as business owner of the primary business;
- B. The primary business shall be associated with an artist studio engaged in the application, teaching, or production of fine arts such as drawing, painting, and sculpture or in film editing and screenwriting and similar uses associated with the fine arts;
- C. Services shall be provided by appointment only and shall not become the primary business; and

- D. Signage shall be prohibited except for a logo, telephone number and email address.

SUBDIVISION 4. PERMITTED TEMPORARY ACCESSORY USES

Sec. 6.1470. Permitted temporary accessory uses.

The following uses are temporary accessory uses in any district unless further limited herein:

- A. Construction/sales office on site of a construction project provided such trailer is removed upon completion of the project. In residential districts, the construction trailer must be removed upon completion of the first residential dwelling unit for the subdivision or project or, in the case of a subdivision or project for which approval has been given for phased development, for the first dwelling unit for that phase.
- B. Portable storage containers, 14 days duration limitation (see also Article VII, Chapter 16 of the Code of Ordinances).
- C. Roll-off trash container during construction, limited to 30-day duration and may be allowed up to three nonconsecutive times in a one year period. (See also Article VII, Chapter 16 of the Code of Ordinances.)
- D. A temporary recycling collection facility sponsored by a business, school, church, or non-profit community group shall be allowed as an accessory use, provided the following restrictions and conditions are met:
 - 1. Containers are located on business, church, school or non-profit community group grounds;
 - 2. Activity is at least one hundred (100) feet from any adjacent property zoned or used for residential purposes; and
 - 3. The temporary facility is maintained in a clean, litter-free condition on a daily basis.
- E. Sales office in a new residential subdivision model home.

- F. Sales trailer within a residential subdivision on a vacant lot provided that:
 1. A sales trailer within a new residential subdivision or developing residential subdivision shall only be placed after a building permit for a model home has been issued and construction has commenced. Use of the temporary sales trailer shall cease upon the model home receiving a temporary certificate of occupancy.
 2. A sales trailer within a developing residential subdivision may utilize any vacant lot but only when a newly constructed home is not available for use as a model home/sales office and subject to compliance with "1." above.
 3. When used in this section the term "residential subdivision" means a single plat or multiple plats comprising a residential community or residential development. A residential subdivision shall be considered a developing residential subdivision if the remaining vacant lots constitute ten percent or more of the entire residential community or residential development.
- G. Signs per Article 9 of this chapter.
- H. Re-locatable classrooms/trailers are permitted as a temporary accessory use to schools and churches in any zoning district except when occupying a tenant space in an office or commercial building or complex or within a storefront or retail shopping center.
- B. Hog lots.
- C. Livestock commercial feed lots.
- D. Detached carports except when specifically approved as part of a preliminary development plan for a multi-family development.
- E. Outdoor vending machines, except for:
 1. Certain outdoor vending machines that are accessory to financial institutions, such as ATM's, self-service car wash business dispensers offering such items as cleaners, waxes and towels for vehicle washing and similar accessory uses and structures approved by the Director. Such accessory vending machines shall be attached to or built into exterior walls of the commercial business or integrated into a drive island, and
 2. Mobile food vending regulated in Division V of this article.

Note: Retail sales of products being displayed outdoors, provided such products are being sold within the commercial building where the products are being displayed shall not constitute an accessory use or structure. Said outdoor product display shall be located immediately adjacent to the wall of the building or within 20 feet of such wall, or in the case of a C-Store adjacent to the pump island, except for seasonal sales regulated by Division V of this article.

SUBDIVISION 5. PROHIBITED ACCESSORY USES AND STRUCTURES

Sec. 6.1480. Prohibited accessory uses and structures.

The following accessory uses and structures are specifically prohibited:

- A. Automotive repair in residential districts except for personal vehicles being repaired inside a garage.

Table 6.IV-1. Accessory Structures

<i>Accessory Structure</i>	<i>Permitted Zoning Districts</i>	<i>Required Setbacks</i>	<i>Height</i>	<i>Size Limitations and Other Special Conditions Note: See Section 6.1330.B. for easement and right-of-way encroachments</i>
Arbor	Residential (including AG, RDR and RLL)	None	10 feet	Not to impair sight triangle.
Carport — Attached to Principal Structure	Residential (including AG, RDR and RLL)	Same as zoning district for principal structure	Not to exceed height of structure to which attached	Maximum Size: 250 square feet, not to exceed structure to which attached.
Carport — Attached to Detached Garage or Shed	Residential (including AG, RDR and RLL)	Same as detached accessory structure	Not to exceed height of structure to which attached	Maximum Size: 250 square feet, not to exceed structure to which attached.
Concrete at Grade Patios (Not to Include Sport Courts)	Residential (including AG, RDR and RLL)	None — Provided storm water runoff is not directed toward the adjacent property	NA	Storm water runoff shall be controlled in a manner that does not cause a nuisance to the adjacent property or create a ponding situation.
Construction Office/Trailer — Temporary	All	Per Administrative Approved Plot Plan	N/A	In residential district, valid for 6 months beyond completion of public improvements. In non-residential districts, valid through issuance of certificate of occupancy.
Gazebo (Detached)	Residential (including AG, RDR and RLL)	Front: Prohibited Side: 10 feet Rear: 10 feet	15 feet	
Deck (Detached) • Covered • Uncovered	All	Front: Prohibited Side: 10 feet Rear 10 feet	15 feet 6 feet	Measured to the highest point of structure, i.e., roof peak, hand rail, etc.
Deck and Gazebo (Attached)	Residential (including AG, RDR and RLL)	Front and Side: Same as principal structure in district. Rear yard — 25 feet in R-1; same as principal structure in other districts	15 feet (measured from deck floor, not to exceed height of structure to which attached)	
Dwelling, Secondary	AG	Same as required setback for principal structure in district	Same as maximum height permitted for principal dwelling	Minimum of 10 acres, and dwellings must remain in single ownership on the 10 acres.
Dwelling unit for security, management or maintenance personnel	PO, CP-1, CP-2, CS, PI	Same as principal structure in district	Same as principal structure in district	Dwelling unit must be located within a building associated with the development.

<i>Accessory Structure</i>	<i>Permitted Zoning Districts</i>	<i>Required Setbacks</i>	<i>Height</i>	<i>Size Limitations and Other Special Conditions Note: See Section 6.1330.B. for easement and right-of-way encroachments</i>
Fence or Wall — Perimeter Residential	R-1, RP-1 and RP-2, RP-3, RP-4 and TNZ	Front: 0 feet for fences not exceeding 4 feet in height 6 foot privacy fences on corner lots may only encroach into the required front yard by 15 feet Side: 0 feet Rear: 0 feet	Residential: 4 feet front yard 6 feet side and rear yard	Residential fencing materials: Front yard: Wood, vinyl, steel, composite, masonry, or wrought iron. Side and rear yard: All the above plus chain link. Front yard (except corner lots) — 4 foot height fencing requires a fence consisting of slats with a minimum of 2 inch spacing or spacing equal to the width of the individual slats whichever is greater.
Fence or Wall — Decorative Residential	R-1, RP-1 and RP-2, RP-3, RP-4 and TNZ	0 feet	4.0 feet	All fence or walls shall be located out of the sight triangle.
Fence or Wall				
Fence or Wall — Other	CP-1, CP-2, CS and PI	0 feet	8 feet	A fence or wall shall be constructed with a finished side facing outward from the property.
Fence — Tennis Court	All	Front: Prohibited Side: 10 feet Rear: 10 feet	12 feet	
Flag Pole	All	Front: 10 feet Side: 10 feet Rear: 10 feet	25 feet	
Garage in AG — Detached	AG	Front: Prohibited Side: 35 feet Rear: 35 feet	40 feet (maximum height in district)	No limitation on size in AG.
Garage — Detached	All Residential districts (including RDR and RLL, but excluding AG)	Front: No closer than principal structure Side: 10 feet Rear: 10 feet (4 feet for alley access); 30 feet for detached garage with loft residential dwelling unit	25 feet (not to exceed height of principal structure on property)	Detached garage shall not exceed 250 square feet for each 5,000 square feet of lot area, with a maximum of 1,000 square feet for lots less than 4 acres, and a maximum of 2,000 square feet for lots of 4 acres or more. Only one garage structure is permitted. Design and construction shall be as set forth in Section 6.1350.E.
Garage — Attached	All Residential districts (including AG, RDR and RLL)	Same as a principal structure in district	Same as a principal structure in district	
Gatehouse/Guardhouse for subdivisions or multi-family projects	Residential	Per approved development plan or plat	Same as a principal structure in district	

<i>Accessory Structure</i>	<i>Permitted Zoning Districts</i>	<i>Required Setbacks</i>	<i>Height</i>	<i>Size Limitations and Other Special Conditions Note: See Section 6.1330.B. for easement and right-of-way encroachments</i>
Greenhouse — Non-Commercial	AG, RDR and RLL	Front: Prohibited Side: 10 feet Rear: 10 feet	40 feet (maximum height in district)	No limitation on size.
Greenhouse — Non-Commercial	Residential (not including AG, RDR and RLL)	Front: Prohibited Side: 10 feet Rear: 10 feet	15 feet	Maximum size: 250 square feet. Greenhouses greater than 250 square feet require special use permit.
Guesthouse	AG, RDR, RLL, and R-1	Same as a principal structure in district	Same as a principal structure in district	Minimum 1 acre lot size. Ownership must be in the same name as the principal use.
Hobby Shop	Residential (including AG, RDR and RLL)	Front: Prohibited Side: 10 feet Rear: 10 feet	15 feet	Maximum size 250 square feet. Combined structures not to exceed district lot coverage.
Hot Tub or Jacuzzi	All	Front: Prohibited Side: 10 feet Rear: 10 feet	N/A	If located on a deck, setbacks for deck shall apply.
Kennel, commercial	AG	Front: Prohibited Side: 200 feet Rear: 200 feet	8 feet	Side and rear setbacks apply only from residentially zoned property (R-1 through RP-4).
Livestock — Building (barns and/or stables)	AG	100 feet	N/A	See Table 4-2 for use limitations.
Loft Dwelling Unit Above Detached Garage	All Residential (RDR, RLL, R-1, RP-1, RP-2, RP-3, RP-4), except for R-1 located within "Old Lee's Summit" as described in the Downtown Master Plan	Front: Prohibited Side: 10 feet or same as a principal structure in district, whichever is greater Rear: 30 feet, or same as principal structure in district, whichever is greater	Same as principal structure in district	Size limitations and alley access setbacks shall be the same as a "Garage — Detached" per this table. A loft unit above a detached garage in an R-1 District within the "Old Lee's Summit" area as defined by the Downtown Master Plan shall only be permitted with a special use permit (See Division III). In R-1 District a minimum lot size of 15,000 sq. ft. must be provided.

<i>Accessory Structure</i>	<i>Permitted Zoning Districts</i>	<i>Required Setbacks</i>	<i>Height</i>	<i>Size Limitations and Other Special Conditions Note: See Section 6.1330.B. for easement and right-of-way encroachments</i>
Loft Dwelling Unit Above Detached Garage, Barn or Other Such Storage Structure	AG	N/A	N/A	Additional parking other than the driveway for the principal structure. Building Codes can be met. 1 loft dwelling unit may be established above each structure not to exceed 3 such loft dwelling units.
Laterally Attached Accessory Dwelling Units Attached to Accessory Structures	AG	Same as accessory structures	N/A	Additional parking other than the driveway for the principal structure. Building codes can be met. 1 accessory dwelling unit laterally attached to each structure not to exceed 3 such laterally attached dwelling units.
Outdoor Patios/ Decks	PO, CP-1, CP-2, CBD, CS, PI	100 linear feet to adjacent residential district	NA	See Section 6.1360.G. for conditions relating to outdoor patios and decks for strip centers/ in-line tenant space and standalone and pad sites, including noise control.
Parking Structure	RP-3, RP-4, PO, CP-2, CBD, TNZ, PI	Same as a principal structure in district	Same as a principal structure in district	Can be approved as part of Preliminary Development Plan with modifications.
Play Houses and Play Equipment	Residential (including AG, RDR and RLL)	Front: Prohibited Side: 3 feet Rear: 3 feet	15 feet	Maximum size: 120 square feet.
Recreational Facility, Non-Commercial (Outdoor)	Residential (including RDR, RLL, R-1, RP-1, RP-2, RP-3, RP-4 and TNZ)	See Section 6.1350.O.	N/A	No lights. Not for intensive league play, tournaments or teams outside of subdivision, apartment development, church or other principal use to which the facility is accessory. No permanent or temporary spectator seating.
Real Estate Sales Office (Temporary)	Residential (including RDR and RLL)	Per Administrative Approved Plot Plan	N/A	Temporary mobile home/trailer shall only be permitted until a home constructed within the subdivision is available for use. Temporary sales office in a model home shall be limited to 2 years in any one location.
Retaining Wall	All	N/A	Above 4 feet requires permit and structural analysis	Security fencing may be required. (Easements shall not be encroached upon.)

<i>Accessory Structure</i>	<i>Permitted Zoning Districts</i>	<i>Required Setbacks</i>	<i>Height</i>	<i>Size Limitations and Other Special Conditions Note: See Section 6.1330.B. for easement and right-of-way encroachments</i>
Satellite Dish Antenna	All	Same as a principal structure in district	Same as a principal structure in district	Maximum size: 1 meter. A special use permit is required for a satellite dish antenna in excess of 1 meter in size.
Sheds and Storage Buildings in AG District	AG	Front: Prohibited Side: 35 feet Rear: 35 feet	40 feet (maximum height in district)	No limitation on size in AG.
Sheds and Storage Buildings in Residential Districts	Residential (including RDR and RLL)	Front: Prohibited Side: 3 feet Rear: 3 feet	15 feet	Maximum size: 250 square feet.
Storage Sheds and Garages for a Permitted Non-Residential Use in a Residential District (Church or School)	Residential (including RDR and RLL)	Same as district requirements in which located	Same as district requirements in which located	Same as district requirements in which located. Design and construction shall be compatible with the main building.
Solar Collectors	All	Principal structure setbacks apply	Not to exceed principal structure height	Shall be mounted in a manner not to cause glare to surrounding properties.
Stable/Structure Used in Conjunction with Horse Pasturing	AG	Front: Prohibited Side: 35 feet Rear: 35 feet	40 feet (maximum height in district)	No limitation on size in AG.
Stable/structure used in conjunction with horse pasturing	RDR, RLL and R-1	Front: Prohibited Side and Rear: 30 feet	40 feet, or height of principal dwelling, whichever is less	250 square feet of building per acre, with maximum of 1,000 square feet.
Sport Courts, Private Individual lot	Residential (including AG, RDR and RLL)	Front: Prohibited Side: Prohibited Rear: 10 feet	N/A	Sport Courts are not intended to be lighted. Any proposed lighting shall be approved by Special Use Permit only.
Swimming Pool, Private	CP-2, PI	Same as district requirements	Same as district requirements	Considered accessory unless the pool is the principal use of the property.
Swimming Pool, Private	Residential (including AG, RDR and RLL)	Front: Prohibited Side: 10 feet Rear: 10 feet	Pool House — 15 feet	Setbacks are inclusive of the concrete apron or deck surrounding the swimming pool. On corner lots, swimming pools shall not extend beyond front of structure.
Temporary Relocatable Classrooms	All	Per approved administrative plot plan	N/A	Permitted as an accessory use only for schools and churches (all others require a special use permit)

Secs. 6.1490, 6.1500. Reserved.

DIVISION V. SPECIAL EVENTS AND MOBILE FOOD VENDING

SUBDIVISION 1. SPECIAL EVENTS

Sec. 6.1510. Purpose and intent.

The purpose and intent of this article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this article to protect nearby property owners, residents and businesses from special events that may be disruptive, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics and the nature of the proposed event.

Sec. 6.1520. Definitions.

The terms used in this article, for purposes of the regulations in this article, shall be defined as follows:

Non-profit group or organization means any person(s), partnership, association, non-profit corporation, a 501(c)3 corporation, or other group that does not distribute its surplus funds to its owners, shareholders or members, and whose activities are conducted for charitable, civic, or humanitarian motives, or for the benefit of others, and not for the private gain of any individual or group and may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities.

Special event means a temporary, short-term use of land or temporary structure(s), located or conducted outside, that is, not within a permanent building or structure. A special event may be on public or private street right-of-way, public property, or private property within the corporate limits of the City of Lee's Summit, Missouri ("corporate limits"), and may include, but not be limited to, the following types of activities:

1. Athletic event. An organized competitive or recreational event in which a group of people collectively engage in a sport or form of physical exercise, including but not limited to: running, jogging, walking, bicycling or skating, on any public street right-of-way or upon public property in the corporate limits.
2. Auction/estate sale. Any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.
3. Auto sales tent. A tent located on an auto sales lot for the purposes of a sales event and/or a promotional activity.
4. Block party. A neighborhood event, in which a street is temporarily closed and designated as a "play street."
5. Commercial event. Commercial activities, either on the same property as the primary commercial use, or on other private commercial property, which are intended to sell, lease, rent or promote specific merchandise, services or product lines, including, but not limited to: Tent sales, sidewalk sales, trade shows, flea markets, product demonstrations or parking lot sales of food, art work or other goods. This definition does not include mobile food vending (see Subdivision 2 of this division).
6. Entertainment event. An organized event having as its primary purpose the entertainment or amusement of a group of people, including but not limited to: Carnivals, festivals, public firework displays, fairs, or concerts, on public or private property within the corporate limits.
7. Film production. The process of making a film on public or private property within the corporate limits.
8. Fireworks sales tent. A tent for the retail sale of allowed fireworks within the city limits of Lee's Summit, during a specified time period preceding July 4 of each year, as further described in the Code of Ordinances.
9. Garage sales. The sale of personal property that is conducted on premises within a residential district upon which is located a dwelling, or on any portion of a lot used for residential purposes.
10. Non-commercial events. Fund-raising or non-commercial events sponsored by non-profit groups or non-profit organizations.

11. Parade. Any march or procession consisting of people, animals, or vehicles, or any combination thereof, except funeral processions, upon any public street, sidewalk, alley, jogging trail, or bike path, which does not comply with normal and usual traffic regulations or controls.
 12. Political event. An organized event, not including an athletic or entertainment event, having as its primary purpose the exercise of expressive activities of a political nature, including but not limited to speech making, picketing, protesting, marching, demonstrating or debating public issues.
 13. Seasonal sales. Farmer's market, Christmas tree sales, fruit, flower or vegetable sales, or sale of other seasonal products, when sold on property other than on the site where grown, constructed or assembled.
 14. Private events. Events held on private property meeting all applicable codes and ordinances, including but not limited to wedding receptions and birthday events.
- B. A special event permit is not required for the following types of events, but other Code of Ordinance based permits are required. The Code of Ordinance sections for the applicable permits are listed below:
1. Fireworks sales (Chapter 13, Article III, of the Code of Ordinances).
 2. Parades (Chapter 29, Article VI, of the Code of Ordinances).
 3. Play streets (block parties) (Chapter 29, Article I, Section 29-12, of the Code of Ordinances).

Sec. 6.1540. Exemptions.

The following special events are exempt from the requirements of this section and do not require a permit, unless the special event requires street closure:

- A. Auctions/estate sales.
- B. Auto tent sales located on private property and on an existing, legal, or legal non-conforming auto sales lot, and having a maximum duration of six weeks.
- C. Commercial event, if it has a minimal impact on the community. Criteria for determining minimal versus significant impact shall include, but not be limited to the following: 1) public services required, 2) tent or other structure, 3) traffic circulation, 4) parking considerations, and 5) anticipated attendance. This could include centralized special events held within a shopping center parking area, not connected to individual businesses within the shopping center, with no off-site impact. The Director shall determine whether a permit is required for a specific commercial event, based upon the proposed extent of activities.
- D. Garage sales (up to four times per year), not to exceed five days per event and 20 days per year.
- E. Non-commercial event, if conducted entirely on private property owned or leased by the sponsoring non-profit group or organization, with a maximum duration of 72 hours.
- F. Political events.

Special event signage means signage that is temporary in nature, is not permanently attached to the ground or sign surface, and is used to advertise any type of special event as listed herein, whether or not a special event permit is required.

Sec. 6.1530. Permit required.

- A. Except as otherwise provided under the exemptions section of this article (Section 6.1540), a Special Event Permit is required for the following special events, as defined above:
1. Athletic event.
 2. Commercial event.
 3. Entertainment event.
 4. Non-commercial event, unless conducted entirely on private property owned or leased by the sponsoring non-profit group or organization.
 5. Seasonal sales event.
 6. All special events requiring street closure.
 7. All special events which include street vendors to be located on public right-of-way.

- G. Private events.
- H. Any special event sponsored or co-sponsored by the City. Such events shall comply with the performance standards set forth herein. A City event requiring street closure requires a special event permit.
- I. Any special event held within a public park. These events shall be governed by other provisions of the Municipal Code regulating conduct in City parks and recreation areas.
- J. Any business already operating under a special use permit that regulates the display and sale of outdoor goods or authorizes the operation of any special event as defined herein.

Sec. 6.1550. Fees for special event permits.

- A. Application fee. An application fee shall be required upon submittal of each special event application in accordance with the City's Schedule of Fees and Charges.
- B. Fees for City services. If the permit applicant requests City services, or City staff determines the need or the City Council upon referral or appeal, as described in this article, determines, as a condition of granting the permit, that public services or equipment must be provided to protect the public health or safety, the applicant shall be required to pay a fee for City services in accordance with the City's Schedule of Fees and Charges. Payment for City services shall be paid prior to issuance of the permit.
- C. Fees for athletic events. Specific routes have been designated for athletic events. See the City's Schedule of Fees and Charges.

Sec. 6.1560. Application requirements.

- A. Application required. A special event application shall be submitted for any special event requiring a special event permit, as outlined above under "permit required."
- B. Application deadline. A complete application shall be submitted at least 20 calendar days prior to the requested start date of a special event. The Director shall have the authority to waive the application deadline.

- C. Submission requirements. The application shall set forth and contain the following information:

1. Name and/or brief description of the event.
2. Description of City services required for the event such as traffic control, street sweeping, etc.
3. Fees, as required.
4. A written narrative, fully describing the proposed event, including:
 - a. Location.
 - b. Hours of operation.
 - c. Anticipated attendance.
 - d. Buildings or structures to be used in conjunction with the event.
 - e. Proposed signs or attention attracting devices.
 - f. Public streets to be used, if any.
5. A statement that the standards set forth in this article have been satisfied.
6. A site plan in the form and the level of detail as required by the Director, showing the location of all existing or proposed uses, structures, parking areas, outdoor display areas, signs, streets, and property lines.
7. Date and time of the event to include start and ending dates and times.
8. Contacts: Name and address of the owner of the premises on which the proposed event is to be held and the name and address of the applicant.
9. Written approval from the property owner agreeing to the proposed event, if the applicant is not the same as the property owner.
10. Location and number of proposed temporary public toilets.
11. Proposed temporary potable water supplies, which shall be reviewed by the Water Utilities Department, pursuant to the Code of Ordinances.

12. A recycling plan, which shall include the following information:

- Name of the sanitation company, hauler, and/or staff that will be providing bins, emptying bins, and transporting the bins for proper disposal.
- Location where the recyclables will be transported for disposal.
- Site plan indicating the location of bins.
- Number of bins provided.
- Description of any signage that will be used to advertise the recycling opportunity.
- List of materials to be utilized at the event, and whether all of the materials will be offered for recycling.
- Description of how often recycling bins will be emptied.
- Description of how recycling bins will be differentiated from other trash bins. The recycle bins must be clearly labeled as such so as not to create confusion with regular trash bins.
- Any other information deemed necessary by the Director in order to ensure compliance with the standards set forth in this article.

13. Proof of liability insurance. If the special event will take place on public property, said certificate of insurance shall name the City as an additional insured party in an amount determined by the City Manager based on the nature of the special event.

14. A statement that ensures indemnification of the City and that public property will be protected and/or restored to its condition prior to the Special Event.

Sec. 6.1570. Performance standards.

Special events shall comply with the following standards:

A. Location. Special events that do not require the use of public right-of-way shall be conducted on private property in a commercial or industrial zoning district, except that non-

profit organizations may conduct special events on any property where the owner has granted permission. For all special events that require the use of public right-of-way, the permit shall clearly specify the streets to be used for the event and the time that the streets will be closed, if applicable.

B. Land-use compatibility. The special event shall be compatible with the purpose and intent of this section and with adjacent land uses. The special event shall not impair the normal, safe and effective operation of a permanent use on the same site. The special event shall not endanger or be detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the special event, given the nature of the activity, its location on the site and its relationship to it.

C. Compliance with other regulations. All applicable provisions of the Building Code (Chapter 7 of the Code of Ordinances) and the Design and Construction Manual shall be met. Permit holders must at all times comply with all applicable legal and regulatory provisions, including, without limitation, health code regulations.

D. Restoration of the site. Any temporary structure shall be promptly removed upon the cessation of the event. Within 48 hours of cessation of the event, the site shall be returned to its previous condition, including the removal of all litter, signage, attention-attracting devices or other evidence of the special event. If the site is not returned to its previous condition, the City may restore the site at the expense of the applicant.

E. Hours of operation. The hours of operation of a special event shall be consistent with the surrounding land uses.

F. Duration. The maximum duration of a special event shall be as set forth below, unless modified by conditions attached to the issuance of the special event permit.

1. Athletic event: Three days.
2. Auto tent sales (exempt): Six weeks.
3. Commercial event: Three days.

4. Commercial event (exempt): Three days.
 5. Entertainment event: Seven days.
 6. Garage sales (exempt): Five days per event, up to four times per year, not to exceed 20 days per year.
 7. Non-commercial event: Three days.
 8. Non-commercial event (exempt): Three days.
 9. Seasonal sales event:
 - a. Ninety days if up to 20 percent of the parking lot is used for the event;
 - b. One hundred eighty days if up to ten percent of the parking lot is used for the event.
- G. Traffic circulation. The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, parking and traffic controls. All sidewalks shall be left open for pedestrian traffic unless special approval is received for blockage. No alleys, driveways, fire lanes or other access points shall be blocked by the special event unless specific approval is granted for the special event.
- H. Parking restrictions. Approval of a short-term parking restriction can be granted through a special event application as determined by the City Traffic Engineer. Special event permit recipients shall be responsible for securing, installing and immediate removal of all required no parking signs upon cessation of the event.
- I. Street closings and temporary traffic control. Special event permit holders shall be responsible for securing, installing and immediate removal upon cessation, all required temporary traffic control, including but not limited to all barricades and signs when street or lane closures are approved. All temporary traffic control shall be in accordance with the Manual on Uniform Traffic Control Devices, subject to approval by the City Traffic Engineer. The approval of a Special Event Permit shall waive the requirement for any applicable Temporary Traffic Control Permit required.
- J. Off-street parking.
1. All off-street parking surfaces used for the special event shall be concrete or asphalt.
 2. No more than 20 percent of the parking stalls required for the structure associated with the parking lot in which the special event occurs shall be permitted to be used for a special event.
 3. For seasonal sales events with a duration of over 90 days and up to 180 days, no more than ten percent of the required parking stalls shall be permitted to be used for the special event.
 4. Special events shall not cause a shortage of parking for the primary use on the property on which they are located. Special events shall not create a shortage of parking for uses on properties surrounding the property on which they are located.
- K. Anchoring devices. No spikes, nails, anchors or other devices shall be driven into any public street or sidewalk. Such devices may be used on private parking lots provided any damage resulting therefrom shall be repaired upon cessation of the event and removal of the devices.
- L. Fire safety. The City's Fire Department shall be consulted for the following requirements and inspection, as necessary:
1. Fire lanes a minimum of 20 feet in width and 12 feet in height or as otherwise approved by the Fire Chief, must be provided in order to allow Fire Department access within 150 feet of all structures and on at least two sides of all two-story structures within 500 feet of the location of the special event.
 2. All fire hydrants in the area of the special event must be left with five feet of clearance on all sides and shall be accessible from the fire lanes that are designated with the event.
 3. No open fires shall be permitted unless advance approval is obtained from the Fire Department.

4. Fire extinguishers shall be available as determined by the Fire Chief.
 5. Temporary electrical wiring for the special event shall be installed in accordance with the requirements of the National Electrical Code.
 6. Tents shall comply with the Fire Code and applicable building codes.
 7. Exit signs and proper exiting aisles shall be provided in temporary special event structures.
- M. Public conveniences and litter control. Adequate on-site restroom facilities and solid waste containers shall be provided. The applicant shall calculate the demand for such facilities and specify how the need will be addressed.
- N. Recycling. A recycling plan shall be required. Beginning January 1, 2012, styro-foam and glass food and beverage containers will be prohibited at all special events. A recycling haulers report shall be required after the completion of the event.
- O. Nuisances. The special event shall not generate excessive noise, dust, smoke, glare, spillover lighting or other forms of environmental or visual pollution.

Sec. 6.1580. Special event signs.

- A. No separate sign permit shall be required for signs related to a special event.
- B. Signs related to a special event which requires a special event permit, as defined and regulated in this article, shall be allowed only as authorized in the approval of the special event by the Director. The time limit for temporary signs advertising the event shall be specified in the special event approval, with 30 days being the standard guideline.
 1. Signs for community-wide special events, as determined by the Director, may be placed off-site throughout the community, on private property, subject to approval of the location(s), and permission of the property owner(s).
 2. Signs for special events that are not community-wide, as determined by the Director, may only be placed on the property where the event is being held.
- C. Signs related to a special event not requiring a special event permit shall be allowed only on the property where the event is being held.

Sec. 6.1590. Consideration of special event application.

- A. The Director may approve any special event permit after determining that the event will comply with all special event performance standards and application criteria and requirements.
- B. Appeal of denial.
 1. The denial of any application by the Director shall be in writing.
 2. The applicant, in the event of a denial of a special event permit, and a permit holder, in the event of the revocation of a special event permit, shall have the right to appeal a decision of the Director to the City Council.
 3. Appeal to City Council. Applicants denied a special event permit may appeal to the City Council by filing such appeal with the City Clerk with full documentation supporting his or her application within ten days of the denial.
 4. Schedule. Appeals shall be placed on the first available City Council meeting agenda for consideration.
 5. City Council consideration. The City Council action shall be final and may include additional fees to cover the cost of providing city services and/or any other conditions deemed necessary to protect the general welfare of the City and the public.
- C. Prohibition on transfer. No special event permit issued under the provisions of this section shall be assignable or transferable to any other person or transferable to another location for the operation of a special event by that person or at a different location.
- D. Conditions of approval. When issuing a special event permit, the Director or City Council may

establish additional conditions deemed necessary to ensure compatibility with adjacent land-uses and to minimize potential adverse impacts on nearby uses, including, but not limited to:

1. Limitation of events. Special events which require City services during the event shall be limited to one per day or per weekend subject to availability of personnel, as determined by City staff. Scheduling shall be on a first come-first served basis.
2. Pre-established routes. Specific routes have been designated for athletic events. Applicants will be given their choice of the pre-established routes from the selection list maintained by the Police Department. Such routes are subject to change due to unforeseen circumstances and as such, applicants should check the route status and confirm their route choice prior to advertising their event. Denial of a specific route may be appealed to the City Council pursuant to Subsection B. above.
3. Signs. The number, size, location, or time limit for signs may be limited.
4. Temporary arrangements for parking and traffic circulation.
5. Modifications or restrictions on the hours of operation, duration of the event, size of the event or other operational characteristics.
6. The provision of traffic control or security personnel to ensure the public safety and convenience.
7. Posting of security, in an amount required by the City Manager, for special events where the anticipated attendance is 1,000 or more people to help ensure that the operation of the event and the subsequent restoration and cleanup of the site are conducted according to required special event standards and conditions of approval.

SUBDIVISION 2. MOBILE FOOD VENDING

Sec. 6.1600. Definitions.

As used in this article, the following terms or phrases are defined as follows:

Mobile food vending means the act of selling food and/or beverages by operating a mobile food truck, a mobile food cart, or a mobile packaged food delivery truck.

1. Mobile food cart. A non-self-propelled vehicle or stand limited to serving:
 - a. Non-potentially hazardous foods, as defined by the Jackson County Environmental Health Department,
 - b. Commissary-wrapped food maintained at proper temperatures, or
 - c. Limited to the preparation and serving of hot dogs or similar sausages.
2. Mobile food truck. An enclosed vehicle, truck or trailer licensed to operate on public roads in which a person travels from place to place to serve food or beverage.
3. Mobile packaged food delivery truck. An enclosed vehicle or truck licensed to operate on public roads in which a person travels from place to place to deliver packaged food that has been previously ordered.
4. Single-unit mobile food truck. A Federal Highway Administration (FHWA) Class 1-7 vehicle, with vehicle weight less than 33,000 pounds, that is licensed to operate on public roads in which a person travels from place to place to sell packaged food items.

Sec. 6.1610. Permit required.

Except as otherwise provide in Section 6.1620 of this article, a mobile food vendor permit is required for the following:

- A. Mobile food carts, when:
 1. Located on a public sidewalk; or
 2. Located in public or private parking spaces
- B. Mobile food trucks.

Sec. 6.1620. Exemptions.

A mobile food vendor permit is not required for the following:

- A. Mobile food carts, when:
 1. Conducted in front of a store on private property;
 2. The property owner permission has been obtained;
 3. Not occupying a parking space; and
 4. Not impacting pedestrian, bicycle, or motor vehicle traffic circulation or other safety issues.
- B. Mobile packaged food delivery trucks.
- C. Neighborhood refreshment stands and other similar products.

Sec. 6.1630. Fees for mobile food vendor permits.

Application fee. An application fee shall be required upon submittal of each mobile food vendor permit application, in accordance with the City's Schedule of Fees and Charges.

Sec. 6.1640. Application requirements.

- A. Applicants for mobile food vendor permits must comply with the application requirements set forth in Section 6.1560 of this article.
- B. If on private property, no site plan shall be required.

Sec. 6.1650. Performance standards.

- A. Location on private property. Mobile food vending is permitted in all zoning districts on private property if: a) the vendor has obtained the permission of the property owner; and b) the vendor is in compliance with all provisions of this division, including those sections addressing permits; and c) the vendor must be located on a paved surface.
- B. Location in right-of-way.
 1. The vendor shall not locate within a 60-foot radius from the primary entry of a brick and

mortar restaurant during posted hours of operation, unless they have written permission from the restaurant owner.

2. Mobile food vending is prohibited from the right-of-way in residential areas, with the following exception:
 - a. Single-unit mobile food trucks that do not exceed a 15-minute parking duration for sales/services are permitted.
- C. Location during an entertainment event (festival). The vendor shall not locate within one-half mile from the boundary of any entertainment event (festival) requiring street closure, except when:
 1. The vendor has written authorization from the festival/event coordinator to operate within the festival boundaries or within one-half mile thereof.
- D. Hours of operation and duration. Mobile food vendors can operate with no limitations on days and hours, with the following exception:
 1. Mobile food trucks in the CBD (Central Business District) area, shall be limited to 9:00 p.m. to 2:00 a.m. any night of the week, except that mobile food vendors participating in entertainment events (festivals) in the CBD shall be limited to the hours of the festival. Other hours can be approved by Director of Planning and Development on a case by case basis.
- E. Compliance with other laws and regulations. Vendors must at all times comply with all applicable legal and regulatory provisions, including, without limitation, health code regulations.
- F. Restoration of site. Immediately upon cessation of the vending, the site shall be returned to its previous condition, including the removal of all litter, or other evidence of the vending. If the site is not returned to its previous condition, the City may restore the site at the expense of the applicant.
- G. Health and safety criteria. Mobile Food Vending shall not impair the normal, safe and effective operation of a permanent use on the same site. Mobile food vending shall not endanger or be detrimental to the public health, safety or welfare

or injurious to property or improvements in the immediate vicinity of the vending, given the nature of the activity, its location on the site and its relationship to it.

- H. Traffic circulation. Mobile food vending shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, parking and traffic controls. All sidewalks shall be left open for pedestrian traffic unless special approval is received for blockage. No alleys, driveways, fire lanes or other access points shall be blocked by the vending unless specific approval is granted for the vending.
- I. Off-street parking.
1. All off-street parking surfaces used for mobile food vending shall be concrete or asphalt.
 2. No more than 20 percent of the parking stalls required for the structure associated with the parking lot in which the vending occurs shall be permitted to be used for mobile food vending.
 3. Mobile food vending shall not cause a shortage of parking for the primary use on the property on which they are located. Mobile food vending shall not create a shortage of parking for uses on properties surrounding the property on which they are located.
- J. Anchoring devices. No spikes, nails, anchors or other devices shall be driven into any public street or sidewalk. Such devices may be used on private parking lots provided any damage resulting therefrom shall be repaired upon cessation of the event and removal of the devices.
- K. Nuisances. The mobile food vending shall not generate excessive noise, dust, smoke, litter, glare, spillover lighting or other forms of environmental or visual pollution.

Sec. 6.1660. Mobile food vending signs.

- A. No separate sign permit shall be required for signs related to mobile food vending.

- B. Signs related to a mobile food vendor shall be limited to signs that can only be affixed to the vehicle and one sandwich board sign in immediate proximity of the vendor unit or truck.

Sec. 6.1670. Consideration of mobile food vendor application.

- A. The Director may approve any mobile food vendor permit after determining that the event will comply with all mobile food vending performance standards and application criteria and requirements.
- B. Appeal of denial.
1. The denial of any application by the Director shall be in writing.
 2. The applicant, in the event of a denial of a mobile food vendor permit, and a permit holder, in the event of the revocation of a mobile food vendor permit, shall have the right to appeal a decision of the Director to the City Council.
 3. Appeal to City Council. Applicants denied a mobile food vendor permit may appeal to the City Council by filing such appeal with the City Clerk, with full documentation supporting his or her application, within ten days of the denial.
 4. Schedule. Appeals shall be placed on the first available City Council meeting agenda for consideration.
 5. City council consideration. The City Council action shall be final and may include additional fees to cover the cost of providing city services and/or any other conditions deemed necessary to protect the general welfare of the City and the public.
- C. Prohibition on transfer. No mobile food vendor permit issued under the provisions of this section shall be assignable or transferable to any other person or transferable to another location for the operation of mobile food vending by that person or at a different location.

PROOFS

ARTICLE 7.

SUBDIVISIONS

Division I. General Subdivision Information and Requirements

- Sec. 7.010. Application of subdivision regulations.
- Sec. 7.020. Subdivision requirements and enforcement.
- Sec. 7.030. Building or construction on property lines.
- Sec. 7.040. Insurance.
- Sec. 7.050. Conditions, dedications and modifications stated on plat.
- Sec. 7.060. Modifications.
- Sec. 7.070. Condominium plats.

Division II. Platting

- Sec. 7.080. General application requirements.
- Sec. 7.090. Preliminary plat; when required.
- Sec. 7.100. Preliminary plats; application—Contents and submission requirements.
- Sec. 7.110. Consideration of preliminary plats.
- Sec. 7.120. Subdivision approval; preliminary development plan as substitute for preliminary plat.
- Sec. 7.130. Effect of preliminary plat approval.
- Sec. 7.140. Final plats; applications—Contents and submission requirements.
- Sec. 7.150. Consideration of final plats.
- Sec. 7.160. Conditions stated on plat and endorsement of plat.
- Sec. 7.170. Recordation of plats.
- Sec. 7.180. Effect of failure to timely record a final plat.
- Sec. 7.190. Final plat extensions.
- Sec. 7.200. Minor subdivisions (minor plats); when allowed.
- Sec. 7.210. Minor plat; application—Contents and submission requirements.
- Sec. 7.220. Consideration, approval and recordation of minor plats.
- Sec. 7.230. Minor plat; general requirements.

Division III. Minimum Design Standards

- Sec. 7.240. Blocks.
- Sec. 7.250. Lots.
- Sec. 7.260. Driveways.
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- Sec. 7.330. Required public improvements.
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- Sec. 7.390. Sanitary sewers.
- Sec. 7.400. Sanitary sewers to adjacent property.

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- Sec. 7.410. Storm sewers.
- Sec. 7.420. Abutting streets.
- Sec. 7.430. Water service.
- Sec. 7.440. Power distribution and telephone lines.
- Sec. 7.450. Construction commencement.
- Sec. 7.460. As-built mylars with engineering certificates.

Division V. Acceptance of Public Improvements

- Sec. 7.470. Improvement inspections.
- Sec. 7.480. Acceptance of improvements.
- Sec. 7.490. Partial acceptance of work.

PROOFS

DIVISION I. GENERAL SUBDIVISION INFORMATION AND REQUIREMENTS

Sec. 7.010. Application of subdivision regulations.

Except as otherwise noted in this chapter for minor subdivisions, the regulations contained herein apply to the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for the purpose of sale or building development, whether immediate or future, including the resubdivision or replatting of land or lots. Where no new streets or access easements, on or off-site, are involved, the division of land into parcels of ten or more acres for agricultural purposes shall not require a subdivision plat.

Sec. 7.020. Subdivision requirements and enforcement.

The Director shall be responsible for enforcing the following requirements regarding the subdivision and platting of property:

- A. No subdivision (except a minor subdivision as defined herein) may be developed in the City until both a preliminary and a final plat have been submitted and approved and all applicable conditions of this chapter have been satisfied.
- B. No person shall create a minor subdivision, plat amendment, resurvey or any other similar act within the City, except in conformance with the provisions of this chapter.
- C. No lot, tract or parcel of land shall be divided by a metes and bounds description for the purpose of sale, transfer, or lease except in conformity with these requirements.
- D. No subdivision shall contain a lot that is less than the minimum dimensions set out in the applicable zoning district regulations.
- E. No lot, tract or parcel of land as part of any plat or replat of any subdivision shall be sold or offered for sale, traded or otherwise conveyed unless the plat or replat first shall have been approved in accordance with the provisions of this chapter and recorded in the Office of the Recorder of Deeds of Jackson or Cass County, as the case may be.

- F. No building permit shall be issued for the construction of any building or structure located on a lot, tract or parcel or plat divided or sold in violation of the provisions of this chapter.
- G. No building permit shall be issued for a lot that is not platted as required by this chapter.
- H. No person shall change any recorded subdivision plat if the change affects any street layout shown on the plat, or area reserved for public use, or any lot line, or if it affects any map legally recorded prior to the effective date of this chapter, unless the parcel shall be approved by the City under the procedures established by this chapter.
- I. No changes, erasures, modifications or revisions shall be made to any plat after approval has been given by the Governing Body unless the plat is first resubmitted for review and approval as required by this chapter.

Sec. 7.030. Building or construction on property lines.

No building or structure shall be constructed across a property line in the City. If a building or structure is to be constructed on or across two or more separately platted or subdivided lots, the lots must be replatted into a single lot in accordance with the provisions of this article before a building permit is issued for the project.

Sec. 7.040. Insurance.

Throughout the duration of the development of any subdivision, the subdivider shall secure and maintain insurance of the types and in the amounts as are required herein. The subdivider shall provide certificates of insurance confirming the required protection on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer at least 30 days prior to material modification or cancellation of any policy listed on the certificates.

Sec. 7.050. Conditions, dedications and modifications stated on plat.

All conditions of approval of a subdivision that run with the land, the acceptance of dedications of land

by the Governing Body, and all modifications granted by the Governing Body shall be clearly stated on the final plat prior to its recording.

Sec. 7.060. Modifications.

The requirements of this article may be modified only through approval of a preliminary development plan by the Governing Body in accordance with the procedure set forth in Article 4, or through approval of a variance by the Board of Adjustments in accordance with the procedure set forth in Article 17.

Sec. 7.070. Condominium plats.

- A. Any proposed development of property using the condominium form of ownership shall be treated by the City, for all purposes under the UDO and the City Building Code, the same as a physically identical development under a different form of ownership.
- B. In addition to any submission requirements for a plat application, the Director may require an applicant proposing the condominium form of ownership to submit with the application the condominium declaration and the condominium plat that are prepared in conformance with Chapter 448 of the Missouri Statutes. This information may be used to evaluate the application under the procedures, standards and criteria that are applicable to the application under the UDO.

DIVISION II. PLATTING

Sec. 7.080. General application requirements.

- A. Plat application requirements. Unless otherwise indicated in this chapter or by the Director, all applications for preliminary plat, final plat, or minor plat approval shall contain the following items and materials:
1. Date prepared;
 2. Name, address and telephone number of the applicant and the name, address and telephone number of the landowner if different than the applicant;
 3. Affidavit testifying to proof of ownership or of authorization of agent, pursuant to Article 4;

4. Name, address and telephone number of all persons preparing any technical studies, maps, drawings and documents submitted with the application;
5. Any technical studies that may be required by the Director pursuant to Article 4;

- B. Plat submission requirements. Unless otherwise indicated in this chapter or by the Director, each preliminary plat, final plat, or minor plat submitted for approval shall contain the following on the drawing:

1. Proposed name of subdivision. Name shall not duplicate or closely approximate the name of any existing subdivision;
2. Date prepared;
3. Maximum sheet size shall be 24 inches by 36 inches with one-inch border;
4. Graphic, engineering scale not to exceed 1:100, unless approved by the Director. All plats shall be drawn to a standard engineer's scale;
5. North arrow. Plat shall be oriented so north is to the top or to the left side of sheet;
6. Vicinity map with north arrow indicating the location of the property within the City.

Sec. 7.090. Preliminary plat; when required.

A preliminary plat shall be required for the approval of any subdivision of land that is not a minor subdivision. Approval of the preliminary plat is required before the final plat may be considered.

**Sec. 7.100. Preliminary plats; application—
Contents and submission requirements.**

- A. Pre-application conference. A pre-application conference shall be required for all preliminary plats, pursuant to Article 4.
- B. Preliminary plat submission. After the pre-application conference, the subdivider shall prepare and submit the number of copies of the preliminary plat as required by the Director.

C. Contents. The preliminary plat shall contain the following information:

1. All general plat application requirements and plat submission requirements listed in Section 7.080.
2. A legal description which accurately describes the limits of the property to be subdivided.
3. Names, addresses, and phone numbers of the developer and the engineer, surveyor, planner, or landscape architect preparing the plat.
4. Existing conditions. Provide information on the existing conditions on the proposed subdivision site and adjacent to the site within 185 feet of the plat boundaries:
 - a. Location and limits of the one percent annual chance flood, as set forth on the current FEMA maps with reference to the panel number. Elevations shall be provided if shown on the FEMA map.
 - b. Existing streams, bodies of water, and surface drainage channels.
 - c. Location, massing and pattern of existing vegetation.
 - d. Topography with contours at two-foot intervals. In areas where grades are gentle, the Director may require a lesser contour interval.
 - e. Location of all oil and gas wells, whether active, inactive, or capped, if any, based on available information.
 - f. Special features (such as ponds, dams, steep slopes or unusual geology) or unusual historical features (such as former landfills, fill areas or lagoons) must be identified by the applicant, to the best of his/her knowledge or belief based on available information. The applicant, at the Director's discretion, may be required to provide professional analysis of these conditions to address health, safety and general welfare questions related to the proposed subdivision.
 - g. The location and size of retention basins, detention basins and drainage structures, such as culverts, paved or earthen ditches or storm water sewers and inlets.
 - h. Location, width and name of any existing or platted street (public or private), alley or any other dedicated rights-of-way.
 - i. Location, width and dimensions of existing utility easements, with document reference if dedicated by separate document;
 - j. Existing and proposed buildings (not including single-family homes), which exist on plans on file with the City. Existing single- and two-family buildings may be shown in approximate location and general size and shape.
 - k. Location and size of all existing utility lines and storm water management/detention facilities;
 - l. Names of abutting subdivisions and owners of abutting parcels of unsubdivided land;
 - m. Surrounding land uses and zoning districts of adjacent properties.
5. Proposed development.
 - a. Layout, number and approximate dimensions of lots and approximate lot areas.
 - b. Location, right-of-way width, pavement width, radii, centerline, and grade of proposed streets and alleys, both public and private. Private streets shall be shown as common area tracts.
 - c. Names of proposed streets. Every street shall have one suffix (such as drive, street or circle) and a directional prefix (NE, NW, SE, SW). Street names shall not duplicate or closely resemble the name of any existing street, except that street names shall continue existing street names where appropriate, based on the addressing grid.
 - d. Location and width of proposed sidewalks and pedestrian walkways.
 - e. Location and width of proposed easements.

- f. Building setback lines from streets with dimensions.
 - g. Location and approximate dimensions of culverts and bridges.
 - h. Location of driveways, curb cuts, median breaks and turn lanes.
 - i. The general location and approximate size of all proposed utility lines, including water, storm water, and sanitary sewers.
 - j. A sanitary sewer impact statement that will address the proposed discharge into the existing sanitary sewer receiving system, if required by the City Engineer.
 - k. Appropriate water service demand data (including, but not limited to, planned land usage, densities of proposed development, pipe sizes, contours and fire hydrant layout) to allow for the preliminary analysis of the demand for water service if required by the City Engineer.
 - l. Information (proposed size, nature and general location) on all proposed storm water management facilities and detention facilities. A preliminary storm water report shall be submitted unless the requirement is waived by the City Engineer. All preliminary storm water reports shall include:
 - (1) current and proposed land use assumptions,
 - (2) identification of the watershed in which the project is located,
 - (3) identification of offsite drainage areas,
 - (4) surrounding property information,
 - (5) any other pertinent information about the site which may influence storm water runoff,
 - (6) proposed storm water facilities,
 - (7) the downstream effects of the development,
 - (8) calculations for the 100 percent, ten percent, and one percent storms. All calculations must be submitted with the report; a summary table is not acceptable,
- (9) If the storm water report indicates that detention is not required, supporting calculations evaluating the downstream effects must be provided,
 - (10) All reports shall be signed and sealed by a professional engineer registered in the State of Missouri.
- m. Location and size of proposed open space for public use proposed to be dedicated or reserved and any conditions of such dedication or reservation; parks, playgrounds, churches, or school sites or other special uses of land to be considered for public use, or to be reserved by deed or covenant for the use of all property owners in the subdivision.
 - n. Proposed topography at two-foot intervals, including general drainage patterns.
- D. Phasing. A phasing schedule for the entire project shall accompany the preliminary plat, if such project is to be final platted in more than one phase. The phasing schedule shall include, but is not limited to, clearly defined areas for phasing, estimated dates for completed phases, and utility design.
 - E. Supplementary requirements.
 - 1. Sketch plat. When a subdivision is a portion of a larger area planned as a phased and related development, a sketch plat of the entire development shall be submitted with the preliminary plat of the portion first to be subdivided. An approved conceptual development plan, pursuant to Article 4, may substitute for a sketch plat. The sketch plat shall include the following information:
 - a. Name of subdivision, location, north arrow, and acreage.
 - b. Graphic, engineering scale, not to exceed 1:100, unless specifically approved by the Director.

- c. Existing topography with contours at five-foot intervals.
 - d. The proposed development by phase of construction, identifying for each phase and for the total development: The proposed use; the density by number of dwelling units per gross residential acre; the approximate gross floor area of commercial and industrial use; and the floor area ratio (FAR) of commercial and industrial use.
 - e. General street layout.
 - f. General lot and parcel layout.
 - g. Preliminary water and sanitary sewer calculations.
 - h. The proposed location of major public uses, such as schools, open spaces, and recreation space.
2. Additional information. The Director may require such additional information as is needed for the Commission and/or Governing Body to determine that the preliminary plat presented is in accordance with the Ordinance's purposes, that the City's public health, safety and general welfare are provided for and protected, that adequate public facilities are available, or will be available, to support the need for public facilities generated by the proposed subdivision, and to ensure that adjacent and neighboring subdivisions are compatible with one another. Such additional information may be provided by such studies as the Director shall require. An adjacency compatibility statement shall be submitted for all preliminary plats for single-family detached residential developments, in accordance with the requirements of Article 2.
3. Appeal. The process for appealing the Director's requirement for additional studies shall be as set forth in Article 2.
- F. Common property maintenance plan. The written plan approved along with the approval of the preliminary development plan for the development, or if the development was not subject to the preliminary development plan requirements of this chapter, then a written plan in such form

as may be prescribed by the Director, that demonstrates that all common property, if any, will be owned and maintained in accordance with Article 4 of this chapter, shall be submitted with the application for preliminary plat approval.

Sec. 7.110. Consideration of preliminary plats.

- A. Review of plats. The Director shall coordinate review and analysis of the preliminary plat application by the City staff. The results of this analysis shall be compiled by the Director into a staff report prepared for the Commission's consideration.
- B. Action by commission.
1. No application shall be submitted to the Commission until it is deemed complete pursuant to this section.
 2. Within 60 days after the submission of a completed preliminary plat application to the Commission, the Commission shall approve, conditionally approve or disapprove the preliminary plat; otherwise the plat is deemed approved by the Commission, except that the Commission, with the consent of the applicant for the approval, may extend the 60-day period.
 3. The subdivider or his representative shall be present at the Commission meeting at which the preliminary plat is considered. Continuance within the initial 60-day period, approval, conditional approval or disapproval of the preliminary plat shall be by motion of the Commission. Continuance for more than the initial 60-day period shall be by motion of the Commission and with the consent of the applicant.
 4. If the plat is disapproved, the Commission shall state the reasons for the action and requirements that must be met to obtain the approval of the Commission.
 5. As part of the consideration of a preliminary plat with more than one phase, the Commission may recommend the imposition of conditions upon the filing of the phases that it deems necessary to ensure the orderly development of the plat.

6. The Commission shall consider whether the preliminary plat is consistent with the approved preliminary development plan for the property, if any, and any modifications granted by the Governing Body pursuant to Article 5.
7. No modifications shall be granted by the Commission as part of a preliminary plat approval, unless such modifications have been granted by the Governing Body pursuant to an application for preliminary development plan approval for a planned district, following the procedures set forth in Article 5, or granted by the Board of Adjustments pursuant to an application filed under Article 11.

C. Appeal to the Governing Body.

1. If the Commission disapproves, conditionally approves, tables, or continues consideration of the preliminary plat without the consent of the applicant, the applicant may request that the preliminary plat be submitted to the Governing Body. This request shall be made in writing to the Director within five business days of the Commission action. Upon receipt of the request, the Director shall forward the proposed plat to the Governing Body, together with the report of the Commission, stating the reason or reasons for the action taken.
2. Except as provided below, the Governing Body may then approve, conditionally approve, or disapprove the preliminary plat, thereby overriding the decision of the Commission. The Governing Body may also remand the plat back to the Commission for reconsideration.

D. Request for review by the Governing Body.

1. If the Commission approves, disapproves, conditionally approves, tables, or continues consideration of the plat without the consent of the applicant, three Governing Body members may request review of the preliminary plat within five days of Commission action, by notifying the City Clerk in writing. The City Clerk will place the request for review on the subsequent Governing Body agenda.

2. If a majority of the Governing Body agrees, the preliminary plat shall be reviewed. The Governing Body may then approve, conditionally approve, or disapprove the preliminary plat, thereby overriding the decision of the Commission. The Governing Body may also agree to return the plat to the Commission for reconsideration.
 3. If a majority of the Governing Body does not agree to review the plat, the decision of the Commission shall control.
- E. Criteria for approval. The Commission, or Governing Body on appeal or upon a request for review, shall not approve the preliminary plat unless it finds that the subdivider has presented clear and convincing evidence that:

1. All submission requirements have been satisfied;
2. The proposed preliminary plat conforms to the requirements of this chapter, the applicable zoning district regulations, the approved preliminary development plan, including any modifications requested and approved pursuant to Article 2 as part of the preliminary development plan, and any other applicable provisions of the City Code;
3. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, as amended, including all of its component plans and studies, the Capital Improvement Plan, and other plans and policies adopted by the Commission or the Governing Body;
4. The plat contains a sound, well-conceived parcel and land subdivision layout that is consistent with good land planning and site engineering design principles;
5. The spacing and design of proposed streets, curb cuts, intersection locations, medians and traffic signalization and the number of ingress and egress points to the land covered by the plat are consistent with good traffic engineering design and public safety considerations;

6. Services and facilities are available and adequate to meet the demand for facilities and services generated by the use of the land covered by the plat;
7. The subdivision will be compatible with proposed and existing adjacent development; and
8. In considering any preliminary plat application, the Commission and the Governing Body may also give consideration to criteria applicable to preliminary development plans set forth in Article 2.

Sec. 7.120. Subdivision approval; preliminary development plan as substitute for preliminary plat.

Where a preliminary development plan is required, an approved preliminary development plan may substitute for a preliminary plat where the preliminary development plan contains all information required for preliminary plats as set forth in this article.

Sec. 7.130. Effect of preliminary plat approval.

- A. Two-year effective period. The approval of the preliminary plat shall be effective for a period of two years from the date of Commission or Governing Body approval. If no final plat has been submitted for approval within two years from the date of approval of the preliminary plat, the preliminary plat approval shall terminate and be null and void. If the preliminary plat is phased over two or more final plats, and there is a lapse of two years or more between the approval of any final plat and the submission of the next final plat, the preliminary plat approval shall terminate and be null and void. If a preliminary plat becomes null and void, a preliminary plat must again be submitted to the Director and approved in compliance with this article and all other Codes and Ordinances of the City in effect at the time of resubmittal.
- B. Extension of time period. Requests for extension of the time period specified above shall be made in writing to the Director prior to the expiration date. Extensions may only be granted by one of the following:
 1. The Director may administratively grant a one year extension provided no changes

have been made to any city ordinance or regulation that would require a change in the preliminary plat. Denial by the Director to administratively grant a one year extension for any reason may be appealed to the Governing Body.

2. The Governing Body, upon appeal from the Director's decision to deny a preliminary plat extension, may grant a one year extension upon finding that such extension will not impact the city's ability to administer current ordinances or regulations.

- C. Authorization to prepare final plat. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but rather is deemed to be an authorization to proceed with the preparation of the final plat. The preliminary plat must be approved or conditionally approved before the final plat can be considered. Preliminary and final plats may be considered simultaneously at the discretion of the Director.

Sec. 7.140. Final plats; applications—Contents and submission requirements.

- A. Requirement. After approval of the preliminary plat, the subdivider shall prepare and submit the number of copies of the final plat as required by the Director, along with all other required supplementary information.
- B. Contents. The final plat shall contain the following information:
 1. All general application requirements and plat submission requirements listed in Section 7.080.
 2. Name and address of developer and surveyor preparing the plat.
 3. A legal description which describes the limits of the property and meets the accuracy requirements of the Missouri Minimum Standards for Property Boundary Surveys as adopted by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects.
 4. Coordinates, based on the Missouri Coordinate System 1983, on the corners of the plat boundary, the control station, station coordi-

- nates, and grid factor used in accordance with the regulations of the Missouri Department of Natural Resources.
5. Sufficient data (distances and directions) to positively locate the surveyed parcel within the United States Public Land Survey, or within the recorded subdivision. All section and land corners referenced on the plat and legal description shall be identified as to what was physically found or set, e.g., aluminum monument, one-half-inch iron bar. Monumentation shall be in accordance with the regulations of the Missouri Department of Natural Resources.
 6. Total acreage of the proposed subdivision.
 7. Location of lots, streets, alleys, sidewalks, tracts and other features with accurate bearings and dimensions of all lines and the length and radius of all curves, along with all other information necessary to reproduce the plat on the ground. All bearings shall be shown to the nearest second of arc and all dimensions, lengths and radii shall be shown to the nearest hundredth of a foot between all corners, angle points and points of curvature.
 8. Area in square feet for each lot, parcel, or tract.
 9. Location of any oil and/or gas wells, if any, based on available information.
 10. Lot numbers and tract identification for each lot and tract, and block numbers or letters, if applicable. Consecutive lot numbering is preferred over block numbering.
 11. Location, right-of-way width, bearing and distance, and length and radius of all street and alley centerlines, both public and private. Private streets shall be shown as common area tracts.
 12. Names of proposed streets. Every street shall have one suffix (such as Drive, Street, or Circle) and a directional prefix (NE, NW, SE, SW). Street names shall not duplicate or closely resemble the name of any existing street, except that street names shall continue existing street names where appropriate, based on the addressing grid.
 13. Location and width of proposed sidewalks. Easements shall be provided if public sidewalks are to be located on private property.
 14. Location, purpose and width of all existing and proposed easements. Existing easements dedicated by separate document shall include references to the County recording data, including date, instrument number, and book and page number, if any.
 15. Building setback lines on the front of all lots and the side streets of corner lots, including dimensions.
 16. Statements dedicating all easements, streets, sidewalks, alleys and other public areas. Language shall be added to every plat in which an easement is dedicated, stating that the grantor, on behalf of himself, his heirs, his assigns and successors in interest, hereby waives, to the fullest extent allowed by law, including, without limitation, RSMo 527.188 (2006), any right to request restoration of rights previously transferred and vacation of the easement herein granted.
 17. Statement establishing ownership and maintenance responsibility for all common area tracts, private easements, or other non-public areas.
 18. Signature blocks for the following certificates, with the corresponding name typed, printed or stamped beneath the signature:
 - a. Signatures of the owner or owners and notary public.
 - b. Certification by a registered land surveyor that the survey was executed in accordance with the current Missouri Minimum Standards for Property Boundary Surveys.
 - c. Certificate of approval to be signed and dated by Mayor, City Clerk, Commission Secretary, City Engineer, Director of Planning and Development, and County Assessor or GIS Department. If the plat consists of more than one sheet, the certifications for city approval shall be repeated on each sheet, in approximately the same location on each sheet.

19. Location and limits of the one percent annual chance flood, as set forth on the current FEMA maps, with reference to the panel number. Elevations shall be provided if shown on the FEMA map.
20. Information required to be recorded on the final plat or a reference to documents required to be recorded with the final plat. Such information shall include but not be limited to covenants that run with the land and conditions of final plat approval imposed by the Governing Body.
21. Notes shall be included on the plat specifying that individual lot owner(s) shall not change or obstruct the drainage flow lines on the lots covered by the Master Drainage Plan, unless specific application is made and approved by the City Engineer.

PROOFS

Sample language for final plats is shown in the box below:

Legal description: (An accurate legal description of the property being subdivided, including total acreage.)

Dedication. The undersigned owner(s) of the property described herein has/have caused the same to be subdivided in the manner shown on this plat and the property shall hereafter be known as _____.

Easements: An easement or license is hereby granted to the City of Lee's Summit, Missouri, to locate, construct and maintain, or to authorize the location, construction and maintenance of poles, wires, anchors, conduits, and/or structures for water, gas, sanitary sewer, storm sewer, surface drainage channel, electricity, telephone, cable television, or any other necessary public utility or services, any or all of them, upon, over, or under those areas outlined or designated upon this plat as "Utility Easements" (U.E..) or within any street or thoroughfare dedicated to public use on this plat. Grantor, on behalf of himself, his heirs, his assigns and successors in interest, hereby waives, to the fullest extent allowed by law, including, without limitation, Section 527.188, RSMo. (2006), any right to request restoration of rights previously transferred and vacation of the easement herein granted.

Streets: Roads and streets shown on this plat and not heretofore dedicated to public use as thoroughfares are hereby so dedicated.

Building Lines: Building lines or setback lines are hereby established as shown on the accompanying plat and no building or portion thereof shall be constructed between this line and the street right of way line.

Common Area: Tracts ___ are common areas to be owned and maintained by the ___[name of Homes Association or Property Owners Association]__.

In testimony whereof, the undersigned owners have hereunto set their hands this _____ day of _____, ____.

STATE OF _____
COUNTY OF _____

On this _____ day of _____, _____, before me personally appeared the above persons, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County and State the date and year last written above.

Notary Public
My Commission Expires: _____

This is to certify that the within plat of "Name of Plat including plat and lot numbers" was submitted to and duly approved by the Mayor and City Council of the City of Lee's Summit, Missouri, this _____ day of _____, 20____ by Ordinance No. _____

(Name) – Mayor Date

(Name) – City Clerk Date

(Name) - Planning Commission Sec. Date

(Name) – City Engineer Date

(Name) – Director of Planning and Development

Jackson County Assessor/GIS Dept. Date

C. Supplementary information. The following supplementary documents and information shall be submitted with the final plat:

1. Engineering plans. An application for engineering approval pursuant to the Design and Construction Manual. All applications for engineering approval shall be accompanied by the number of copies of the following as required by the City Engineer:
 - a. Engineering drawings with the information required in the Design and Construction Manual;
 - b. Plans, profiles and details for streets, curb and gutters, sidewalks, storm and sanitary sewers, and water lines;
 - c. A written benchmark description and elevation;
 - d. A storm water Master Drainage Plan that contains detailed plans for storm drainage, storm water detention, and grading plans, as specified in the Design and Construction Manual.
 - e. A designation of easements, if applicable.
 - f. All other requirements relating to the submission of engineering plans, as specified in the Design and Construction Manual.
2. Covenants and restrictions. Any private restrictions affecting the subdivision or any part of the subdivision. If the plat contains any common property, the covenants and restrictions shall conform to the common property regulations in Article 4.

Sec. 7.150. Consideration of final plats.

- A. Review of plats. The Director shall coordinate review and analysis of the final plat application by the City staff. The results of this analysis shall be compiled by the Director and a staff report prepared for the Commission's consideration.
- B. Action by Commission.
 1. The Commission shall consider and make a recommendation to the Governing Body on the final plat within 30 days after the application is submitted to the Commission. The

Commission may recommend approval of the final plat if the subdivider presents clear and convincing evidence that the final plat substantially conforms to the approved preliminary plat, the plat conforms to all applicable requirements of the Code and any modifications granted pursuant to this article and all submission requirements have been satisfied.

2. If no recommendation is made by the Commission within 30 days after the date of submission of the application, the Commission shall be deemed to have recommended approval of the final plat, as filed, to the Governing Body. The period for Commission recommendation, however, may be extended by written approval of the subdivider or his agent, or if the subdivider or his agent orally agrees to a continuance to a date certain on the record at a meeting of the Commission.

C. Governing body action upon Commission recommendation. Following review and recommendation by the Commission, the final plat shall be transmitted to the Governing Body for final action. The actions of the Governing Body shall be by ordinance, which shall include approval of the final plat for recording. Upon approval by the Governing Body by ordinance duly passed, such approval shall be endorsed by the Mayor under the hand of the City Clerk and the seal of the City.

D. Criteria for approval. The Governing Body shall not approve the final plat unless it finds that the subdivider has presented clear and convincing evidence that the final plat substantially conforms to the approved preliminary plat, the plat conforms to all applicable requirements of the Code and any modifications granted pursuant to this chapter, all submission requirements have been satisfied, and the subdivider has satisfied all conditions attached to approval of the preliminary plat.

E. Common property requirements. No final plat shall be recorded by the developer until the Director and the City Attorney shall have reviewed and approved the declaration of covenants and restrictions pertaining to common property as prepared in accordance with Article 4 of this chapter. No building permit shall be issued

for any lot in the subdivision until the Director has received verification from the applicant of the existence and good standing of the condominium or property owners' association required by Article 4 of this chapter. The City Attorney is authorized to undertake any actions at law as may be reasonably required to rescind, invalidate, or void a final plat if such verification is not submitted.

Sec. 7.160. Conditions stated on plat and endorsement of plat.

- A. Final plat copies. After approval of a final plat by the Governing Body, the subdivider shall prepare and submit for recording purposes, the number of copies of the final plat as required by the Director, properly signed and acknowledged by appropriate persons.
- B. Conditional approval.
 - 1. If the plat is conditionally approved, the Governing Body shall clearly state the conditions of approval to be satisfied.
 - 2. The Director shall not endorse the final plat until all conditions for approval imposed by the Governing Body on such final plat are satisfied.

Sec. 7.170. Recordation of plats.

The approved plat shall be recorded at the appropriate county recorder of deeds office at the subdivider's expense.

Sec. 7.180. Effect of failure to timely record a final plat.

Except as provided below, if a final plat is not recorded within one year of the date of the Governing Body's approval of the final plat, the approval shall become null and void and a new final plat must be submitted to the Commission and the Governing Body for their consideration.

Sec. 7.190. Final plat extensions.

Requests for final plat extension shall be made in writing to the Director prior to the one year expiration date provided above. Final plat extensions may only be granted by one of the following:

- A. The Director may administratively grant a one year extension provided no changes

have been made to any city ordinance, regulation or approved engineering plans that would require a change in the final plat. Denial by the Director to administratively grant a one year extension for any reason may be appealed to the Governing Body.

- B. The Governing Body, upon appeal from the Director's decision to deny a final plat extension, may grant the one year extension upon finding that such extension will not impact the city's ability to administer current ordinances or regulations.
- C. The Governing Body, in addition to the one year extension above, may grant one additional one year extension, provided that additional engineering plans may be required by the City Engineer to comply with current City ordinances and regulations.

Sec. 7.200. Minor subdivisions (minor plats); when allowed.

Minor plats may include:

- A. A division of land into no more than three lots.
- B. An adjustment in boundaries between the owners of adjoining platted lots.
- C. An adjustment of building lines.
- D. A resurvey to combine two or more lots or tracts into no more than three new lots.
- E. A resurvey of up to three lots containing two-, three- or four-family residential structures, for the purpose of subdividing the dwelling units for individual ownership of each unit. Common area(s) previously created on a final plat may be re-subdivided on such a minor resurvey, but no common area shall be created on a minor plat.

Sec. 7.210. Minor plat; application—Contents and submission requirements.

- A. Requirement. The subdivider or surveyor shall submit the minor plat to the Director for review.

- B. Contents. The minor plat shall contain the following information:
1. All general application requirements and plat submission requirements listed in Section 7.080.
 2. Name and address of developer and surveyor preparing the plat.
 3. A legal description which accurately describes the limits of the property and meets the accuracy requirements of the Missouri Minimum Standards for Property Boundary Surveys as adopted by the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects.
 4. Coordinates, based on the Missouri Coordinate System 1983, on the corners of the plat boundary, the control station, station coordinates, and grid factor used in accordance with the regulations of the Missouri Department of Natural Resources.
 5. Sufficient data (distances and directions) to positively locate the surveyed parcel within the United States Public Land Survey, or within the recorded subdivision. All section and land corners referenced on the plat and legal description shall be identified as to what was physically found or set, e.g., aluminum monument, one-half-inch iron bar. Monumentation shall be in accordance with the regulations of the Missouri Department of Natural Resources.
 6. Total acreage of the proposed subdivision.
 7. Location of lots, streets, alleys, sidewalks, tracts and other features with accurate bearings and dimensions of all lines and the length and radius of all curves, along with all other information necessary to reproduce the plat on the ground. All bearings shall be shown to the nearest second of arc and all dimensions, lengths and radii shall be shown to the nearest hundredth of a foot between all corners, angle points and points of curvature.
 8. Area in square feet for each lot, parcel, or tract.
 9. Location of any oil and/or gas wells, if any, based on available information.
 10. Lot numbers and tract identification for each lot and tract.
 11. Location, right-of-way width, bearings and distances, and length and radius of all street and alley centerlines.
 12. Names of existing and proposed streets.
 13. Location and width of existing and proposed sidewalks.
 14. Location, purpose and width of all existing and proposed easements. Existing easements shall include references to the recorded document number, including book and page if any.
 15. Exact location of all existing structures and physical improvements, when requested.
 16. Building setback lines.
 17. Signature blocks for the following certifications, with the corresponding name typed, printed or stamped beneath the signature:
 - a. Signature of the owner or owners and notary public.
 - b. Certification by a registered land surveyor that the plat was executed in accordance with the current Missouri Minimum Standards for Property Boundary Surveys.
 - c. Certification of approval to be signed by City Clerk, City Engineer, Director of Planning and Development, and County Assessor or GIS Department. If the plat consists of more than one sheet, the certifications for city approval shall be repeated on each sheet, in approximately the same location on each sheet.

Sample signature block for minor plats is shown below:

This is to certify that the minor plat of “**(Name of Plat)” was submitted to and duly approved by the City of Lee’s Summit, pursuant to the Unified Development Ordinance No. 5209:	
_____	_____
(Name) – City Engineer	Date
_____	_____
(Name) – Director of Planning and Development	Date
_____	_____
(Name) – City Clerk	Date
_____	_____
Jackson County Assessor/GIS Dept.	Date

18. Statement dedicating all easements. Language shall be added to every plat in which an easement is dedicated, stating that the grantor, on behalf of himself, his heirs, his assigns and successors in interest, hereby waives, to the fullest extent allowed by law, including, without limitation, RSMo 527.188 (2006), any right to request restoration of rights previously transferred and vacation of the easement herein granted.

19. Location and limits of the one percent annual chance flood, as set forth on the current FEMA maps, with reference to the panel number. Elevations shall be provided if shown on the FEMA map.

20. Notes shall be included on the plat specifying that individual lot owner(s) shall not change or obstruct the drainage flow lines on the lots covered by the Master Drainage Plan, unless specific application is made to and approved by the City Engineer.

C. Supplementary information. The following supplementary documents and information shall be submitted with the minor plat:

1. Engineering plans, if required. (See Final plat section above.)

Sec. 7.220. Consideration, approval and recordation of minor plats.

A. Review of minor plats. The Director shall coordinate review and analysis of the minor plat by the City staff.

B. Approval by City staff. The Director and City Engineer or his/her designee may approve the minor plat if the subdivider presents clear and convincing evidence that the minor plat conforms to all applicable requirements of the Municipal Code and any modifications granted pursuant to this section, and that all submission requirements have been satisfied. The Director may refer a proposed minor plat to the Commission and Governing Body.

C. Recordation of plat. After approval by City staff, the subdivider shall prepare and submit for recording purposes, the number of copies of the minor plat as required by the Director, properly signed and acknowledged by appropriate persons. The approved plat shall be recorded at the appropriate county recorder of deeds office at the subdivider's expense.

Sec. 7.230. Minor plat; general requirements.

A. Lot size. All lots platted or any remaining platted or unplatted land shall meet all zoning requirements for lot sizes. All RLL, R-1, RP-1 and RP-2

zoned lots proposed to be platted through the minor plat process or any remaining platted or unplatted land resulting therefrom shall meet the following requirements:

1. Lots created or resulting from a minor plat shall meet or exceed the minimum lot size requirements of the individual zoning district in which located; and
 2. Lots created or resulting from a minor plat shall be not less than 80 percent of the average size of the existing lots within the neighborhood or subdivision in which located, as determined by the Director. Once the initial average lot size has been determined, it shall become and remain the standard by which all other such lots resulting from minor plats within the same neighborhood shall be compared i.e., new lots shall not be used to recalculate an average lot size each time a minor plat is requested; and
 3. For purposes of calculating the area of existing lots, all lots within the same subdivision shall be used to determine the average lot size. If no such subdivision exists then all existing lots within a 500-foot radius or other such measurement, as determined by the Director, shall be used for the average lot size determination. If the applicant for the minor plat disagrees with the Director's determination he/she may file a written appeal with the City Clerk to place such appeal before the Governing Body within ten calendar days of the Director's determination.
 4. Lots created or resulting from a minor plat not meeting the 80 percent area requirement in subsection 2. above may only be approved through the final plat process requiring both Commission and Governing Body review.
- B. Public improvements. No building permit shall be issued for a lot or tract resulting from a minor plat unless all required public improvements for the minor plat have been substantially completed, as provided in this article.
- C. Dedication requirements. A minor plat may not include a new street to be dedicated to the city. A minor plat may include the dedication of addi-

tional right-of-way on an existing dedicated street, subject to the approval of the City Engineer. A minor plat may include the dedication of utility easements.

DIVISION III. MINIMUM DESIGN STANDARDS

Sec. 7.240. Blocks.

- A. Block length. In general, block lengths are determined by intersecting streets and shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or customary subdivision practices in the neighborhood.
1. Maximum block length in residential areas shall be based on land use and zoning district, as shown in Table 7-1 below. Block length in non-residential areas shall be subject to the provisions of the Access Management Code.

Table 7-1

<i>Land Use</i>	<i>Zoning District</i>	<i>Maximum Block Length</i>
Single-family residential	R-1	700
Single-family residential	RP-1	600
Single-family (1/2 acre lot minimum)	RLL	900
Single-family (1 acre lot minimum)	RDR	1,500
Duplex	RP-2	640
Multi-family residential on individual lots	RP-3	800

2. Blocks up to ten percent longer than the maximum listed above may be administratively approved if the requirements above cannot be met due to physical constraints, such as topography, drainageways, and existing surrounding streets.
3. Provision of mid-block connections, in the form of sidewalks, pedestrian walkways, bicycle paths, trails, or alleys, shall be a factor in considering blocks longer than the above maximum lengths. Spacing of pedestrian walkways should be 600 feet or less. Pedestrian ways through the block may be re-

quired to serve nearby public facilities or to access common areas. Such pedestrian ways shall be paved and shall have a minimum width of five feet, and shall generally be located within common areas to be maintained by the homeowners or property owners association.

- B. Intersection spacing. Blocks adjacent to collectors and arterials shall have minimum intersection spacing in compliance with the Access Management Code.
- C. Block width. The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. Where only one tier of lots is necessary because the subdivision abuts an arterial or collector street, a landscaped common area tract should generally be provided adjacent to the arterial or collector street. Such tract should be a minimum of 20 feet in width, with berms and landscaping as needed to provide appropriate screening.

Sec. 7.250. Lots.

- A. The minimum lot requirements shall be governed by this chapter.
- B. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- C. Single-tier lots shall not have access to both front and rear streets. Single-tier lots should be avoided when possible.
- D. Each lot in a subdivision shall have a minimum of 50 feet of frontage on a public or private street, except that lots on a cul-de-sac or eyebrow shall have a minimum chord of 37.64 feet and a minimum arc distance of 38.59 feet at the front property line. The cul-de-sac or eyebrow minimums are based on a 50-foot radius and a 65-foot width at the 30-foot building line.

Sec. 7.260. Driveways.

- A. Access—General. Access to individual lots shall not be allowed from an arterial or collector street when access from a local or access street is available. In the absence of a local or access street, the lot shall only have access from the

street with the lowest functional classification, in conformance with the Access Management Code.

B. Access—Corner lots.

1. Access to corner lots shall be placed as far from the nearest street intersection as possible to achieve the maximum available corner clearance and avoid the intersection functional area.
2. Access shall not be located within an intersection sight triangle.
3. Access may be obtained from each abutting street, so long as such street is not an arterial or collector and the location of such access complies with all other conditions of this section.

Sec. 7.270. Streets

A. Street Connectivity.

1. Arrangements of major streets in the subdivision shall conform as nearly as possible to the Comprehensive Plan as adopted by the City and provisions shall be made for the extension of arterial and collector streets. Except for cul-de-sacs or eyebrows, streets shall connect with streets already dedicated in adjacent subdivisions, shall be provided for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts.
2. All new developments shall be designed to discourage the use of local and residential collector streets by non-local traffic, while maintaining the overall connectivity with the surrounding system of roadways. This may be accomplished through the use of modified grid systems, T-intersections, roadway jogs, or other appropriate traffic calming or street design measures within the development.

- B. Cul-de-sacs. Cul-de-sacs and eyebrows will be permitted where topography or other conditions

justify their use, and provisions shall be made for adequate traffic circulation, subject to the following limitations:

1. The total number of cul-de-sac lots in a subdivision shall be no more than ten percent of the total number of lots in the subdivision. The number of cul-de-sac lots may be increased to 20 percent if provisions are made for pedestrian and bicycle connectivity by way of interconnecting walkways, trails or bikeways, with connections to other public or private sidewalks. "Bulbs" or "eyebrows" containing four lots or less shall not be subject to the ten percent limit.
 2. For all cul-de-sacs, a turnaround shall be provided at the closed end, with an outside curb radius of at least 39 feet and a right-of-way radius of not less than 50 feet.
 3. Cul-de-sacs shall be no longer than 500 feet and the maximum number of dwelling units on a cul-de-sac shall be 20 (except as provided below).
 4. Cul-de-sacs longer than 500 feet, but no longer than 1,000 feet, may be permitted if the subdivider submits clear and convincing evidence to the City that the property is limited by one or more of the following, to such an extent that it is impracticable to provide the area a second means of access that would avoid the cul-de-sac or allow the cul-de-sac to meet the cul-de-sac length limit (e.g., by providing a loop road into the area of the cul-de-sac, or extending the cul-de-sac to connect to another road in the subdivision). The maximum number of dwelling units on a cul-de-sac over 500 feet shall not exceed 30 dwelling units.
 - a. Difficult terrain (such as steep slopes) that make it difficult to provide a second means of access.
 - b. Floodplain through the property that makes it impracticable to extend or connect the street.
 - c. Physical limitations (such as a highway abutting the property or major utilities such as a transmission main).
 - d. Remnant parcel where other properties adjoining the area have already been subdivided or developed in a manner that precludes connecting to a surrounding existing or potential road system.
 5. Water lines serving cul-de-sacs shall be designed to meet the requirements of the Design and Construction Manual.
 6. Cul-de-sac length shall be measured from the center point of the bulb of the cul-de-sac, along the centerline of the right-of-way, to the centerline of the right-of-way of the nearest intersecting street that is not a cul-de-sac.
- C. Ingress and egress. There shall be an adequate number of points of ingress to and egress from the subdivision to ensure sound traffic engineering design, smooth traffic flow into and out of all portions of the subdivision (based upon the projected traffic generation from the subdivision and projected traffic on streets adjacent to a subdivision), and the public's safety. In determining whether the subdivision provides for an adequate number of points of ingress and egress, all relevant factors shall be considered, including but not limited to the following:
1. Residential subdivisions. One point of ingress to and egress from the subdivision shall be required for a residential area generating no more than 500 average daily trips (ADT), or 50 single-family homes. A residential area generating more than 500 ADT shall have at least two points of access. A transportation impact study will be required if the subdivision generates 100 or more trips in a peak hour, and the city traffic engineer shall determine whether the number and location of access points are appropriate based on the study and sound traffic engineering design.
 2. Nonresidential subdivisions. The adequacy of the number of points of ingress to and egress from nonresidential subdivisions shall be determined as a part of and based on the consideration of the site plan for the proposed development. The plat for such development shall show the same number of ingress and egress points as are shown on the

approved site plan. If no site plan has been approved, all approvals of the preliminary plats shall be conditioned upon the final plat being consistent with the site plan with respect to the number of points of ingress to and egress from the subdivision.

3. General factors.

- a. Traffic accumulation. The level of traffic using each point of ingress to and egress from the subdivision should not exceed the level of traffic that the type of street proposed (i.e., residential local or access street, residential collector, etc.) is designed to accommodate.
- b. Access for emergency vehicles. The points of ingress to and egress from the subdivision should be adequate to ensure that emergency vehicles can gain access to all proposed uses within the subdivision whenever necessary.
- c. Intersection of points of ingress to and egress from the subdivision with streets abutting the subdivision. The impact of injecting traffic from the proposed subdivision into the existing street network shall be mitigated by location, design, and control measures consistent with the standards of traffic engineering.
- d. Access to major street. The proposed subdivision or each section of the proposed subdivision with 50 or more lots shall have direct access to a major street (i.e., residential collector or arterial) within or abutting the proposed subdivision.
- e. With respect to:
 - (1) A subdivision that is a portion of a larger area planned as a phased and related development and for which a sketch plat must be submitted with the preliminary plat of the area first to be subdivided, and
 - (2) To a final plat for a subdivision that covers an area that is less than that covered by the related preliminary plat,

the determination of the adequacy of points of ingress and egress shall be

made independently for and considering the cumulative effect of each proposed phase of the development or subdivision, as the case may be.

D. Future street system.

1. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system, including all points of ingress to and egress from the subdivision, for the unsubdivided portion shall be prepared and submitted by the subdivider, as part of the requirement for preliminary plats.
2. When a tract is subdivided into larger than required minimum size building lots or parcels, such lots or parcels shall be so arranged as to permit the continuous location and opening of future streets and appropriate resubdivision.

E. Angle of intersection. Streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. The minimum angle of intersection of streets generally shall be 80 degrees.

F. Offsets. Streets entering the opposite sides of a cross-street shall either be directly across from each other or offset by at least 100 feet from the right-of-way of a residential local or residential access street to the nearest right-of-way of another residential local or residential access street. Spacing requirements for all other streets shall be in accordance with the regulations set forth in the Access Management Code.

G. Limited access. If a commercial or residential subdivision abuts or contains an existing or proposed limited access highway or arterial street, the Commission may require a public street parallel to the highway or arterial, or cross access easements across the lots, as necessary for compliance with the Access Management Code, for adequate protection of residential properties, to afford separation of through and local traffic, and to provide safe, attractive roadways.

H. Design standards. For all streets hereafter dedicated and accepted in any subdivision, the min-

imum standards for right-of-way width, pavement width, street grades, and street alignment shall be as set out in the "Design and Construction Manual."

- I. Alleys. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than 20 feet wide. Intersecting alleys shall have corner cutoffs of at least 20 feet on a side. Dead-end alleys shall be avoided wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turnaround facilities are provided at the closed end.
- J. Half streets. Dedication of half streets will not be approved except in the public interest.
- K. Private streets. Except where justified by special conditions, private streets will not be approved. Should the Governing Body approve a subdivision containing a private street, the private street shall be shown on the plat as a common area tract, and the provisions of Article 4 concerning common property shall apply.
- L. Curb radii. Where two residential streets intersect at approximately right angles, so that the smallest angle of intersection is not less than 80 degrees, the curb at each block corner shall be rounded with a radius of 25 feet. At all other intersections or where residential street intersects with a divided arterial or arterial street, or where two or more divided arterials or arterials meet, cross, or otherwise intersect in any combination, the curb radii at such intersections shall be subject to the approval of the City Engineer.
- M. Sight distance. No landscaping or screening materials, signs, parked vehicles, or other objects other than essential directional signs, traffic control devices, and utility structures approved by the City shall interfere with the line of sight between a height of two feet and eight feet above the adjoining street or driveway pavement, within the triangular area formed by lines 25 feet in length along the edges of the pavement of intersecting streets or a driveway intersecting a street, from their point of intersection.

- N. Street name and traffic signs. The subdivider shall procure street name and traffic (regulatory) signs, including posts and signs, and install said signs in conformance with the Design and Construction Manual and the approved engineering plans.

Sec. 7.280. Sidewalks.

A. Location requirements.

1. On local and access streets in residential areas, sidewalks shall be constructed on one side of the street if the single-family density is 1.5 to 4.0 dwelling units per gross acre excluding common area and on both sides of the street if the density is over 4.0 dwelling units per gross acre. Sidewalks are not required on either side of a local or access street in a residential area if the density is less than 1.5 dwelling units per acre. On cul-de-sac streets serving single-family development where sidewalks are required only on one side of the street, the sidewalks need not extend around the bulb of the cul-de-sac. Duplex and multi-family development shall require sidewalks on both sides of the street.
2. On all other streets (including, but not limited to, major and minor arterials, industrial and commercial collectors, and residential collectors), sidewalks shall be required on both sides of the street.

- B. Water line conflict. When a sidewalk is required on one side of a street, the sidewalk should be placed on the opposite side of the street from the water line, where feasible.

- C. Sidewalk width. Minimum sidewalk width shall be five feet. Construction standards shall be in accordance with the "Design and Construction Manual."

Sec. 7.290. Easements.

- A. Location. An easement for utilities, at least seven and one-half feet wide, shall be provided alongside and rear lot lines where necessary to form a continuous right-of-way at least fifteen (15) feet in width. If necessary for the extension of main

water or sewer lines or similar utilities, including storm or sewer lines, easements of greater width will be required along lot lines or across lots.

- B. Connectivity. Utility easements shall connect with easements established on adjoining properties.
- C. Pole guys. Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along the side lot lines.
- D. Storm sewers. Utility easements for public storm sewers shall be required. Easements shall not be required for open drainage courses.
- E. General utility easements. The subdivider shall be required to work out all easements required by all public utility companies, including but not limited to gas, electric, telephone, water and sewer. The subdivider shall provide documentation to the City showing he/she has sent copies of the preliminary and final plat to the utility companies and asked for their input prior to approval by the City.
- F. Street lighting consideration. Placement of utility easements in residential subdivisions shall take into consideration City of Lee's Summit street lighting standards.
- G. Vacation of conflicting easements. Existing easements that are recorded and/or platted but not needed and public roadways that conflict with the proposed use or plat must be vacated prior to final plat approval.
- H. Dedication of easements. The following language or similar language shall be added to every document in which an easement is dedicated to the City of Lee's Summit:

"Grantor, on behalf of himself, his heirs, his assigns and successors in interest, hereby waives, to the fullest extent allowed by law, including, without limitation, RSMo 527.188, (2006), any right to request restoration of rights previously transferred and vacation of the easement herein granted."

This would not prohibit the City from agreeing to vacate the easement at a later date for no monetary consideration to the Grantor, including his heirs, assigns and successors in interest.

Sec. 7.300. Dedications for public sites and open spaces.

- A. Dedication procedures. All areas to be reserved for or dedicated to public use shall be indicated on the preliminary plat in order that it may be determined when, if, and in what manner such areas will be dedicated to or acquired by the appropriate agency and shall conform as nearly as possible to the recommendations of the Comprehensive Plan.
- B. Revisions. All streets, alleys, sidewalks, easements, and other public sites, when approved by ordinance, shall not thereafter be changed without the approval of the Governing Body by ordinance following recommendation of the Commission.

Sec. 7.310. Planned mixed use developments.

Planned mixed use developments are to be reviewed on their individual merits upon specific application of a developer. Any conflicting regulations herein may be waived to carry out intent of plan.

Sec. 7.320. Adoption of administrative guidelines.

- A. Authorization. The Director is authorized, as deemed necessary, to prepare administrative guidelines to augment, implement and provide further details and examples of methods and manners of complying with the minimum design standards of this section, and to assist City staff, the Commission and Governing Body in evaluating whether a proposed subdivision complies with the minimum design standards.
- B. Procedure. No later than 14 days in advance of the effective date as set by the Director, of an administrative guideline, the Director shall provide a copy of the administrative guideline to each member of the Governing Body. Upon receipt of the administrative guideline, any member of the Governing Body may request a review of the administrative guideline, and a majority may approve all or a portion of such guidelines by resolution. Any portion reviewed by the Governing Body and not so approved shall not take effect. If the Governing Body does not request review, the administrative guideline shall take

effect on the date set by the Director. All administrative guidelines that take effect in this manner and have not been previously adopted by the Governing Body shall be adopted by the Governing Body, by resolution, annually.

DIVISION IV. MINIMUM PUBLIC IMPROVEMENTS

Sec. 7.330. Required public improvements.

All subdivision-related public improvements required by this chapter must be completed as a condition precedent to the approval of the final plat, unless security is provided pursuant to Section 7.340. No building permit shall be issued until the required public improvements are available to each lot for which a building permit is requested in accordance with the Design and Construction Manual, or until satisfactory security is provided pursuant to Section 7.340.

Sec. 7.340. Plat approval and security in lieu of constructing public improvements.

- A. Authority. The City Council may grant approval of a plat prior to completion of all subdivision-related public improvements if the developer complies with the requirements of this section.
- B. Security. Upon approval of the City Council and in lieu of completion of all subdivision-related public improvements previous to the final approval of a plat, the City shall accept, at the option of the developer, an escrow secured with cash or an irrevocable letter of credit deposited with the city to secure the completion of all public improvements prior to the final approval of a plat. The City may accept a surety bond rather than an escrow secured with cash or an irrevocable letter of credit and such bond shall be in an amount and with surety and other reasonable conditions, providing for and securing the actual construction and installation of the public improvements and utilities within a period specified in the ordinance approving the final plat and expressed in the bond. The form of any bond, letter of credit or escrow agreement allowed under this section is subject to the approval of the City Attorney and the Director of Finance, and all such documents shall be filed with the Director of Finance. Any

escrow or bond posted in compliance with this section may be enforced by all appropriate legal and equitable remedies. In addition, the City may accept, in lieu of completion of all subdivision-related public improvements previous to the final approval of a plat, an assessment or other method whereby the City is put in an assured position to do the necessary work for construction and installation of the subdivision-related public improvements at the cost of the owners of the property within the subdivision. Any surety or financial institution proposed to be used under this section is subject to the approval of the Director of Finance with regard to the issue of sufficient financial capability.

- C. Transfer of title of subdivision property. In the event a developer who, pursuant to this section, has posted an escrow, letter of credit, or bond, transfers title of the subdivision property prior to full release of the escrow, letter of credit, or bond, a replacement escrow or letter of credit from the successor developer shall be accepted in the form allowed under this section and in the amount of the escrow or letter of credit held by the City at the time of the property transfer. Upon receipt of the replacement escrow or letter of credit, the original escrow or letter of credit shall be released in full and the prior developer shall be released from all further obligations with respect to the subdivision-related public improvements if the successor developer assumes all of the outstanding obligations of the previous developer. A surety bond may be accepted from the successor developer in the form allowed under this section and in the amount of the bond held by the City at the time of the property transfer, and upon receipt of the replacement bond, the original bond shall be released in full, and the prior developer shall be released from all further obligations with respect to the subdivision-related public improvements.
- D. Release of escrow or bond. Any escrow or bond amount held by the City to secure actual construction and installation on each component of the public improvements or utilities shall be released within 30 days of completion of each category of public improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon comple-

tion of all improvements and utility work. Any such category of public improvement or utility work shall be deemed to be completed upon certification by the City Engineer that the project is complete in accordance with the ordinances of the City including the filing of all documentation and certifications required, in complete and acceptable form. The release shall be deemed effective when the escrow funds or bond amount are duly posted with the United States Postal Service or other agreed-upon delivery service or when the escrow funds or bond amount are hand delivered to an authorized person or place as specified by the owner or developer.

Sec. 7.350. Permanent markers and monuments.

- A. Permanent reference points. The subdivider shall cause a registered land surveyor to install permanent reference points on all perimeter corners of the property and shall tie all property corners to the quarter section. The construction and placement of permanent markers shall conform to the current "Minimum Standards for Property Boundary Surveys, 10 CSR 30-2, Missouri Code of Regulations" (as amended).
- B. Permanent markers. Permanent markers shall be placed at points of curvature and points of tangency on street lines and at each angle point on the boundary of the subdivision. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

Sec. 7.360. Streets.

Classification of streets shall be as adopted in the City of Lee's Summit's Comprehensive Plan as shown on the Thoroughfare Master Plan. The required street improvements that will be accepted and maintained shall be as determined by the City Code and the Design and Construction Manual.

Sec. 7.370. Sidewalks.

Sidewalks shall be constructed and installed in conformance with the minimum design standards set forth in Division III of this article. The determination

as to whether a sidewalk is required adjacent to a particular lot shall be made by the City, with consideration given to the recorded plat for the lot in question, adjacent recorded plats, engineering plans, water line locations, and the design standards set forth in this article.

A. Responsibility for construction.

1. Where a sidewalk is required adjacent to a buildable lot, sidewalks shall be constructed by the builder prior to occupancy of any structure on that lot.
2. When a sidewalk is required adjacent to either a common area tract, or any unplatted land, or any land where no structure is intended to be built, the developer shall construct the sidewalk at the time the street is constructed.

- B. Escrow. Should construction or installation of the sidewalks be impossible because of weather or other conditions, the person or legal entity responsible for the construction of the sidewalk shall deposit with the City a cash sum in an amount equal to the construction cost of said sidewalk.

Sec. 7.380. Street name and traffic signs.

The subdivider shall install street name signs at all street intersections and traffic (regulatory) signs in conformance with the Design and Construction Manual and the approved engineering plans.

Sec. 7.390. Sanitary sewers.

A sanitary sewer system shall be constructed by the subdivider in accordance with the Design and Construction Manual. When public sewers are not available, the subdivider shall construct a sewage collection system in accordance with the requirements of Jackson or Cass County, as the case may be, and the Missouri Department of Natural Resources. The maintenance bond requirements will be the same for a public sewer or individual collection system. A Certificate of Substantial Completion must be issued prior to the issuance of building permits.

Sec. 7.400. Sanitary sewers to adjacent property.

Sanitary sewers shall be extended to the subdivision boundary line to serve adjacent property, except where adjacent property can be served by future sewer extension through dedicated right-of-way. These sewers shall be of adequate size to serve the upstream basin, as determined by the City Engineer.

Sec. 7.410. Storm sewers.

All storm sewers constructed within the City shall be in accordance with the Design and Construction Manual. Storm water detention facilities and/or sedimentation facilities shall be constructed prior to the issuance of building permits and shall be maintained as required to control off-site drainage impacts. All storm drainage calculations shall be made in accordance with the Design and Construction Manual. Detention facilities on private property shall be maintained in accordance with the provisions set forth elsewhere in this chapter.

Sec. 7.420. Abutting streets.

Abutting streets shall be improved in accordance with the Thoroughfare Master Plan where necessary. Such improvements may include street widening, street resurfacing or replacement, installation of curbs and gutters, sidewalks, and storm water management facilities.

Sec. 7.430. Water service.

- A. Requirements. Water lines shall be constructed by the subdivider in accordance with "American Water Works Association Standards" and the Design and Construction Manual.
- B. Building permit issuance.
 1. Water lines, hydrants, and base course for streets must be installed prior to issuance of building permits, pursuant to the International Fire Code.
 2. A Certificate of Substantial Completion must be issued prior to the issuance of building permits.

Sec. 7.440. Power distribution and telephone lines.

- A. Power distribution lines. In all subdivisions, power distribution lines shall be installed underground adjacent to lots proposed for residential, commercial or industrial use, except in the case of a minor plat or replat containing three or fewer lots where overhead lines are in existence on abutting property. Power lines classed as transmission or three-phase feeder need not be placed underground. All installations shall be in conformance with the minimum standards and practices of the power company having jurisdiction.
- B. Telephone lines. In all subdivisions, telephone lines shall be installed underground adjacent to lots proposed for residential use, except in the case of a lot split or other division of land or replat containing three or fewer lots where overhead telephone lines are in existence on abutting property.

Sec. 7.450. Construction commencement.

Construction of a public improvement project may commence only after the following requirements are fully met:

- A. The City Engineer approves a final engineering submittal;
- B. Inspection fees are paid to the assigned Public Works Inspector (fees shall be in amounts established by the Design and Construction Manual); and
- C. The Public Works inspectors have been notified 48 hours prior to anticipated commencement of construction.

Sec. 7.460. As-built mylars with engineering certificates.

- A. Submittal requirements. As-built mylars must be received by the City before final acceptance of any improvement project. The mylars must include results of a post-construction survey. The post-construction survey shall include the following:
 1. Elevation of all sewer structures including pipe inverts and structure top elevations;

2. Final adjusted stationing of all sewer structures and water line valves, hydrants and blow-off assemblies; and
 3. Final adjusted contours as shown in the grading plans and master drainage plan.
- B. Certification. As-built mylars must include a certification by a professional engineer licensed in the State of Missouri stating that the drawings are as-built and conform to construction records and post-construction survey information.

DIVISION V. ACCEPTANCE OF PUBLIC IMPROVEMENTS

Sec. 7.470. Improvement inspections.

All required subdivision improvements shall be subject to inspection and approval by the City Engineer.

Sec. 7.480. Acceptance of improvements.

A certificate of final acceptance for required public improvements will be issued, provided the requirements set forth in the Design and Construction Manual are fully met within the time frame established therein.

Sec. 7.490. Partial acceptance of work.

The City may accept and make use of any completed section of the public improvement work without obligating the City to accept the remainder of the public improvement work or any portion thereof. The warranty period for the accepted section shall not start until the project is complete and the City has issued the certificate of final acceptance.

ARTICLE 8.

SITE STANDARDS

Division I. Design Standards

Subdivision 1. Introduction to Design Standards

- Sec. 8.010. Applicability.
- Sec. 8.020. Purpose.

Subdivision 2. Planned Residential District Design Standards

- Sec. 8.030. Planned residential design objectives.
- Sec. 8.040. Laterally attached residential units and multi-family structures.
- Sec. 8.050. Planned residential district open space requirements.
- Sec. 8.060. Residential street design (see Article 7).
- Sec. 8.070. Residential sidewalks (see Article 7 and Subdivision 4 of this division).
- Sec. 8.080. Pedestrian lighting in residential areas (see Division V, Lighting Standards).
- Sec. 8.090. Residential parking (see Division 2 of this article).
- Sec. 8.100. Residential traffic calming.

Subdivision 3. Office, Commercial and Industrial District Design Standards

- Sec. 8.110. Design objectives.
- Sec. 8.120. Building form and use.
- Sec. 8.130. Public gathering places in office and commercial districts.
- Sec. 8.140. Building relationships to street network in office, commercial and industrial districts.
- Sec. 8.150. Development relationship to limited access highways or arterial streets.

Subdivision 4. Other Required Design Standards

- Sec. 8.160. Sidewalk location standards.
- Sec. 8.170. Building materials for office, commercial/retail and industrial districts.
- Sec. 8.180. Architectural characteristics.

Subdivision 5. Lighting Standards

- Sec. 8.190. Purpose and intent.
- Sec. 8.200. Applicability and general provisions.
- Sec. 8.210. Existing outdoor lighting fixtures.
- Sec. 8.220. General outdoor lighting standards.
- Sec. 8.230. Photometric plans required.
- Sec. 8.240. Pedestrian lighting in residential areas.
- Sec. 8.250. Parking lot lighting.
- Sec. 8.260. Wall-mounted lighting.
- Sec. 8.270. Accent lighting.
- Sec. 8.280. Canopy and drive thru lighting.
- Sec. 8.290. Exterior display lighting.
- Sec. 8.300. Outdoor recreation lighting.

Subdivision 6. Crime Prevention Through Environmental Design (CPTED) Requirements

- Sec. 8.310. CPTED defined.
- Sec. 8.320. CPTED Review Committee established.
- Sec. 8.330. CPTED review requirement.

LEE'S SUMMIT UNIFIED DEVELOPMENT ORDINANCE

Sec. 8.340. CPTED uses specified.

Subdivision 7. Miscellaneous

- Sec. 8.350. Lee's Summit Municipal Airport.
- Sec. 8.360. Oil and Gas Well setbacks.
- Sec. 8.370. Vision clearance—Sight triangle.
- Sec. 8.380. Maintenance.
- Sec. 8.390. Materials standards.
- Sec. 8.400. Adoption of administrative guidelines.

Subdivision 8. Design Standards for the Downtown Core Area

- Sec. 8.410. Introduction.
- Sec. 8.420. Development and renovation within the Downtown Core Area.
- Sec. 8.430. Demolition and casualty loss.
- Sec. 8.440. Design standards—Commercial Core.
- Sec. 8.450. Design standards—Transition area.
- Secs. 8.460—8.500. Reserved.

Division II. Parking

- Sec. 8.510. Purpose and intent.
- Sec. 8.520. Applicability.
- Sec. 8.530. Vehicle parking.
- Sec. 8.540. Alternate Parking Plan.
- Sec. 8.550. Shared parking guidelines.
- Sec. 8.560. Landbanking.
- Sec. 8.570. Queuing requirements for drive-through facilities.
- Sec. 8.580. Accessible parking spaces.
- Sec. 8.590. Downtown area parking guidelines.
- Sec. 8.600. Proximity of parking spaces to use.
- Sec. 8.610. Improvement of residential driveways.
- Sec. 8.620. Parking lot design.
- Sec. 8.630. Driveway approach design (see the City of Lee's Summit Design and Construction Manual).
- Sec. 8.640. Loading.
- Sec. 8.650. Restricted vehicles.
- Sec. 8.660. Recreational vehicles and utility trailers.
- Secs. 8.670—8.700. Reserved.

Division III. Landscaping, Buffers and Tree Protection

Subdivision 1. In General

- Sec. 8.710. Purpose and definitions.

Subdivision 2. Landscaping, Buffers and Tree Protection Plans, Installation and Maintenance

- Sec. 8.720. Landscaping and buffer plans; when required.
- Sec. 8.730. Landscaping and buffer plans; requirements.
- Sec. 8.740. Tree conservation plan.
- Sec. 8.750. Acceptable plant materials.
- Sec. 8.760. Approval of plant materials.
- Sec. 8.770. Installation of plant materials.
- Sec. 8.780. Maintenance of required plant materials.

SITE STANDARDS

Subdivision 3. Landscaping Requirements

- Sec. 8.790. Landscaping—Minimum requirements.
- Sec. 8.800. Landscape strips along street frontage.

Subdivision 4. Parking Lot and Loading Area Landscaping

- Sec. 8.810. Parking lot landscaping and trees.
- Sec. 8.820. Screening, parking lot.
- Sec. 8.830. Parking lot permit—When required.
- Sec. 8.840. Parking lot permit—Application, content and submission requirements.
- Sec. 8.850. Parking lot permit—Consideration.
- Sec. 8.860. Parking lot permit—Appeals.

Subdivision 5. Buffer/Screen Required Between Land Uses

- Sec. 8.870. Buffer/screen; where required.
- Sec. 8.880. Buffer design standards.
- Sec. 8.890. Minimum buffer/screen requirements.
- Sec. 8.900. Required typical impact screens.

PROOFS

PROOFS

DIVISION I. DESIGN STANDARDS**SUBDIVISION 1. INTRODUCTION TO DESIGN STANDARDS****Sec. 8.010. Applicability.**

- A. The design standards are provided as a tool to be used by developers and property owners intending to improve or modify their property. These standards reflect both required and optional standards of design that the City would like to see implemented for developments within the City. All proposed development will be reviewed in accordance with these regulations and in conjunction with:
1. Article 2, including modifications allowed upon approval of a preliminary development plan as provided in Section 2.370;
 2. Article 5, which contains land use and lot dimension regulations for each zoning district;
 3. The standards for parking, signage, and landscaping contained in Divisions II and III of this article and Article 9 of this chapter; and
 4. The standards in the Design and Construction Manual.
- B. The design standards are to apply to all districts within the City, with the exception of the AG Agricultural District, RDR Rural Density Residential District, RLL Residential large lot and R-1 Single-Family Residential District or special uses that are specifically exempt in Division III of Article 6.

Sec. 8.020. Purpose.

This division describes the specific design requirements and alternatives that should guide development in the City. The purpose of the following design standards is to:

- A. Protect property values, enhance community appearance, and preserve neighborhood character.
- B. Enable developers to create more attractive, efficient, sociable, and pedestrian-friendly living, shopping, and working environments.

- C. Overcome the traffic problems, the nuisance factors, and the non-elastic characteristics that are inherent in single-use zoning districts.
- D. Increase beauty and quality of community life by improving the character of building exteriors and surroundings.
- E. Increase public infrastructure efficiency through mixed uses and efficient densities.
- F. Increase beauty and quality of employees' working and leisure-time experiences by improving the pedestrian environment and exterior building character in office, commercial, and industrial districts.

SUBDIVISION 2. PLANNED RESIDENTIAL DISTRICT DESIGN STANDARDS**Sec. 8.030. Planned residential design objectives.**

- A. Encourage developments with mixtures of densities, housing types and land uses.
- B. Foster neighborhood security with means for maintaining activity at all times of the day. Examples include "corner stores", home offices and useable front porches.
- C. Link neighborhoods with safe, attractive pedestrian connections both along the street and on open space greenways.
- D. Connect residences to each other and to neighborhood parks, schools, and shops with direct pedestrian pathways.
- E. Provide for optional vehicular circulation routes through a neighborhood to distribute traffic evenly and avoid excessive traffic on any one street.
- F. Minimize cut-through traffic within a neighborhood.
- G. Emphasize the public realm, by encouraging parks and community facilities to be located as focal points in the neighborhood.
- H. Provide for varying front yard depths including allowance for increasing the proportion of rear

yard area to front yard area to provide for privacy and to foster a more intimate and friendly neighborhood street.

- I. Facilitate people's ability to watch out for each other thereby improving neighborhood security.
- J. Maintain natural topography, substantial trees and tree groupings, and other existing landscaping features.

Sec. 8.040. Laterally attached residential units and multi-family structures.

- A. Building separation. Separations between multi-family structures shall be at least 20 feet, unless fully sprinklered for fire safety and further approved through the development process, then the separation may be reduced per the allowances of the building code.
- B. Exterior appearance. All exterior sides of three or more laterally attached single-family residences and all multi-family residence buildings shall be designed with the consideration that they will be visible from surrounding residences. Building materials, window size and placement, and general façade composition shall be compatible on all four sides of the structure.

Sec. 8.050. Planned residential district open space requirements.

An open space plan including the following elements shall be provided with all "Planned" residential developments and shall be included with the preliminary development plan submittal:

- A. A minimum of ten percent of the total land area shall be devoted to open/green space area. The proportion of public to private open space and the designated uses of the open space shall be determined by the City, based upon particular recreational, environmental, cultural, and scenic objectives in the area where the development is to be located.
- B. The City may accept a fee in lieu of dedication when the city determines that it is in the City's best interest to do so. The appropriate fee shall be determined by the City.
- C. Common open spaces shall be designed with usable sizes and proportions.

- D. Common open spaces shall be distributed throughout the neighborhood.
- E. Existing natural features on a development site shall be preserved wherever possible by incorporating them into common open space.
- F. Natural areas that are unsafe for or not easily accessible to pedestrians, including steep slopes and wooded preserves may be included as common open space.
- G. The area occupied by non-residential buildings or uses, including active private recreation facilities, such as swimming pools, and tennis courts shall not be included in common open space calculations.
- H. Common open spaces may be crossed by easements for public utilities, where such easements will involve access by persons or vehicles only for periodic maintenance or repair. Land on easements for overhead electric transmission lines shall not be counted in common open space calculations.
- I. Other than motorized wheelchairs, no vehicles shall be operated within common open spaces except for maintenance purposes.
- J. Additional plan review and approval may be required for the following specific uses and conditions:
 - 1. Agricultural uses;
 - 2. Bridle paths;
 - 3. Environmentally sensitive areas; and
 - 4. Lakes, ponds, and flood control provisions.
- K. Common open space location and orientation, where possible, shall take into account significant vistas and view corridors toward natural or man-made community features. Particularly important views shall be retained in areas accessible to all residents in the neighborhood.
- L. Existing trees shall be protected in the creation and maintenance of any common open space.

Sec. 8.060. Residential street design (see Article 7).

Sec. 8.070. Residential sidewalks (see Article 7 and Subdivision 4 of this division).

Sec. 8.080. Pedestrian lighting in residential areas (see Division V, Lighting Standards).

Sec. 8.090. Residential parking (see Division 2 of this article).

Sec. 8.100. Residential traffic calming.

In planned residential district developments traffic-calming may be encouraged at the intersection of residential streets or along residential streets, including local and collector streets, subject to need, safety and effectiveness, as determined by the City Engineer.

SUBDIVISION 3. OFFICE, COMMERCIAL AND INDUSTRIAL DISTRICT DESIGN STANDARDS

Sec. 8.110. Design objectives.

A. Office districts. Development in office districts:

1. Shall incorporate designs and uses that not only facilitate efficient and attractive working conditions, but also provide places for employees to socialize and enjoy recreation as well. For example, office districts can be designed to facilitate socialization for business and pleasure by including restaurants, health clubs, and other supportive uses that serve both the employees in the district and the community as a whole.
2. Shall incorporate thematic architecture for unity of design in the development of multiple building environments. Architectural theme examples might include, but are not limited to, prairie or mission style buildings. Architectural themes may also be demonstrated by the common use of a particular building material throughout the development such as concrete tile, barrel tile, slate, standing seam metal or similar type roofing materials incorporating the same color. Similar or compatible colors and shapes of brick

or textures of stucco wall finishes, cornices, coins, roof lines and pitch, columns, and arcades between buildings, can lend to the theme within the development.

3. Are encouraged to locate business and personal services within the district to improve business efficiency and competitiveness as well as personal well-being among employees; and provide for a high degree of walkability between office buildings and these services.
4. Are encouraged to include multi-family residences in office districts to meet the demand for people who want to be able to walk to work or to the social and recreation facilities provided in the district. Residences within office districts also can utilize parking spaces that are not used at night.

B. Commercial districts. Development in commercial districts:

1. Are encouraged to provide a variety of uses that will enable the districts to function as centers of community life. For example, retail districts can include housing "above the store." Civic uses such as libraries and community recreation centers can be located in retail districts. An outdoor gathering place or town square can provide for concerts, art fairs, school rallies, and for crossing paths with neighbors on a daily basis. Elementary schools can be located adjacent to a retail district so that picking up children and shopping can become one trip; or so that families can attend an event at school and walk across the street to a restaurant afterward.
2. Are encouraged to design storefront windows, signs and lighting to facilitate pedestrian circulation among shops. Opportunities exist to position small local stores in front of big box stores to create a continuous shopping environment.
3. Shall incorporate thematic architecture in the development of multiple building environments.
4. Are encouraged to design the commercial development as a "district" rather than a "strip," so that the groupings of businesses

can be approached from more places around the perimeter, resulting in less congestion and more accessibility, especially for pedestrians and bicyclists.

C. Industrial districts. Development in the industrial districts:

1. Are encouraged to include the kinds of amenities and services for employees that office districts provide. Distances to common facilities may be greater due to the horizontal expansiveness of most industrial uses. This warrants close attention to the location of common facilities in site planning to minimize these distances.
2. Shall utilize building materials, orientation, and landscaping that are visually attractive thereby affecting the value and reputation of the City as a whole.
3. Shall minimize the awareness of operations from the surrounding community.

D. Downtown core area. Development in the commercial and transition districts in the downtown core area is subject to the design standards in Subdivision 8 of this division.

Sec. 8.120. Building form and use.

A. Office districts.

1. Building height shall be a maximum of five stories or 75 feet. For an area developed as a higher density "mixed-use" development that includes both commercial and residential uses, the maximum height limit shall be 12 stories or 180 feet.
2. Buildings shall incorporate four-sided architecture. Horizontal and vertical elements shall extend completely around the building and utilize the same, compatible or complementary materials on all building facades.
3. Lodging facilities are permitted within office buildings or in freestanding locations subject to the same design standards. Lodging facilities shall be pedestrian accessible to restaurants and other services utilized by guests.

4. Awnings, canopies, and arcades may extend into the front yard setback to provide shelter for pedestrians from sun, rain, and snow.

5. The color of service and delivery doors that are visible to the public shall be similar to the adjoining wall color unless specifically approved by the Commission as a color contrast.

6. Solar energy devices, if provided, must be integral to overall building design.

B. Commercial districts.

1. Buildings shall incorporate four-sided architecture. Horizontal and vertical elements shall extend completely around the building and utilize the same or similar materials on all building facades.

2. Residences, lodging, or offices are permitted above the commercial businesses.

3. Building height shall be a maximum of 50 feet to the façade cornice line. Roof peaks may extend an additional ten feet above the cornice line. For example, four stories may be built consisting of offices or residential uses above one floor of commercial businesses.

4. Residential dwellings are permitted in freestanding locations within the development. They are subject to RP-3 District regulations.

5. Freestanding lodging facilities shall be directly accessible on foot to restaurants and other services utilized by guests. Designs are subject to Office District Design Standards.

6. The color of service and delivery doors that are visible to the public shall be similar to the adjoining wall color or as specifically approved by the Commission as a color contrast.

7. Individuality of businesses shall be expressed in building façade designs through the following:

- a. Varied parapet wall heights and shapes;
- b. Varied roof lines;

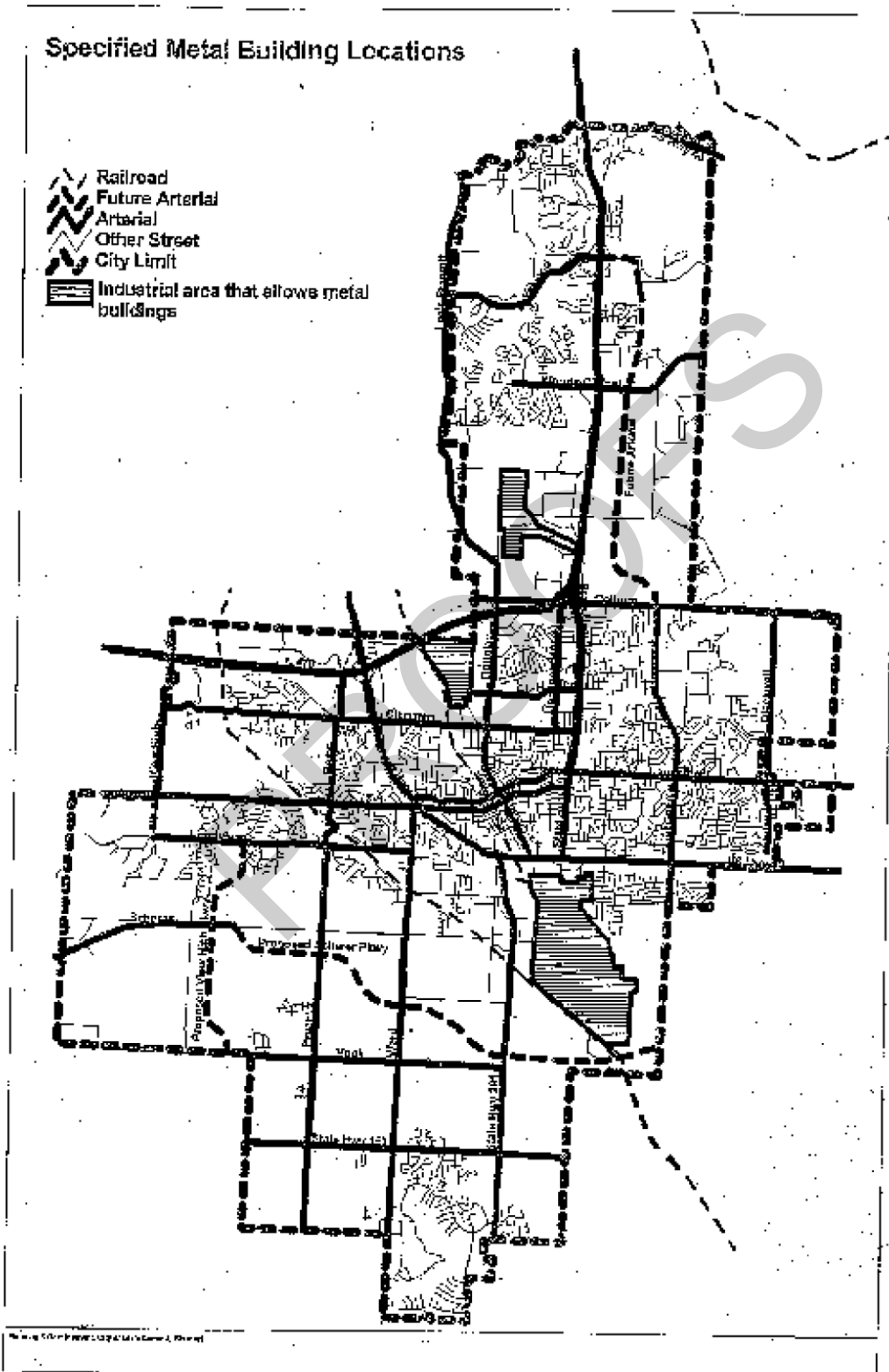
- c. Variations in building orientation;
 - d. Undulation insets and projections of the front facade;
 - e. Expression of vertical structure; and
 - f. Expressions of reveals or breaks between businesses.
8. Commercial businesses located along public streets shall be subject to the following design standards:
- a. Wherever possible, parking areas and pedestrian walks shall connect internally to parking areas and pedestrian walks of existing adjoining businesses. Provisions shall be made for future connections to adjoining property not yet developed or redeveloped. Wherever possible, pedestrian walks shall be provided to connect building entrances to public sidewalks.
- C. Industrial districts.
- 1. Industrial buildings shall be designed with four-sided architecture as in Subsection B.8.a. above.
 - 2. Mechanical units shall be screened as in Subsection B.8.b., above.
 - 3. Awnings, canopies, and arcades are permitted to extend into the front yard setback to provide shelter for pedestrians from wind, rain, and snow.
 - 4. The color of service and delivery doors that are visible to the public shall be similar to the adjoining wall color or as specifically approved by the Commission as a color contrast.
 - 5. Solar energy devices, if provided, shall be integral to overall building design.
- Sec. 8.130. Public gathering places in office and commercial districts.**
- A. A minimum of five percent of the development site shall be designated as open space usable for public gathering. Open space remaining after the maximum impervious coverage is reached may be used to meet this requirement, provided other requirements of this section are met.
- B. The open space shall be directly accessible on foot from the entrance to offices and services.
- Sec. 8.140. Building relationships to street network in office, commercial and industrial districts.**
- A. Building entrances and entrances to business services are encouraged to face onto an existing street or a landscaped open space.
 - B. Office and commercial buildings are strongly encouraged to have windows along the street facing façade. (Highly reflective, in excess of 40 percent reflectivity, or mirror glass is not acceptable.) Industrial buildings are strongly encouraged to present their building fronts with windows and provide employee and general public entrances on an existing street or major internal drive.
- Sec. 8.150. Development relationship to limited access highways or arterial streets.**
- If a development abuts or contains an existing or proposed limited access highway or arterial street, the Commission and/or Council may require frontage roads or parallel streets to separate through and local traffic and to provide for visually safe and attractive roadways.
- SUBDIVISION 4. OTHER REQUIRED DESIGN STANDARDS
- Sec. 8.160. Sidewalk location standards.**
- Sidewalks shall be a minimum width of five feet. A landscaping strip with a minimum width of five feet shall be located between the sidewalk and the curb. The sidewalk shall be placed one foot from the property line. Exceptions to this standard may be approved by the City Engineer if topographic or other constraints are encountered during construction. Meandering sidewalks may be used provided that where a sidewalk encroaches onto private property, outside the public right-of-way, an access and maintenance easement shall be provided to the City.

Sec. 8.170. Building materials for office, commercial/retail and industrial districts.

- A. The following building materials shall be used for all office and commercial/retail buildings located within the city:
1. Masonry. Brick, stone, concrete masonry units (CMU's) with split-face, fluted, scored or other rough texture finish. (Specifically excluding smooth finish CMU or concrete brick i.e. "Cherokee block", with the color and texture of clay brick.)
 2. Concrete. Precast, exposed aggregate, cast in place, or tilt up panels provided a rough texture is present or to be added.
 3. Stucco. Including E.I.F.S., Dryvit, but excluding pre-manufactured panels.
 4. Structural clay tile. Excluding glazed surface finish.
 5. Glass. Glass curtain walls, glass block, excluding mirror glass which reflects more than 40 percent of incident visible light.
 6. Metal. Used only in an incidental role i.e., trim, architectural features, standing seam metal roofing or other architectural metal siding or roofing as approved by the Planning Commission and/or City Council.
 7. Roofing materials. As approved per development plan.
- B. Industrial buildings fronting on arterial streets may utilize the following approved materials:
1. Fronts of all industrial buildings located on streets classified as arterials or higher i.e., four lanes or greater, shall utilize 100 percent approved materials specified in Subsection A. above.
 2. Sides of all industrial buildings facing or fronting on a street as in Subsection 1. above shall incorporate a minimum of 50 percent of the approved materials listed in Subsection A. above on the remaining sides. The other 50 percent of the sides may use pre-engineered and pre-finished rough textured metal siding panels and/or pre-engineered and pre-finished rough textured metal siding panel systems, meeting adopted building codes.
- C. Industrial buildings fronting on other than arterial streets may utilize the following materials:
1. Fronts of all buildings facing a street shall incorporate a minimum of 50 percent of the approved materials listed in Subsection A. above.
 2. Sides of all industrial buildings facing or fronting on other than arterial streets as in Subsection 1. above may utilize the same metal panels as stated in Subsection B. above.
- D. Industrial buildings located in areas designated as "specified metal building locations" may utilize the following materials:
1. Fronts of all buildings facing a street shall incorporate a minimum of 50 percent of either the approved materials listed in Subsection A. above or rough textured metal siding panels/systems meeting adopted building codes.
 2. The remaining sides of all buildings may utilize 100 percent metal panel siding or metal panel systems, meeting adopted building codes.
- E. Conditional materials. (Only as approved by the Planning Commission and/or governing body.)
1. Wood. Only when used to provide compatibility to surrounding buildings or residential districts.
 2. Vinyl. Only when used to provide compatibility as in Subsection 1. above.
 3. New materials not listed as approved, prohibited or conditional.
- F. Temporary materials. Materials for temporary use may only be allowed for a specific period of time as determined by the City Council on a case by case basis. Approval of temporary materials shall be established at the time of approval of the preliminary plan and shall be noted on the preliminary and final development plans.
- G. Prohibited materials. Exterior building materials not listed either as approved, conditional or temporary materials as defined herein shall be pro-

hibited. New materials may be considered as "conditional materials and may be approved as in Subsection E. above.

PROOFS



Sec. 8.180. Architectural characteristics.**A. Offsets.**

1. Horizontal breaks shall be provided on all sides of buildings to provide architectural relief and may include bands of accent color, brick course variances in color or placement, i.e., soldier course bricks for bands of different texture, windows, cornices, wall protrusions, horizontal belt courses, etc.
2. Vertical breaks shall be provided on all sides of buildings to provide architectural relief as in Subsection 1. above.

B. Four-sided architecture. All sides of a building shall include similar architectural details materials and colors to avoid a back side or at least to minimize a back side presentation to other buildings or residential neighborhoods.**C. Roofs.**

1. Pitched roofs. Pitched roofs shall be used on buildings in lieu of flat roofs to the extent feasible. If pitched roofs are not feasible or practical in a given situation, then, at a minimum, a pitched roof architectural feature shall be required as a detail element, i.e., entry way or tower element to break the horizontal façade. Buildings located adjacent to residential districts shall incorporate the use of pitched roofs for the entire structure.
2. Flat roofs. Buildings using flat roofs with a pitch of two inches vertical to 12 inches horizontal or less shall incorporate detailed parapets or exaggerated cornice lines to provide architectural relief.
3. Roof penetrations. All roof penetrations shall be placed in architecturally designed appurtenances. Small vent pipes may be painted to blend in with a roof to disguise their presence. Roof penetrations shall be shown on the preliminary and final plans to the extent possible.

D. Color. Colors of all exteriors including walls, trim, accents, roofs, mechanical equipment, etc., shall be indicated on the preliminary and final development plans and, when required, shall be ap-

proved by the Planning Commission and/or by the City Council following recommendation by the Planning Commission.

- E. Roof mounted equipment. All roof-mounted equipment shall be screened entirely from view by using parapet walls at the same height as the mechanical units. For additions to existing buildings that do not meet this standard, individual screens will be permitted, with the design subject to approval by the Director.
- F. Ground mounted equipment. Ground mounted equipment shall be totally screened from view by landscaping or masonry wall up to a height of the units to be screened.
- G. Trash enclosures. All exterior trash storage containers shall be screened so that they are not visible from off the property. Each trash enclosure shall be constructed of masonry walls or steel architecturally designed walls with either a solid steel opaque gate painted to be compatible with the color of the masonry or steel walls and building it is to serve or a steel framed semi-opaque gate with a screen mesh material approved by the Director that provides an appropriate visual barrier.

SUBDIVISION 5. LIGHTING STANDARDS**Sec. 8.190. Purpose and intent.**

The purpose and intent of this section is to establish outdoor lighting standards in all zoning districts that:

- A. Reduce or eliminate glare, light trespass/spillover and overlighting from on premise light sources to off-premise properties, but not to include significant elevation differences as determined by the Director to be unreasonable to shield;
- B. Promote safety and security by incorporating Crime Prevention Through Environmental Design (CPTED) Principles per Subdivision 6 of this division;
- C. Encourage energy conservation and provide attractive lighting fixtures and layout patterns that contribute to a unified exterior lighting design of non-residential developments.

For purposes of determining light levels for installed light fixtures per this division, the Director shall use a digital light meter, illuminance meter, meeting C.I.E. (International Commission on Illumination) standards. Light meter readings shall be taken at three feet above grade on a horizontal axis unless otherwise specified.

Sec. 8.200. Applicability and general provisions.

These lighting standards shall apply to the installation of new outdoor lighting fixtures or the replacement of existing outdoor lighting fixtures. Replacement of a fixture shall mean a change of fixture type or change to the mounting height or location of the fixture. Routine lighting maintenance, such as changing lamps or light bulbs, ballast, starter, photo control, lenses and similar components, shall not constitute replacement and shall be permitted provided such changes do not result in a higher light level output such as replacing a 150 watt bulb with a 200 watt bulb. If the housing of the fixture is deteriorated or damaged to point of needing replacement, it shall only be replaced with a permitted fixture type in accordance with this division.

Sec. 8.210. Existing outdoor lighting fixtures.

Outdoor lighting fixtures lawfully existing prior to January 1, 2009, that do not conform to these provisions shall be deemed to be a lawful nonconforming use and may remain. A nonconforming lighting fixture that is changed to or replaced by a conforming lighting fixture shall no longer be deemed nonconforming, and thereafter such lighting fixture shall be maintained in accordance with this division.

Sec. 8.220. General outdoor lighting standards.

- A. Light source. Metal halide, light emitting diodes (LED's), or other new light source technology approved by the Director shall be the required light source for all outdoor lighting. These outdoor lighting fixtures are to be color-correct types to ensure true-color at night for security purposes and support CPTED principles.
- B. Design of fixtures/prevention of spillover glare. All outdoor light fixtures shall use full cut-off lenses, as classified by the Illuminating Engineer-

ing Society of North America (IESNA), to prevent glare and light spill from the project site onto adjacent properties, buildings and roadways. All lights shall be International Dark-Sky Association (IDA) approved fixtures.

C. Prohibited lights. The following lights are prohibited:

1. Aerial or search lights;
2. Laser source lights;
3. Pulse, blinking, tracing or flashing lights;
4. Outline lights;
5. Mercury vapor lights;
6. Fluorescent, except when used as accent lighting or in shielded wall packs or wall sconces;
7. Neon, except when used as accent lighting;
8. High and low pressure sodium;
9. Halogen, except when used as accent lighting; and
10. Flood light fixtures, except when used as Accent Lighting and only when directionally shielded eliminating glare to motorists and pedestrians.

D. Exceptions. The following lights are excepted from these requirements:

1. Egress lights as required by the building code 100 watts or less for incandescent, 26 watts or less for compact fluorescent, or 40 watts or less for other lighting sources;
2. Construction and emergency lighting used by construction workers or police, firefighting, or medical personnel, provided said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency requiring said lighting;
3. Security lighting controlled and activated by motion sensor devices for a maximum duration not to exceed 10 minutes and not to exceed 100 watts for incandescent, 26 watts for compact fluorescent, or 40 watts for other lighting sources.

E. Exemptions. The following lights are exempted from these requirements:

1. Lighting attached to one- and two-family dwellings;
2. Airport lighting;
3. Street lighting installed per the Design and Construction Manual.

Sec. 8.230. Photometric plans required.

A photometric plan shall be required for all new development, redevelopment, parking lot development or expansion where outdoor lighting is proposed or when otherwise required by the Director. The photometric plan shall be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a State licensed professional engineer, architect, landscape architect or land surveyor and shall contain the following information:

- A. Location and limits of the canopy or outdoor display area at a scale of not less than one inch equals 50 feet.
- B. Location and height of:
 1. All underside canopy lighting for service stations and service station convenience stores, and
 2. All pole and building mounted light fixtures for outdoor display areas, and
 3. All pole lights fixtures for parking lots.
- C. A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixtures.
- D. The photometric plan shall indicate footcandle levels on a ten-foot by ten-foot grid. When the scale of the plan, as determined by the Director, makes a ten-foot by ten-foot grid plot illegible, larger grid spacing may be permitted.
- E. All photometric plans shall provide a breakdown indicating the maximum footcandle, minimum footcandle, average maintained footcandle, and the maximum to minimum ratio for each lighting zone.
- F. All photometric plans shall include all structure(s), parking spaces, building entrances,

traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and adjacent uses that might be adversely impacted by the lighting. The plan shall contain a layout of all proposed fixtures by location, orientation, aiming direction, mounting height and type. The plan shall include all other exterior lighting (e.g., architectural, building-entrance, landscape, flag, accent, etc.).

- G. For projects abutting or adjacent to residential properties, a photometric plan providing the as-constructed lighting levels shall be provided to the Department of Planning and Development prior to the issuance of a Final Certificate of Occupancy. The as-constructed photometric plan shall indicate the footcandle levels on a ten-foot by ten-foot grid.

Sec. 8.240. Pedestrian lighting in residential areas.

Pedestrian-oriented lighting (metal halide preferred) is permitted, on 12-foot poles at 82.5-foot or less spacing with light intensity and spread patterns to be determined by the governing body. Pedestrian-oriented lighting may either supplement or substitute for the standard street lighting, based upon acceptable intensity, spread and glare reduction characteristics.

Sec. 8.250. Parking lot lighting.

- A. Parking lot lighting required. Multi-family, institutional and commercial uses or developments providing parking lots accommodating 11 or more parking spaces shall provide parking lot lighting in accordance with this division.
- B. Fixtures. Parking lot lighting shall utilize flat lens fixtures with full cut-offs and be mounted to the parking lot light pole at 90 degrees (horizontal to the ground) and shall be non-adjustable.
- C. Maximum base height. Concrete pedestals/bases shall not exceed three feet in height and shall be included in the maximum overall height.

- D. Maximum height. The maximum overall fixture height, measured to the top of the fixture from grade, shall comply with the following:
1. All light fixtures on properties within or adjoining residential uses and/or districts shall not exceed 15 feet in height within the perimeter area. For purpose of this standard, the perimeter area shall be measured 100 feet from the property line closest to the residential use and/or district. Outside the perimeter area, the overall height may be increased to 20 feet, measured to the top of the fixture from grade.
 2. All light fixtures on properties within or adjoining residential uses and/or districts that are separated by a non-arterial street and are within the perimeter area shall not exceed 15 feet. Outside the perimeter area, the overall height may be increased to 20 feet in height, measured to the top of the fixture from grade.
 3. All light fixtures on properties adjoining residential uses and/or districts that are separated by an arterial street and are within the perimeter area shall not exceed 24 feet. Outside the perimeter area, the overall height may be increased to 28 feet in height, measured to the top of the fixture from grade.
 4. All light fixtures on properties that do not adjoin residential uses and/or districts in Subsections 1. through 3. above shall not exceed 28 feet.
 5. The solar panel for any solar powered light fixture may extend five feet above the height of the fixture.
- E. Maximum footcandles at residential property line. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at three feet above the grade.
- F. Uniformity ratios. Light pole fixtures shall be arranged to provide uniform illumination throughout the parking lot not to exceed ten footcandles.
- G. Maximum wattage.
1. All fixtures on developments that adjoin residential uses and/or districts shall be limited to 175 watts maximum per head through the entire parking lot.
 2. All fixtures on developments separated from residential uses and/or districts by a non-arterial street shall be limited to 175 watts maximum per head along the perimeter area. For the purpose of this standard, the perimeter area shall be measured 100 feet from the property line closest to the residential use and/or district. Outside the perimeter area, higher wattage fixtures may be utilized, but shall not exceed 250 watts.
 3. All fixtures on developments separated from residential uses and/or districts by an arterial street shall be limited to 250 watts maximum per head along the perimeter area, as defined above. Outside the perimeter area, higher wattage fixtures may be utilized, but shall not exceed 400 watts.
 4. All fixtures on developments that adjoin commercial, office or industrial uses and/or districts shall be limited to 400 watts maximum per head.
 5. The total aggregate wattage for multiple headed fixtures mounted on a single pole shall be limited to 800 watts maximum.
- H. Maximum light fixture heads. Developments adjoining residential uses and/or districts including those separated by a street shall utilize single headed fixtures on the perimeter area.
- I. Lighting may be further restricted depending on physical characteristics of the site.
- J. Solar powered or LED light fixtures required. A minimum of 50 percent of the parking lot light fixtures shall be solar powered or 100 percent of the parking lot lighting shall utilize LED light fixtures.
- K. Mandatory illumination reduction. On all non-residentially developed lots which contain a minimum of four parking lot light poles, parking lot lighting levels for surface parking lots and the top levels of parking decks and structures shall be reduced by at least 50 percent of the full operational levels within 60 minutes after the close of business. Lighting levels may be reduced by turning off 50 percent of the parking lot lights or by dimming parking lot lighting levels to no more than 50 percent of the levels used during business or activity hours, or by some combination.

Sec. 8.260. Wall-mounted lighting.

- A. Wall mounted lighting is defined as any light fixture mounted to the building wall excluding accent lighting, canopy lighting, and excepted lights, as identified in this subdivision.
- B. Full cut-offs. Wall-mounted lights shall utilize full cut-off fixtures.
- C. Maximum wattage. Wall-mounted fixtures shall be metal halide and not exceed 150 watts.
- D. Mounting height. Wall-mounted/building-mounted fixtures shall be attached only to walls, and the top of the fixture shall not exceed the height of the parapet or roof, whichever is greater. For structures within 100 feet of a residential use and/or district, the mounting height of these fixtures shall not exceed 15 feet measured from the top of the fixture to grade.

Sec. 8.270. Accent lighting.

- A. Accent lighting is defined as any lighting used to accent architectural features, fascia, landscaping, flags, art or other objects for architectural or landscape purposes.
- B. Fixtures used for accent lighting shall be full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is substantially confined to the object intended to be illuminated to minimize glare, sky glow and light trespass. All lights shall terminate on opaque surfaces within the property.
- C. Fixture type allowed. The following fixture types may be used as accent lighting:
 1. Neon and fluorescent tube lighting when recessed or contained in a cap or architectural reveal. A diffusing or refracting lens that covers the recess, cap or reveal shall be provided.
 2. Floodlights;
 3. Wall sconces or lanterns;
 4. Recessed can lights; or
 5. Any other fixture type that, in the opinion of the Director or designee, meets the intent of this section.

- D. Maximum wattage. Fixture wattage shall not exceed 100 watts for incandescent, 26 watts for compact fluorescent, or 40 watts for other lighting sources.
- E. The maximum illumination of any vertical surface or angular roof surface shall not exceed 4.0 footcandles.

Sec. 8.280. Canopy and drive thru lighting.

- A. Canopy and drive thru lighting shall be adequate to facilitate the activities taking place in such locations and shall not be used to attract attention to the business.
- B. Any facility utilizing a canopy or drive-thru area such as banks, service stations, convenience stores, car washes, etc., shall comply with the following requirements:
 1. Canopy light fixtures shall be recessed so that the lens cover is flush with the bottom surface (i.e., ceiling) of the canopy.
 2. Indirect lighting may be used where light is beamed upward lighting the underside of the canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the canopy. The underside of the canopy shall be finished with a surface treatment that minimizes the potential of glare.
 3. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the canopy sides or fascias shall not be illuminated except when approved as part of a preliminary development plan or separate sign package.
- C. Areas under the service station canopy shall be illuminated so that the minimum lighting level is at least 10.0 footcandles and no more than 30.0 footcandles.
- D. Automatic teller machines (ATMs). The lighting around freestanding ATMs shall be a minimum of 5.0 footcandles and not to exceed 16.0 footcandles, measured within a ten-foot radius from the ATM or 4.0 footcandles within a 30-foot radius.

Sec. 8.290. Exterior display lighting.

- A. Exterior display lighting is any lighting used to illuminate any outdoor display or sales area including but not limited to vehicle sales, storage lots, garden center, etc.
- B. The display area lighting shall not exceed 25.0 footcandles with an average illumination to minimum illumination of not greater than 5.0:1.
- C. The height of the exterior light fixtures shall be as follows:
 - 1. Wall-mounted/building-mounted fixtures shall be attached only to walls, and the top of the fixture shall not exceed the height of the parapet or roof, whichever is greater. Fixtures on structures within 100 feet of a residential use and/or district shall not exceed 15 feet measured from the top of the fixture to grade.
 - 2. Pole mounted fixtures shall not exceed 20 feet as measured from finish grade to the top of the light fixture. Concrete pedestals/bases shall not exceed three feet in height and shall be included in the overall height. Fixtures within 100 feet of a residential use and/or district shall not exceed 15 feet measured from the top of the fixture to grade.
- D. Parking lot display illumination shall meet the mandatory illumination reduction requirement for parking lot lights between 10:00 p.m. and 7:00 a.m. when located adjacent to residential areas.

Sec. 8.300. Outdoor recreation lighting.

- A. Lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, special event or show areas, shall meet the conditions in this section.
- B. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be mounted, aimed and shielded so that their beams fall within the primary playing area and immediate surroundings.
- C. The main lighting of the facility shall be turned off no more than 60 minutes after the end of an

activity or event. A low level lighting system shall be installed to facilitate patrons leaving the facility, cleanup, nighttime maintenance, etc.

- D. The maximum mounted heights for recreational lighting shall be in accordance with the following:
 - 1. Football fields — 70 feet;
 - 2. Soccer fields — 70 feet;
 - 3. Baseball/softball fields (250 feet or greater) — 70 feet;
 - 4. Baseball/softball fields (less than 250 feet) — 60 feet;
 - 5. Little league fields — 60 feet;
 - 6. Basketball court — 20 feet;
 - 7. Tennis court — 30 feet;
 - 8. Swimming pool — 20 feet;
 - 9. Track — 20 feet;
 - 10. Horseshoe court — 30 feet;
 - 11. Skate park — 30 feet;
 - 12. Volleyball court — 30 feet;
 - 13. Other recreational activities shall be determined on a case by case basis by the Director after consultation with the City's Parks and Recreation Department and/or industry standards. In no circumstance shall heights exceed 30 feet.
- E. The average maintained lighting levels for recreational uses, other than professional sports teams, shall not exceed the following:
 - 1. 80.0 footcandles in the infield and 50.0 footcandles in the outfield for baseball/softball/little league fields. The maximum lighting level to average lighting level ratio shall not exceed 2.0:1.
 - 2. 80.0 footcandles for football/soccer/tennis courts. The maximum lighting level to average lighting level ratio shall not exceed 2.0:1.
 - 3. 50.0 footcandles for basketball court/track. The maximum lighting level to average lighting level ratio shall not exceed 2.0:1.
 - 4. 20.0 footcandles for swimming pool. The maximum lighting level to average lighting level ratio shall not exceed 2.0:1.

5. Other lighting levels shall be in accordance with IESNA, Illuminating Engineering Society of North America standards.
- F. All light fixtures/light poles shall be set back a minimum of one foot for every foot in height from any residential property line and/or right-of-way.
- G. Lighting levels shall not exceed 0.5 footcandles at any common property line with residential district and/or use.

SUBDIVISION 6. CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED) REQUIREMENTS

Sec. 8.310. CPTED defined.

CPTED is defined as the proper design and effective use of the built environment that can lead to a reduction in the fear and incidents of crime, and an improvement in the quality of life. The four basic CPTED principles include:

- A. Natural access control. Guides people entering and leaving space through the placement of entrances, exits, fences, landscaping and lighting.
- B. Natural surveillance. Uses design features to increase the visibility of a property or building.
- C. Territorial reinforcement. Physical design provides clear distinction between private and public property.
- D. Maintenance. Proper upkeep signals property is being well cared for and inhospitable to criminals.

Adopted for reference purposes are two publications dealing with CPTED. Designing Safer Communities* and CPTED Guidelines — Safety by Design: Creating a Safer Environment In Virginia**.

*Designing Safer Communities is a publication of the National Crime Prevention Council funded by the Bureau of Justice Assistance Programs, U.S. Department of Justice.

**Safety by Design is a publication of the Virginia Crime Prevention Association funded by a grant from the Allstate Foundation.

Sec. 8.320. CPTED Review Committee established.

The CPTED Review Committee, CRC, is comprised of a select number of city staff members from the Development Review Committee, DRC, who have completed both basic and advanced training in CPTED Principles through the National Crime Prevention Council. The adopted "Mission Statement" of the CRC reads as follows:

"...to utilize CPTED principles and innovative crime prevention techniques to maintain and improve the quality of life by reducing crime and/or the fear of crime, whereby creating a safer environment."

Sec. 8.330. CPTED review requirement.

All development applications shall be subject to CPTED review and recommendations. The application of CPTED concepts and strategies is site specific and the level of review shall be determined on a case by case basis. Some requests during development review will require mandatory compliance. Others will be strongly encouraged but compliance will be voluntary. Mandatory compliance elements will be addressed in Division 2 of Article 6 "Uses with Conditions".

Sec. 8.340. CPTED uses specified.

The following uses have been classified as "Uses with Conditions" per Division 2 of Article 6 of this chapter, having been determined with a tendency toward an increased risk of crime. Specific conditions for such uses are found in Division 2 of Article 6 and shall be required to be met prior to receiving any zoning approval, business license or approval to occupy any commercial space:

- A. Bank/financial services;
- B. Bank drive-thru facility;
- C. Check cashing and payday loan business;
- D. Convenience store (C-Store);
- E. Financial services with drive-up window or drive-thru facility;
- F. Pawn shop;

- G. Title loan business, if performing on site cash transactions with \$500.00 or more in cash on hand;
- H. Unattended self-serve gas pumps;
- I. Unsecured loan business;
- J. Other similar uses shall meet the same standards as the above.

SUBDIVISION 7. MISCELLANEOUS

Sec. 8.350. Lee's Summit Municipal Airport.

Metal hangars shall be permitted at the Lee's Summit Airport provided that a painted or textured finish is provided.

Sec. 8.360. Oil and Gas Well setbacks.

- A. In property where oil and/or gas wells are or have been in existence, the following setbacks must be maintained for all buildings or structures:
 1. Any foundation or any other part of any building or structure shall be set back at least ten feet from any capped well; and, if fill is placed over any well cap, the setback from the foundation or structure shall be increased by two feet for each one-foot of fill. The setback shall be measured from the cap or survey marker identifying the capped well.
 2. Any foundation or any other part of any building or structure shall be set back at least 150 feet from any active well.
 3. No setback is required for streets or driveways, which may be constructed over capped wells.

Sec. 8.370. Vision clearance—Sight triangle.

- A. "Sight triangle" is defined as the triangular area for sight distance preservation defined by the American Association of State Highway and Transportation Officials (AASHTO) "Green Book." This sight triangle is normally formed by lines at least 25 feet in length along the edges of the pavement of intersecting streets or a driveway intersecting a street, from their point of intersection.

- B. No landscaping or screening materials, signs, parked vehicles, or other objects other than essential directional signs, traffic control devices, and utility structures approved by the city shall interfere with the line of sight between a height of two feet and eight feet above the adjoining street or driveway pavement, within the triangular area formed by:
 1. Lines 25 feet in length along the edges of the pavement of intersecting streets or a driveway intersecting a street, from their point of intersection.

- C. No landscaping or screening materials, signs, parked vehicles, or other objects other than essential directional signs, traffic control devices, and utility structures approved by the city shall interfere with the line of sight between a height of two feet and eight feet above the adjoining pavement, within the triangular area formed by:
 1. Lines 20 feet in length along the edges of the pavement of intersecting driveways or a sidewalk intersecting a driveway, from their point of intersection.
 2. A line connecting them in the following instances:
 - a. A vehicular accessway or driveway and a sidewalk.
 - b. Two or more vehicular accessways or driveways.
 3. Nothing in this section shall be construed to allow placement of objects in the public right-of-way.
 4. Near highway intersections, the American Association of State Highway and Transportation Officials (AASHTO) sight distance triangle requirement shall be utilized.

Sec. 8.380. Maintenance.

Exposed walls and roofs of buildings shall be maintained in a clean, orderly, and attractive condition, free of cracks, dents, punctures, breakage, and other forms of visible marring. Materials that become faded, chalked, or otherwise deteriorated or unsightly shall be refinished, painted or replaced. Exterior grounds

including parking lots and associated pavement shall be maintained without pot holes, unfilled cracks, broken sidewalks and curbing.

Maintenance occurring in the Downtown Core and Transition Area shall also comply with the regulations of Division VIII of this article, including 8.420.B.1.b.2).

Sec. 8.390. Materials standards.

All materials approved for use as provided in this division shall be manufactured and installed in accordance with applicable ASTM and other standards and codes adopted and accepted by the City.

Sec. 8.400. Adoption of administrative guidelines.

The Director of Planning and Development is authorized, as he/she deems necessary, to prepare an interpretation manual and administrative guidelines in order to augment, implement and provide further details for the carrying out of these minimum design standards. The Director is also charged in assisting City staff, the Planning Commission and City Council in the evaluation compliance with these standards for development applications.

SUBDIVISION 8. DESIGN STANDARDS FOR THE DOWNTOWN CORE AREA

Sec. 8.410. Introduction.

A. Statement of intent and purpose. The design standards for the Downtown Core Area are intended to provide parameters for the physical appearance, structure and placement of buildings located in the areas defined herein, for commercial, mixed use, non-residential and multi-family residential development. The purpose of these design standards is to:

1. Promote development and redevelopment that are complementary and consistent with

the character of existing historic, historically eligible and historically contributing structures.

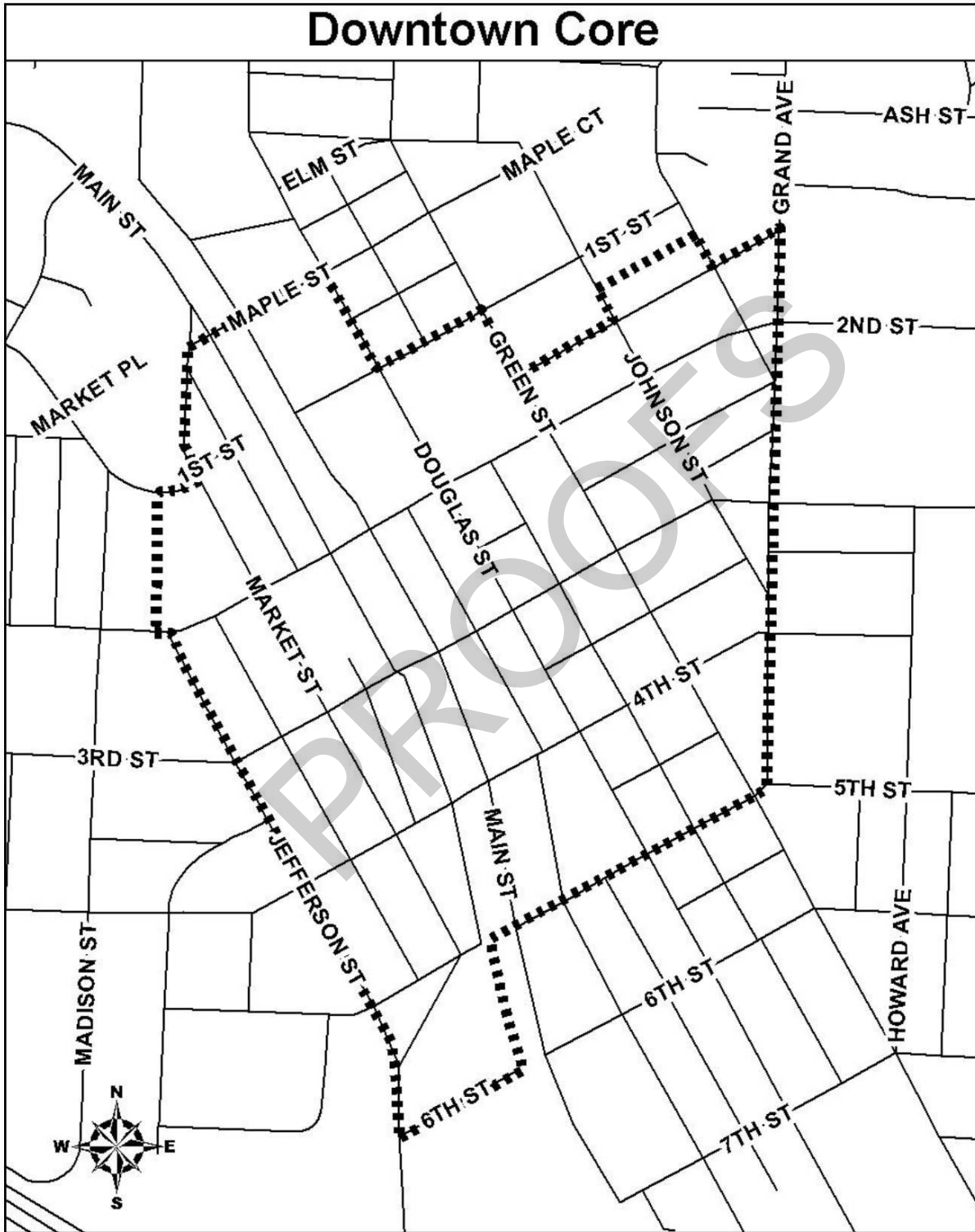
2. Foster reinvestment in and redevelopment of existing structures.
3. Provide site plan and architectural standards to foster sustainable development, with an appreciation for the elements of scale and character of the historic buildings.
4. Implement the Old Lee's Summit Downtown Master Plan, a part of the Lee's Summit Comprehensive Plan, including recommendations for the Downtown Core Area, as defined therein.

B. Downtown core area. The boundaries of the Downtown Core Area shall be those shown in the Downtown Master Development Plan adopted as a part of the Lee's Summit Comprehensive Plan on May 10, 2005. (See map on the following page.)

C. Two distinct areas are further defined within the Downtown Core, the Commercial Core Area and the Transition Area, both having their own set of standards for compliance purposes.

D. Streetscape. When applicable the streetscape shall be consistent with the "Lee's Summit Downtown Improvements Street Reconstruction & Streetscape Plan."

E. Local historic districts. Any conflict with this subdivision resulting from the voluntary establishment of a local historic district shall follow the requirements of the local historic district. Refer to Article 5, Division III, Historic Preservation Overlay District, of this chapter.



Sec. 8.420. Development and renovation within the Downtown Core Area.

- A. Preliminary and final development plans. Applications for new development or redevelopment of any commercial or mixed use property in the Downtown Core Area shall be reviewed through the preliminary development plan and final development plan application, modification and appeal processes as set forth in Article 5, Applications and Procedures, of this chapter.
- B. Exterior renovation permit. An exterior renovation permit is required for all exterior work in the Downtown Core Area when the design standards of this division apply, but the preliminary and final development plan review processes of Article 5 do not apply, and as otherwise provided herein. The applicability of the design standards is described in detail in Sections 8.440.A. and 8.450.A. of this division.
1. Requirements.
 - a. An exterior renovation permit shall be required prior to any:
 - (1) Exterior rehabilitation (returning to an original condition).
 - (2) Exterior remodeling, including facade removal or replacement, window and door replacement.
 - (3) Replacement lighting or similar fixtures within the Commercial Core.
 - (4) Window replacement.
 - (5) Signage, new or replacement in the Commercial Core.
 - (6) Awnings, new or replacement in the Commercial Core.
 - (7) New construction or reconstruction of a building addition or any other exterior work, not defined as maintenance herein, on any building located in the Downtown Core Area.
 - (8) An Exterior Renovation shall be required prior to any work on a building listed in the National Register, for which tax credits are being requested and where the Secretary of the Interior's Standards for the Treatment of Historic Properties apply.
 - b. An exterior renovation permit shall not be required for:
 - (1) General repair and maintenance of existing single and two family dwellings occupied as a residential use in the transition area including:
 - (a) Reroofing.
 - (b) Siding replacement.
 - (c) Exterior painting, provided colors are period specific or are compatible with colors typically seen in the neighborhood. Painting unpainted brick is specifically prohibited.
 - (d) Tuck pointing.
 - (e) Crack repair.
 - (f) Sidewalk repair or replacement.
 - (g) Driveway repair or replacement.
 - (2) General repair and maintenance of buildings or properties located within the Commercial Core including:
 - (a) Reroofing.
 - (b) Tuck pointing.
 - (c) Crack repair.
 - (d) Exterior painting - provided period specific colors are used. Does not apply to painted wall signs, murals or unpainted brick.
 - (e) Concrete step repair/replacement.
 - (f) Parking lot repairs.
 - c. An exterior renovation permit is not required for interior remodeling, underground utility work, or maintenance and repair of public infrastructure.
 2. Applications for an exterior renovation permit shall be made to Planning Services on a form provided by the Director. The Director shall review the application and issue a written decision based upon the provisions of this Division within ten business days of the receipt of the application. For the purpose of this section, the Director's decision is deemed to have been served on the date it is personally delivered, or if mailed, the date that is three (3) days from the date that the decision is placed in the U.S. mail.

3. Appeal of a denial of an exterior renovation permit.
 - a. If the Director disapproves an application for an exterior renovation permit or otherwise fails to approve or make a recommendation within ten business days on an application in the manner requested by the applicant, the applicant may appeal the Director's decision to the City Council by filing a written application for appeal with the City Clerk within 20 business days of the date that the Director's decision is served. Upon receipt of any appeal filed pursuant to this section, the City Clerk shall forward the written application for appeal to the Director, who upon receipt shall schedule an appeal hearing before the Planning Commission for its recommendation to City Council.
 - b. Notice of the hearings before the City Council and the Planning Commission. Notice of such hearings, including the date, location and time, shall be provided by U.S. mail, postage prepaid, to all persons who own property or hold business licenses for businesses located on the same block as the subject property and those who own property or hold business licenses on the block that faces and is across the street from the subject property. In addition, the property shall be posted with the information regarding the date, location, time and summary of the appeal that is being presented.
 - c. Appeal recommendation hearing before the Planning Commission. The purpose of the hearing before the Planning Commission is to make a recommendation to the City Council on appeals of denials of exterior renovation permits in the Downtown Core Area. The Commission shall hold a hearing upon notification by the Director that an appeal has been filed. During the hearing, the applicant and Director may present information, other persons who may provide information on their respective behalf, and other evidentiary matters for the Commission's consideration, but the formal rules of evidence shall not apply. Any person who received a mailed notice shall be permitted to provide information to the Commission. The Commission may also receive information from anyone who attends the hearing. Upon the close of the hearing, but not later than two regularly scheduled meetings of the Commission, the Commission shall submit to the City Council its recommendation on whether or not to affirm, reverse or modify the decision of the Director and the reasons therefore. In doing so, the Commission shall consider whether or not the application is compliant with the City's Code and guidelines as well as the same criteria as set out in Section 8.420.
 - d. Upon receipt of the Commission's recommendation, the City Clerk shall place the consideration of the appeal on the next available regular session meeting agenda of the City Council and provide notice to the applicant of the date, time and place that the appeal shall be heard by the City Council. The applicant may present evidence and testimony in support of his/her appeal before the City Council in the same manner as a public hearing for a rezoning of property. The staff shall prepare a staff report for consideration by the City Council summarizing the evidence and testimony presented by all parties at the Planning Commission hearing. Rules of evidence in a court tried case shall not apply.
 - e. In reaching its decision on the appeal and in addition to the recommendations of the Planning Commission, the City Council shall consider whether or not the renovations contained within the application:
 - (1) Are consistent with the adopted guidelines for the area,
 - (2) Are compliant with City Code,
 - (3) Propose to use materials that were used in Lee's Summit at the time the building or structure in question was built,

- (4) Tend to or do preserve or hinder historic preservation of the structure in the present and future,
 - (5) Are consistent with exteriors and materials currently used for buildings and structures in the immediate vicinity of the subject property,
 - (6) Maintain historical aspects and architectural details of the building or structure including but not limited to location of doors, windows, and roofline,
 - (7) Have any impact on property values of the subject and adjacent properties,
 - (8) Have any impact on the structural integrity of the subject building or surrounding properties,
 - (9) Are consistent with the strategic plan for the Downtown Core,
 - (10) Are consistent with the Secretary of the Interior's standards; and
 - (11) Will have an adverse or favorable impact on future historic district applications of the Downtown Core area or adjacent properties.
- f. The City Council shall vote on its initial decision at the end of the hearing of the appeal. If the City Council denies the appeal, it shall issue its written decision at the next scheduled regular session meeting of the City Council. If the City Council grants the appeal or modifies the decision of the Director, it shall also issue its written decision at the next scheduled regular session meeting of the City Council. The written decision shall include written findings of fact and conclusions of law which shall be adopted by passage of a Resolution approving same. In the event the City Council is unable to adopt findings of fact with an affirmative vote of five (5) members at the next regularly scheduled session meeting, the item shall be moved to the next agenda where it may be taken up again. It shall continue to be moved forward to agendas until a vote of five (5)

members approves a set of findings of fact and conclusions of law. The decision of the City Council shall be final. Any persons aggrieved by the decision of the City Council may appeal such decision pursuant to Chapter 536, RSMo

Sec. 8.430. Demolition and casualty loss.

- A. Demolition. Demolition of buildings and structures, including any demolition or de-construction of a building or structure in the Downtown Core Area, requires a demolition permit under Section 7-127 of the City of Lee's Summit Code of Ordinances. All applications for demolition permits involving demolition or de-construction of a building or structure in the Downtown Core Area, but not including demolition permits for interior demolition and remodeling, underground utility work, or maintenance and repair of public infrastructure, shall remain pending for 30 days from the date of the application, during which time the application shall be forwarded to the chair of the Historic Preservation Commission. The chair may place the application on an agenda of the Historic Preservation Commission as a discussion item, but shall have no authority to act on the permit. No such demolition permit may be issued until the date that is 30 days from the receipt of the application or the day of the Historic Preservation Commission's review, whichever comes first, except in those circumstances where the Building Official determines that demolition or de-construction is required because of an emergency or threat to public health, safety and welfare.
- B. Casualty Loss. The requirements of subsection 8.430.A. do not apply to demolition required as a result of a casualty loss, but the requirements of the Code of Ordinances, including, without limitation, the permit requirements of Section 7-127 of the Code, still apply.

Sec. 8.440. Design standards—Commercial Core.

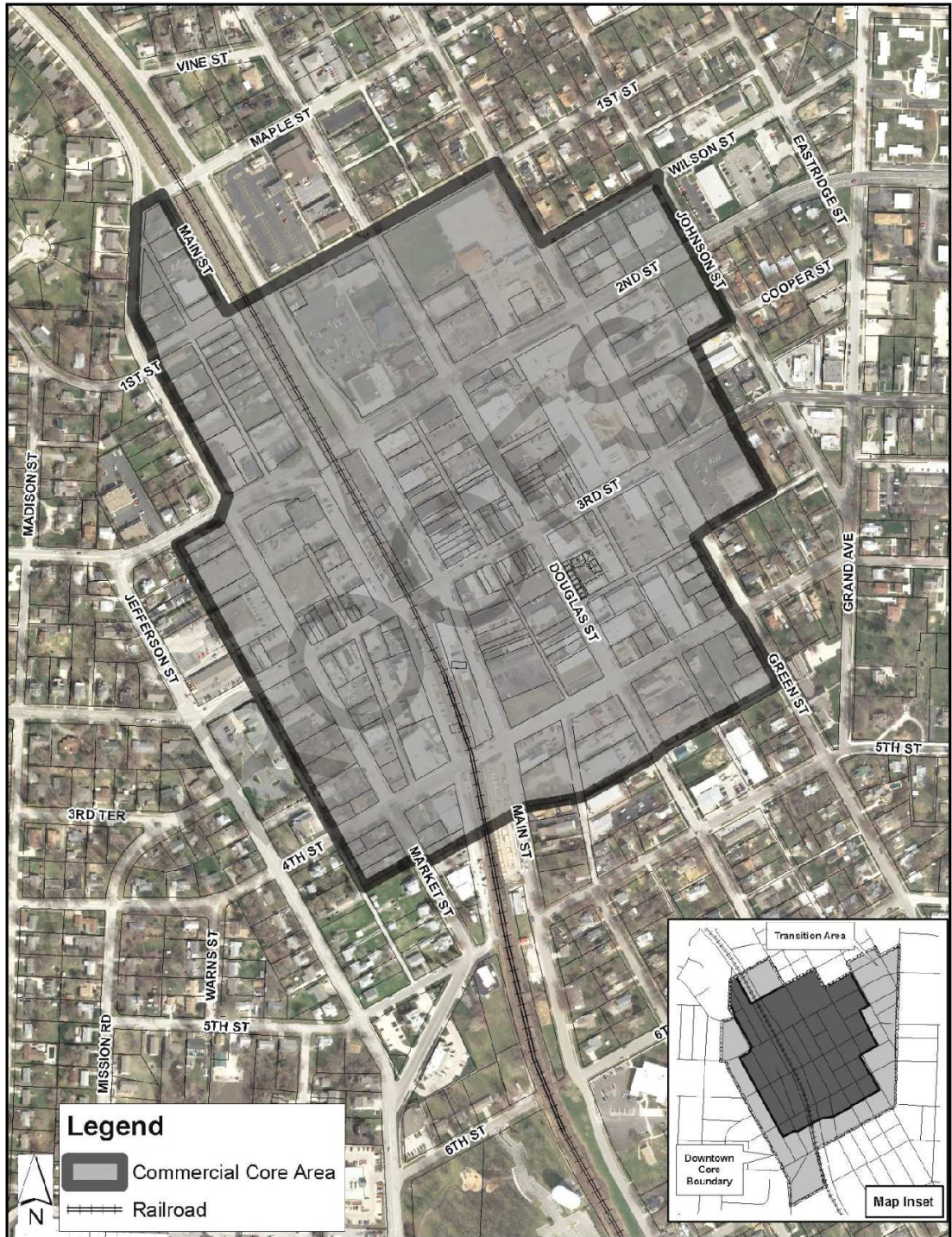
- A. Applicability. The Commercial Core Design Standards shall apply to all new construction or re-construction but not to include maintenance items as defined in Section 8.380 and Section

8.420.B.1.b.2), within the boundaries shown on the map below, including, but not limited to, new buildings, building additions, exterior alterations, and changes or additions to parking areas or driveways. The standards do not apply to interior remodeling, underground utility work, or maintenance and repair of public infrastructure.

B. Overview. All structures shall exhibit the basic features of traditional structures within the down-

town area of Lee's Summit. These buildings shall align along the sidewalk edge or in relative relationship thereto consistent with traditional downtown building alignments, define the pedestrian zone and provide a sense of scale and visual interest. Strengthening this pattern of development will enhance the economic sustainability of the Downtown Core Area. The standards that follow establish a consistent identity while accommodating individual design solutions.

PROOFS



Commercial Core Area

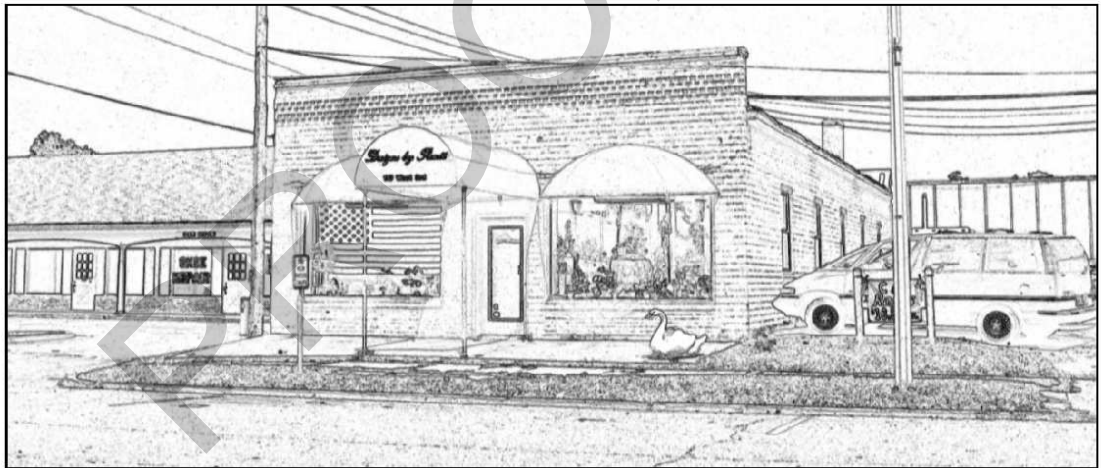
- C. Other resources. For additional information and to use as a resource, see Lee's Summit Design Guidelines Manual for the Downtown Core Area, Lee's Summit, Missouri, prepared by the City of Lee's Summit, Missouri, and Thomason and Associates, Preservation Planners, and approved by the Historic Preservation Commission on June 26, 2006. If owners of properties listed in the National Register choose to participate in federal or state preservation programs, rehabilitation must follow federal guidelines. These guidelines are known as The Secretary of the Interior's Standards for the Treatment of Historic Properties by the U.S. National Park Service. The intent of these Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. For information regarding federal or state historic preservation tax credits, contact the Missouri State Historic Preservation Office.
- D. Historic architectural styles and building types. The downtown commercial buildings of Lee's Summit were largely built between 1877 and 1930. The fires of 1885 and the mid 1890's devastated the wooden structures that were predominant in the downtown commercial area. The majority of these buildings were replaced and were constructed of dark brick of one and two stories with either no discernible style or a formal architectural style, in particular, the influences of the Italianate and Late Victorian commercial styling of the late nineteenth century and the Modern Movement in the pre- and post-World War II period. Colonial Revival architectural style was used for the two government buildings in the downtown core area. These vernacular forms are known as "Tapestry Brick" or "Brick Front" and were widely built throughout the country at the turn-of-the-century. Most buildings from this period in downtown Lee's Summit are two stories in height, share similarities in their design, and have separate façade zones; the lower for commercial storefront businesses and upper facades for office use, or in some cases, residential use.

Storefronts were designed to be as transparent as possible for merchandise display. Storefronts were built with large display windows resting on short lower panels known as bulkheads, and often the front entrance had a single-light (glass in wood frame) door. Upper facades of one-story buildings generally feature decorative brickwork and cornices. In addition to the decorative brickwork and cornices, two-story buildings feature symmetrically placed windows. Buildings from the 1880s and 1890s generally have segmental brick arches over the windows.

During the early 20th century, traditional storefront designs continued to be utilized for most downtown buildings. The influence of the Colonial Revival style led to more rectangular window forms and restrained detailing in contrast to the earlier Victorian styles. The use of stone, terra cotta, and cast concrete for decorative features was widespread from ca. 1900 to the 1920s. Little new construction occurred in the downtown area after the 1930s and the commercial district of Lee's Summit continues to be defined by its turn-of-the-century appearance.



By the mid-twentieth century, downtown Lee's Summit continued to be characterized by its turn-of-the-century commercial buildings.
(Photo courtesy of the City of Lee's Summit.)



One-story Tapestry Brick commercial building at 110 SW 3rd Street. This building features an intact storefront and corbelled brick cornice.

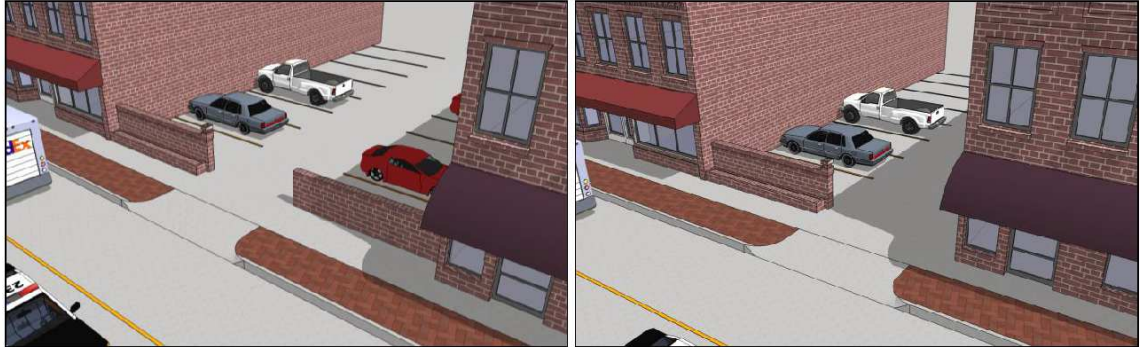


Two-story Tapestry Brick commercial building at 228 SW Main Street. This building's storefront was remodeled in the early 20th century with terra cotta and large display windows. At the roofline is a sheet metal cornice.

E. Site design.

1. Parking.

- a. To the greatest extent feasible, on-site parking shall be located behind buildings at ground level or completely above or below the first floor of a building.
- b. Parking shall be accessed from the rear of the property on parcels with alleys.
- c. For parcels without alley access, driveways serving on-site parking shall be avoided on arterial streets. When necessary, such driveways shall be minimized in width and provide for good visibility of pedestrians and traffic.
- d. A new parking lot shall not be located so that it interrupts storefront continuity along the sidewalk.
- e. If a new parking area is approved adjacent to an existing building, a brick screen wall, or a similar material compatible with the adjacent buildings, shall be used to avoid the appearance of missing teeth along the street. The screen wall shall be in line with the front walls of adjacent buildings. An upper story over the parking lot or an upper façade to give the appearance of a continuous building may be considered.



Parking areas added between buildings should be screened with a structure compatible with adjacent buildings and in the same line as historic buildings.



Corner parking lots shall have the edges defined through a masonry wall or other structure. Landscaping may be used in conjunction with the solid screen wall.

2. Mechanical equipment and service areas.
 - a. Ground-mounted mechanical equipment and loading/service areas, including trash enclosures, shall be located out of public view whenever feasible and shall not front onto an arterial street. Ground-mounted mechanical equipment shall be located behind the building and screened from public view with fencing or landscaping or both.
 - b. Electrical and communication transformers/cabinets shall be installed below grade in the right-of-way, including alleys, or located on-site and screened from public view.
 - c. Electrical and gas meters, conduits, and other mechanical equipment should be located on rear facades.
 - d. Backflow prevention/anti-siphon valves shall be integrated into the building design and concealed from public view. Such devices shall not be located within the public right-of-way.

- e. New buildings and building additions shall have rooftop mechanical equipment fully screened from view by using parapet walls of the same height as the mechanical units. New or replacement roof-top mechanical equipment on existing buildings may be screened with individual screening panels the same height as the proposed mechanical unit(s), be painted to match the building, or screening may not be required, depending on existing conditions.

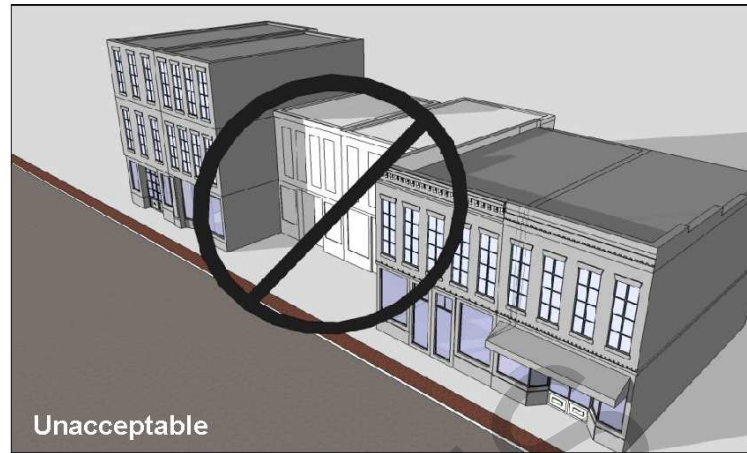


HVAC units and condensers at rear facades shall be screened through fencing or landscaping. Units should have 36 inches of clearance to allow for maintenance and servicing.

- f. New trash enclosures shall be provided and shall be located behind the building when feasible. All exterior trash storage containers shall be stored within an enclosure so that they are not visible from off the property. Each trash enclosure shall be constructed of masonry walls with a steel gate painted to be compatible with the color of the masonry walls and the building it is to serve.

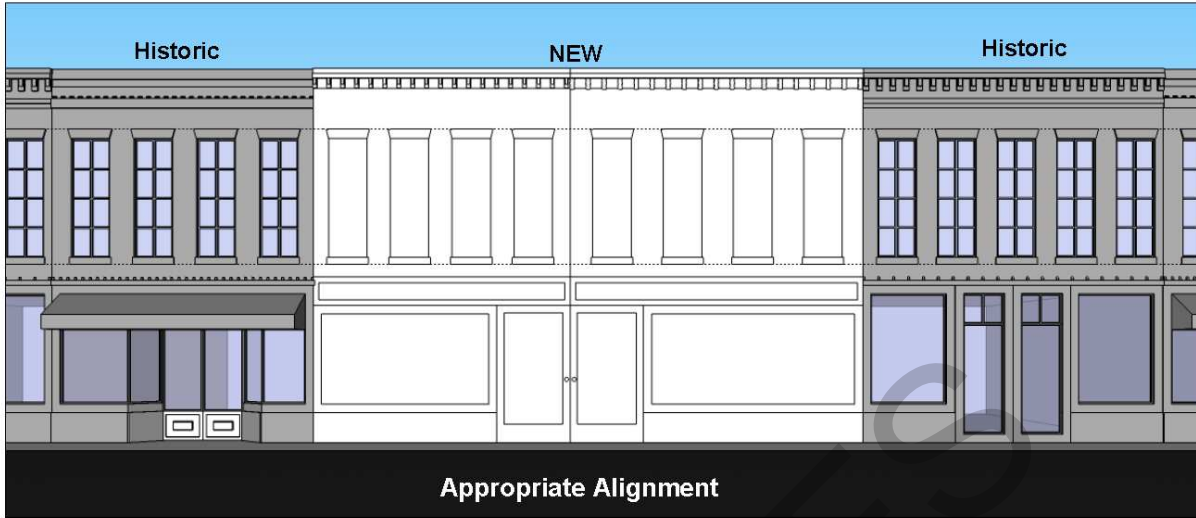
F. Mass and scale.

1. In order to establish a pattern for more efficient land use, greater building height may be allowed; however, consideration shall be given to the traditional height of buildings in the Commercial Core.
 - a. New buildings should be multi-storied to reflect the overall downtown look and vision.
 - b. Although the maximum height of buildings in the Central Business Zoning District (CBD) is four stories, or 50 feet, consideration shall be given to the character and heights of buildings in the block or neighborhood. Buildings over two stories in height may be required to have the upper stories set back to reduce the mass and scale of the structure.
2. New buildings shall be aligned with adjacent buildings along the street and conform to established setbacks.

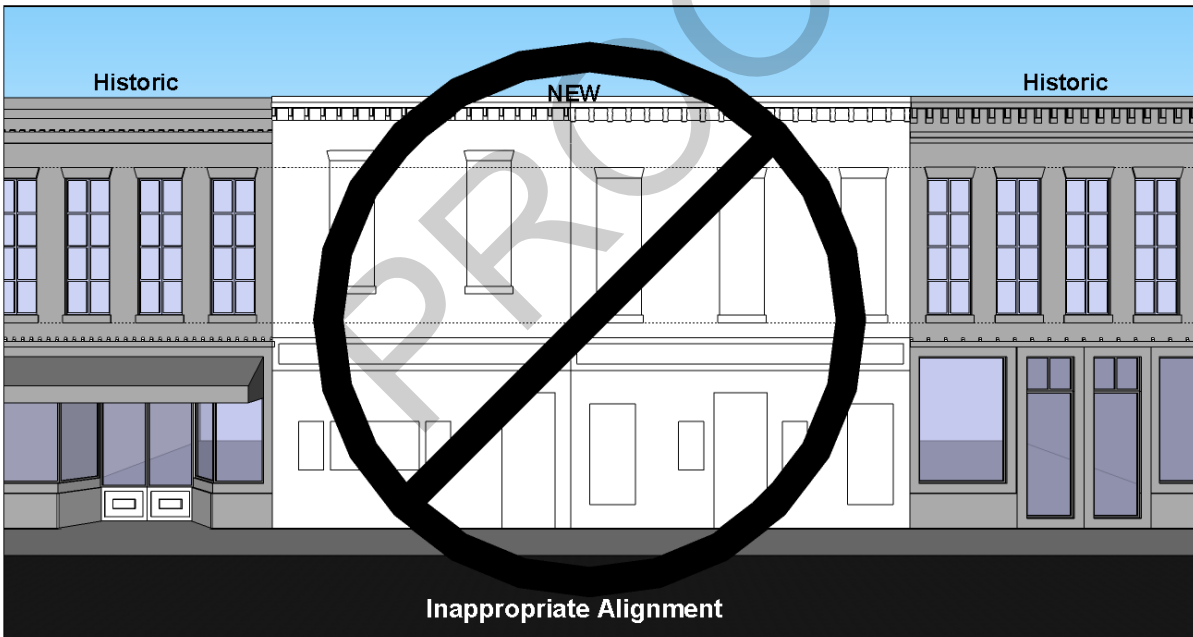


New commercial buildings shall be consistent with adjacent setbacks.

3. New buildings and additions shall be delineated both vertically and horizontally to reflect traditional patterns and convey a human scale.
 - a. The facades of new buildings shall be visually divided into "modules" that appear similar in scale to buildings seen traditionally.
 - b. The facades of new buildings shall have vertical divisions similar in width to the pattern of existing buildings within the block.
 - c. The facades shall depict a clear visual division between street level and upper floors.
4. Floor-to-floor heights shall be consistent with adjacent buildings.
 - a. First floor windows shall be a minimum of six feet in height.
 - b. Upper floor windows shall be divided into individual units and not consist of a "ribbon" of glass.
 - c. Primary upper floor windows shall have a taller vertical dimension than horizontal dimension.



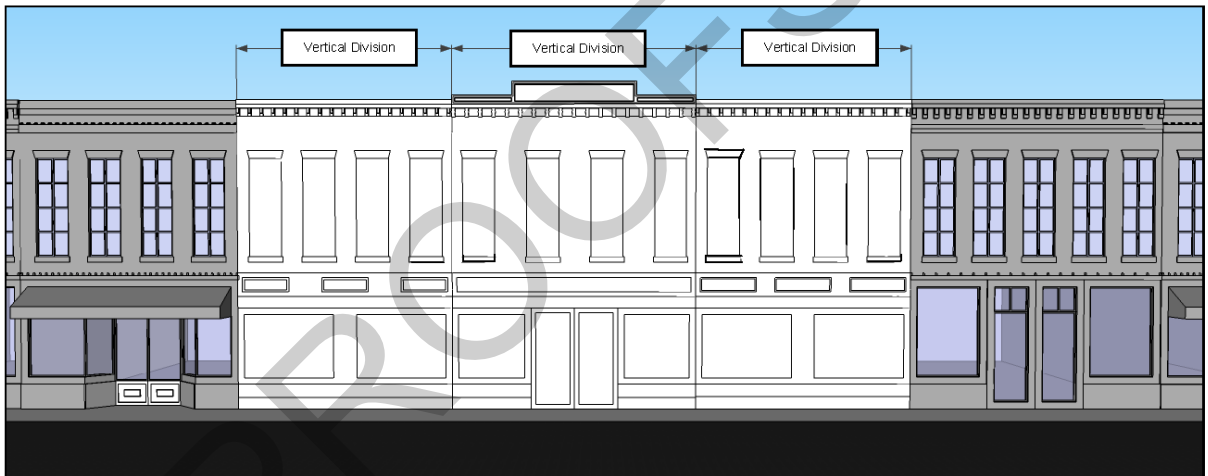
New construction shall be consistent with storefront and window size and spacing.



New construction shall be consistent with storefront and window size and spacing.



New Construction shall maintain traditional storefront and upper facade alignments.



Large buildings of new construction shall have vertical divisions consistent with building widths along the block.

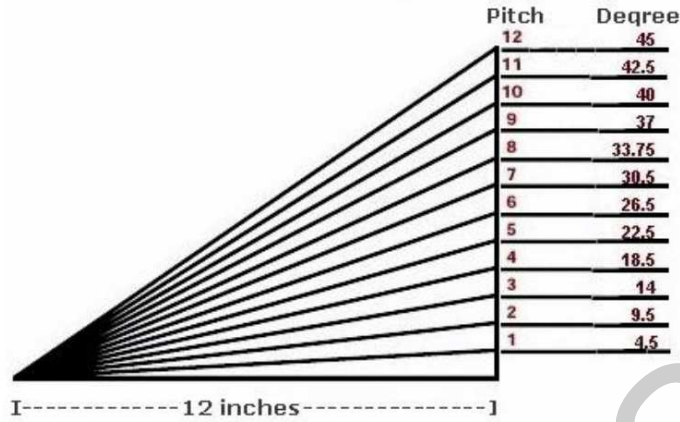
G. Building form and roofline.

1. Simple rectangular building forms are preferred.

- a. New buildings and additions should be designed with simple rectangular volumes.
- b. Cylindrical, pyramidal and other elaborate building forms are prohibited.

2. Flat roof forms are preferred.

- a. Parapet walls shall be used for screening flat roofs and be detailed with elements such as cornices to define the building roofline.
- b. Sloping roof forms may be considered in an incidental role, and on building additions on the rear of buildings. A sloping roof is defined as 3/12 pitch or less.
- c. Pitched roofs are prohibited. A pitched roof is defined as greater than 3/12 pitch.



This drawing demonstrates how many degrees rise for each pitch of a typical roof. Look at the column labeled pitch, then look under degrees to get the corresponding amount of degrees. Example: 3/12 pitch = 14 degrees.

H. Building entrances.

1. Primary entrances.

- a. Primary entrances to ground floor spaces and upper stories shall be oriented to the sidewalk and primary pedestrian ways.
- b. Corner buildings may be designed with angled entrances at the corner.



Example of angled entrance on corner building.



Examples of buildings that do and do not contribute to human scale.

- c. The primary entrance shall be clearly identified.
- d. The primary entrance shall convey a sense of human scale.
- e. The entry may be defined by using an awning, a change in roofline or other

architectural feature consistent with traditional Downtown Lee's Summit design.

- f. A sign mounted at the entry may be used to identify the primary entrance.

- g. Special paving treatments shall not be used to enhance the entry within the public right-of-way.
- 2. Recessed entries.
 - a. Should be retained and are encouraged in new storefront construction.
 - b. Increase window display area and provide a sheltered transition to the interior of the store.
 - c. Should be centered on the tenant space and be highly transparent.
- 3. First floor entry doors shall contain a minimum of 50 percent glass. Solid or residential type entrance doors with less than 50 percent glass are prohibited.
- I. Awnings and canopies.
 - 1. The use of awnings on commercial buildings in downtown Lee's Summit is appropriate.
 - 2. Awnings may be retractable or fixed in place.
 - 3. Awnings should fit the opening to which they are applied. Shed/rectangular awnings are appropriate for rectangular openings while arched awnings are appropriate for arched openings.
 - 4. Awnings with bubble, concave, convex or mansard forms are prohibited.
 - 5. Storefronts and upper facade windows are both appropriate locations for awnings.
 - 6. Awning materials shall be high quality architectural metal, as determined by the Director, canvas, acrylic, or vinyl coated. (See prohibited materials.)
 - 7. Internally illuminated or translucent awnings and canopies are prohibited.
- J. Building materials (exterior) and color.
 - 1. All new construction and reconstruction.
 - a. Street facing facades including alley facing facades (for corner buildings that have both) shall consist of:
 - (1) First and second floor elevation: Brick,
 - (2) Additional floors above the second floor: Durable masonry materials such as stone, brick, traditional stucco (a cement and sand based material), or pre-cast or poured-in-place concrete.
 - b. Facades not meeting the criteria above shall consist of one or more of the following:
 - (1) Those materials listed in subsection 1.a. above.
 - (2) Rough faced masonry block.
 - (3) Fiber cement siding (such as "HardiePlank").
 - (4) New, high quality materials that are recognized by an approved third party testing agency which meet or exceed the quality of the materials listed.
 - (5) Innovative or "green" materials, provided they appear similar in quality, texture, finish and dimension to permitted materials and which are recognized by an approved third party testing agency which meet or exceed the quality of the materials listed.
 - (6) Architectural metal or historic metal, as determined by the Director, to match existing building.
- 2. Prohibited materials shall include:
 - a. Faux brick products (not made of fired clay).
 - b. Painted brick, except existing painted brick
 - c. Wood, except for deck floors and sub structures.
 - d. Corrugated metal and sheet metal, except when it is determined by the Director to be high quality architectural metal.
 - e. Vinyl, except vinyl coated awnings.
 - f. Existing buildings with metal siding on the rear and sides may be maintained and repaired with similar materials.
 - g. Exterior finish systems, made of a lightweight synthetic wall cladding that in-

cludes foam plastic insulation and thin synthetic coatings; except as a trim, accent, cornice or profile material.

- h. Mirror glass which reflects more than 40 percent of incident visible light.
- 3. Simple material finishes are encouraged.
- 4. Matte finishes are preferred.
- 5. Building colors.
 - a. Brick buildings shall utilize traditional brick colors.
 - b. Accent colors shall be selected to complement and contrast the primary building color.
 - c. Colors should be compatible to complement and support the overall character of Downtown Lee's Summit.
- K. Signs shall comply with Article 9, Signs, of this chapter.
- L. Lighting.
 - 1. The lighting standards set forth in this division, subdivision 5, Lighting Standards, shall apply, in addition to the standards below.
 - 2. Lighting fixtures shall be tied in historically with the building.
 - 3. Period lighting is encouraged to fit the historic framework of the Downtown Core Area.
 - 4. Exterior building lighting should be used to accentuate the building design and other overall ambiance of the Downtown Core Area.
 - 5. Architectural details and features may be highlighted with lighting integrated into the building design.

M. Outdoor spaces.

- 1. Outdoor spaces are encouraged and may consist of:
 - a. Art gardens.
 - b. Interior courtyards.
 - c. Public spaces.
 - d. Plazas.
 - e. Outdoor spaces may not be used or converted for vehicle parking or product display.
- 2. Upper story decks, balconies, staircases and railings:
 - a. Modern additions to buildings and shall be simple rather than ornate in design.
 - b. Shall be appropriately scaled and incorporated into the overall design of the building.
 - c. Shall be inset if proposed on the street side of a building, and shall not extend beyond the property line.
 - d. May project beyond the plane of the building only when located on the side and rear of a building, but may not extend over property lines or public right-of-way.
 - e. Shall be metal , and shall be painted to match or blend with the colors of the buildings.
 - f. Decks may utilize wood , except for the railings, provided they are painted, stained or sealed to blend with the colors of the building.



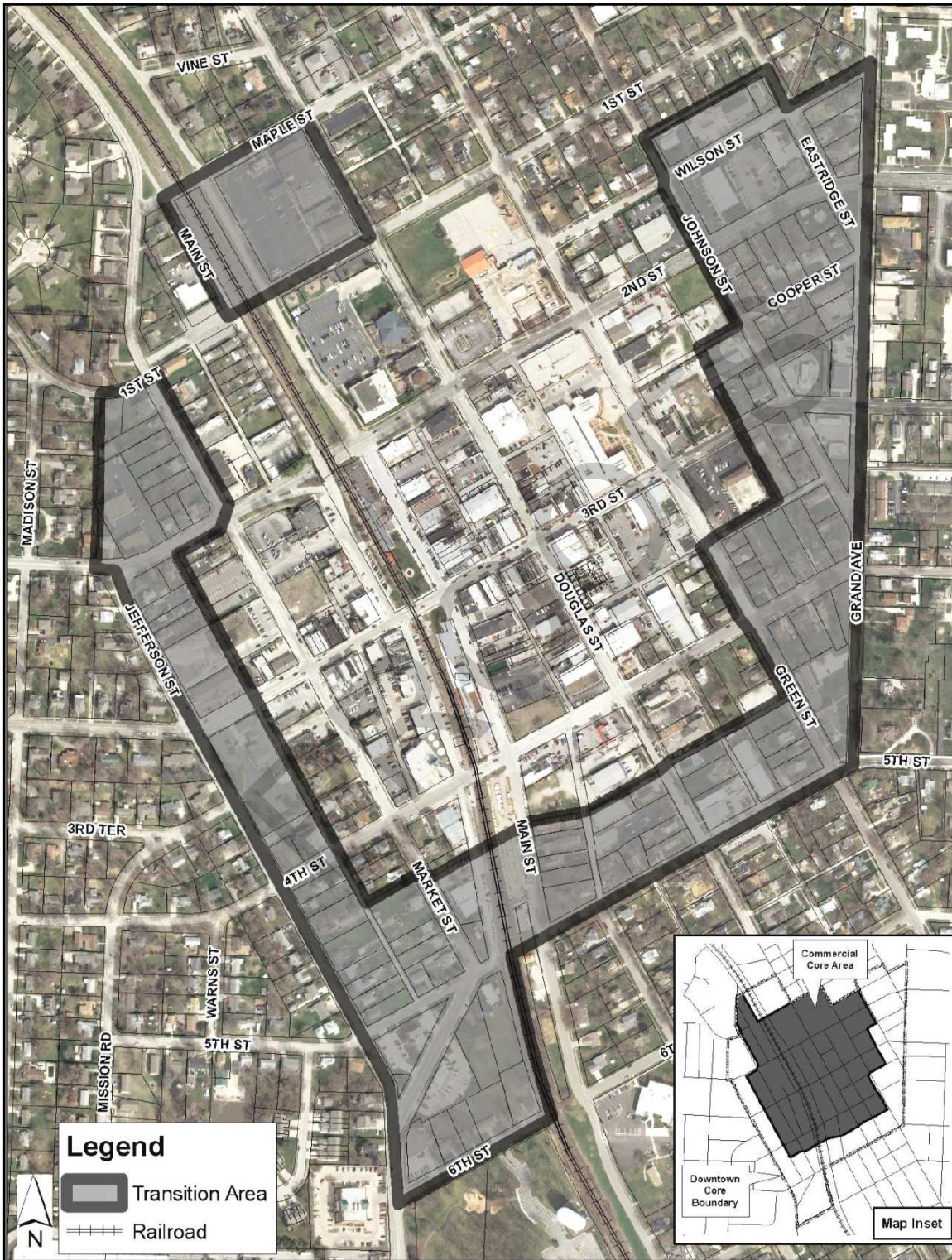
Upper story balconies on the front of buildings must be recessed, not projecting.

Sec. 8.450. Design standards—Transition area.

- A. Applicability. These design standards shall apply to all construction for all uses within the transition area, within the boundaries shown on the map below, including, but not limited to, new buildings, building additions, exterior alterations, and changes or additions to parking areas or driveways. The standards do not apply to interior remodeling, underground utility work, or maintenance and repair of public infrastructure. These design standards shall apply to redevelopment and/or conversion of existing structures to new permitted uses, for example conversion of a residential home to an office or retail use, or to a mix of uses.
- B. Overview. The transition area is in transition from residential to mixed use, with commercial services being provided within a residential building type setting. Existing residential uses are often combined with these new commercial functions to create mixed use context. Many of the blocks within the transition area, outside of the Commercial Core, have a single-family residential design heritage and this general character should be retained. These standards attempt to identify the basic fundamental characteristics of the traditional residential neighborhoods and provide guidance with respect to neighborhood context and basic design elements. Characteristics upon which to draw include the way in which a building is located on its site, the manner in which it

relates to the street and its basic mass, form and materials. When these design variables are arranged in a new building to be complementary to those seen traditionally in the area, visual compatibility results.

- C. Other resources. The following documents may be used as a resource for guidance:
 1. "Lee's Summit Design Guidelines Manual for the Downtown Core Area, Lee's Summit, Missouri," prepared by the City of Lee's Summit, Missouri and Thomason and Associates, Preservation Planners, and approved June 26, 2006, by the Historic Preservation Commission.
 2. "The Secretary of the Interior's Standards for the Treatment of Historic Properties" from the U.S. National Park Service.
- D. Objectives for these design standards are:
 1. To maintain a sense of connection with a single-family house design tradition while accommodating development with a mix of commercial and residential uses.
 2. To minimize the visual impacts of automobiles.
 3. To enhance and encourage pedestrian activity.
 4. To continue the tradition of tree planting near the street edge and in front yards.

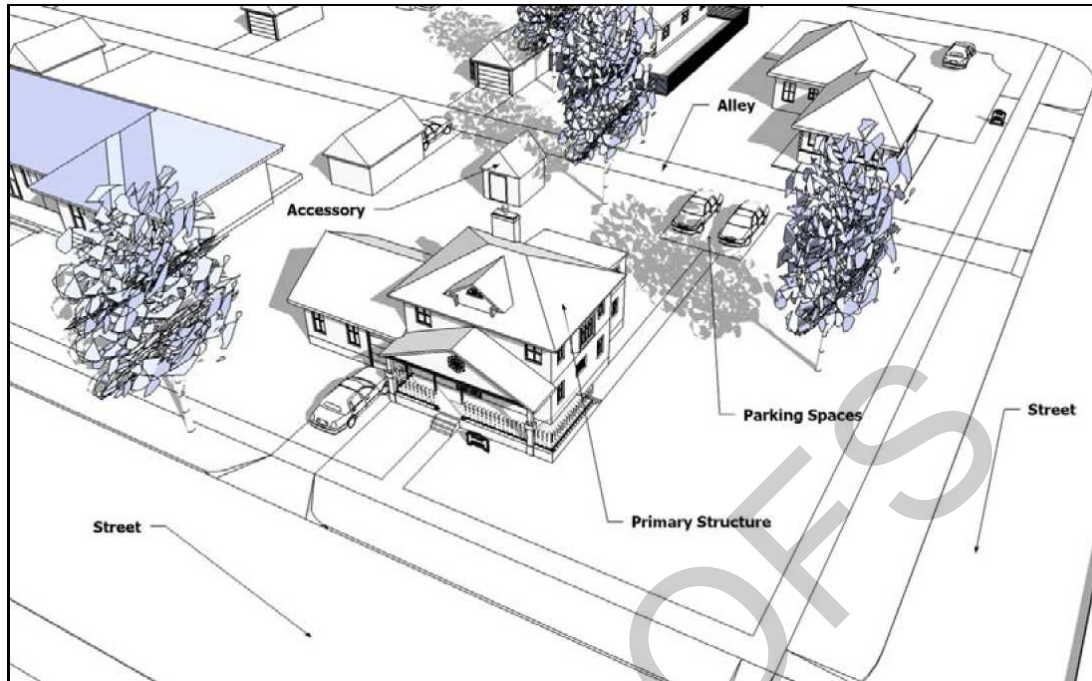


E. Site design.

1. The alignment and spacing patterns of buildings as seen along the block shall be maintained and incorporated into new construction.
 - a. Traditional setbacks of buildings, reflecting residential development patterns, shall be maintained.
 - (1) Building fronts shall be in line with existing uses along the block.
 - (2) Where setbacks vary, a new building shall fit within the range of setbacks within the block.
 - b. A sense of semi-public space shall be maintained in the front setback. A minimum of 50 percent of the area of the front building setback shall be green space, planted with grass, ground cover or low planting.



Public, semi-public, semi-private, and private spaces.



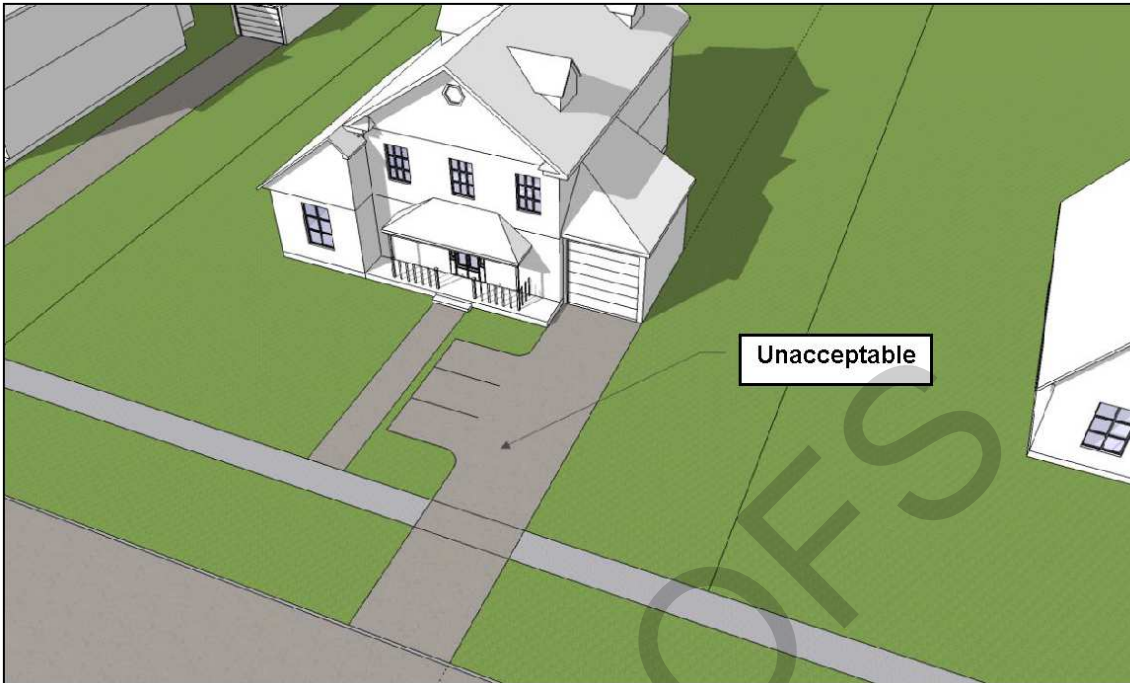
For a lot located on an alley, a detached garage, carport or parking area shall be accessed from the alley where feasible. Detached garages, carports or parking areas shall be located to the rear of primary buildings. This is an example of an appropriate repurposing or conversion of a residential home to a commercial use.

2. All structures shall have the front of the building oriented to the street.
3. Accessible ramps shall be integrated with the landscape and architecture. Ramps shall be located to the side or rear of the structure whenever possible. However, in the event that accessible ramps cannot be located to the side or rear of the structure, e.g. proximity to property lines or steep site topography, accessible ramps are not subject to front yard setbacks.
4. Driveways and parking areas shall be designed and located in a way that minimizes their visual impact.
 - a. Parking shall be accessed from an alley where feasible, with parking areas located to the side and rear of the building.
 - b. For a lot not accessible from an alley, parking behind the primary building is preferred, with a driveway accessed from the street.
 - c. Garages shall be located to the rear of a primary building to minimize their impact on the streetscape.
 - d. Tandem (front to back) parking in a driveway is acceptable.
 - e. Driveway width shall be minimized. Single-car width may be permitted from the edge of street until the driveway extends beyond the rear of the primary structure.
 - f. The number of curb cuts shall be minimized.
 - g. Required parking spaces should not extend beyond the front plane of the primary building.

- h. For multi-unit structures, parking in an interior courtyard or parking lot with a single access point is preferred to multiple driveways.
- i. The use of paved ribbons or strips, or pervious pavement methods, is encouraged for private driveways and parking surfaces.
- j. Parking lot setbacks:
 - (1) Parking lots shall be setback a minimum of ten feet from any public right-of-way or private street edge of pavement.
 - (2) Parking lots shall be setback a minimum of ten feet from any residential district or use.
 - (3) The ten-foot required setbacks (above) may be reduced if a decorative screening wall or landscape screening is provided to shield vehicle lights.
- k. Screening. Parking areas shall be screened from public view to the maximum extent feasible, by means of fencing, hedges, trellises, decorative masonry walls, or other landscaping.
- l. Modifications to the parking requirements may be requested through the public hearing process, as provided in Article 2. Consideration may be given to preserve a feature of public significance, such as a landmark tree or tree of significance, a historic structure, a substantial mature hedge, or an exterior art feature.



Parking location for lots without alley access are recommended to be placed to the rear of the primary building, in a driveway or detached garage accessed from the street. The preferred location for parking on these lots is at the rear or the lot.



The driveway location and front yard parking spaces inappropriately alter the character of this residence.

- 5. Mechanical equipment and service areas.
 - a. On lots with alley access, the back of the lot shall be used to accommodate service areas and minimize their visual impacts.
 - b. Mechanical equipment and loading/service areas, including trash enclosures, shall be located out of public view whenever feasible and shall not front onto an arterial street.
 - c. Electrical and communication transformers/cabinets shall be installed below grade in the right-of-way, including alleys, or located on-site and screened from public view.
 - d. Electrical and gas meters, conduits, and other mechanical equipment should be located on rear facades.
 - e. Backflow prevention/anti-siphon valves shall be integrated into the building design and concealed from public view. Such devices shall not be located within the public right-of-way.
 - f. Rooftop mechanical.
 - (1) New buildings and building additions shall have rooftop mechanical equipment fully screened from view by using parapet walls of the same height as the mechanical units.
 - (2) New roof-top mechanical equipment on existing buildings shall be screened by using either a parapet or individual screening panels the same height as the proposed mechanical unit(s).
 - g. Ground-mounted mechanical equipment shall be located behind the building and screened from public view with fencing or landscaping or both.
 - h. Trash enclosures shall be provided and shall be located behind the building when

feasible. All exterior trash storage containers shall be stored within an enclosure so that they are not visible from off the property. Each trash enclosure shall be constructed of masonry walls with a steel gate painted to be compatible with the color of the masonry walls and the building it is to serve.

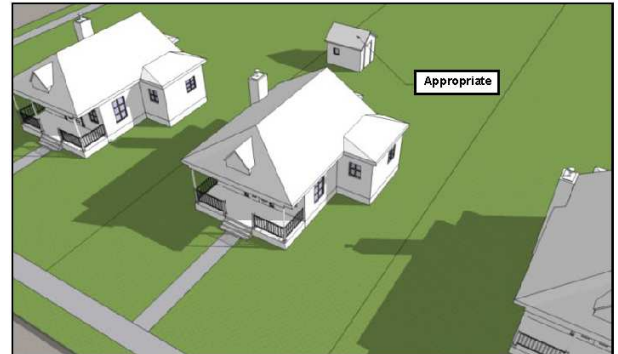
- F. Mass and scale. "Mass and scale" refer to the physical bulk and proportion of a building or structure when compared with other structures in a defined area. In this context, perception is important. For example, two buildings of the same square footage can have very different "mass and scale" perceptions, depending on height, setbacks, building materials, and other features.

1. Height.

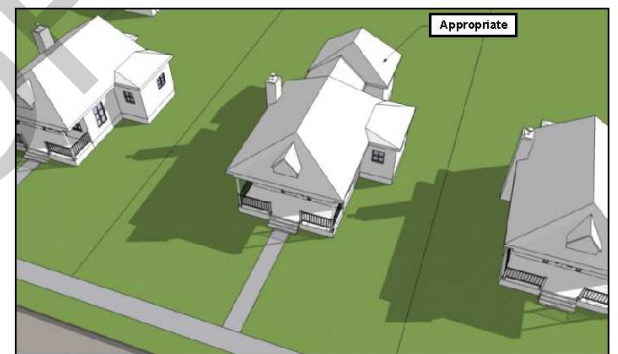
- a. The height of a new structure shall be compatible with existing buildings on the block, or in the neighborhood, as determined by the Director.
- b. The rear portion of a building may be taller than the front, if it appears in scale with the neighborhood and does not exceed the height limitation in the zoning district.
- c. New structures should not overwhelm existing single-family structures in terms of height.

2. Width.

- a. The width of a new structure shall be compatible with existing buildings on the block, or in the neighborhood, as determined by the Director.
- b. The primary building face shall not exceed the width of existing structures in the same neighborhood.
- c. A new structure may be wider overall, if the building front is divided into modules or distinctive wall planes with dimensions similar in size to buildings in the neighborhood, to reduce the scale.



Appropriate: A separate secondary structure maintains a sense of open space.



Appropriate: A smaller addition is linked with a connection and does not overwhelm or distract from the original structures mass, scale, or architecture.



Unacceptable: A large mass occupies most of the rear yard and overwhelms the original structure.

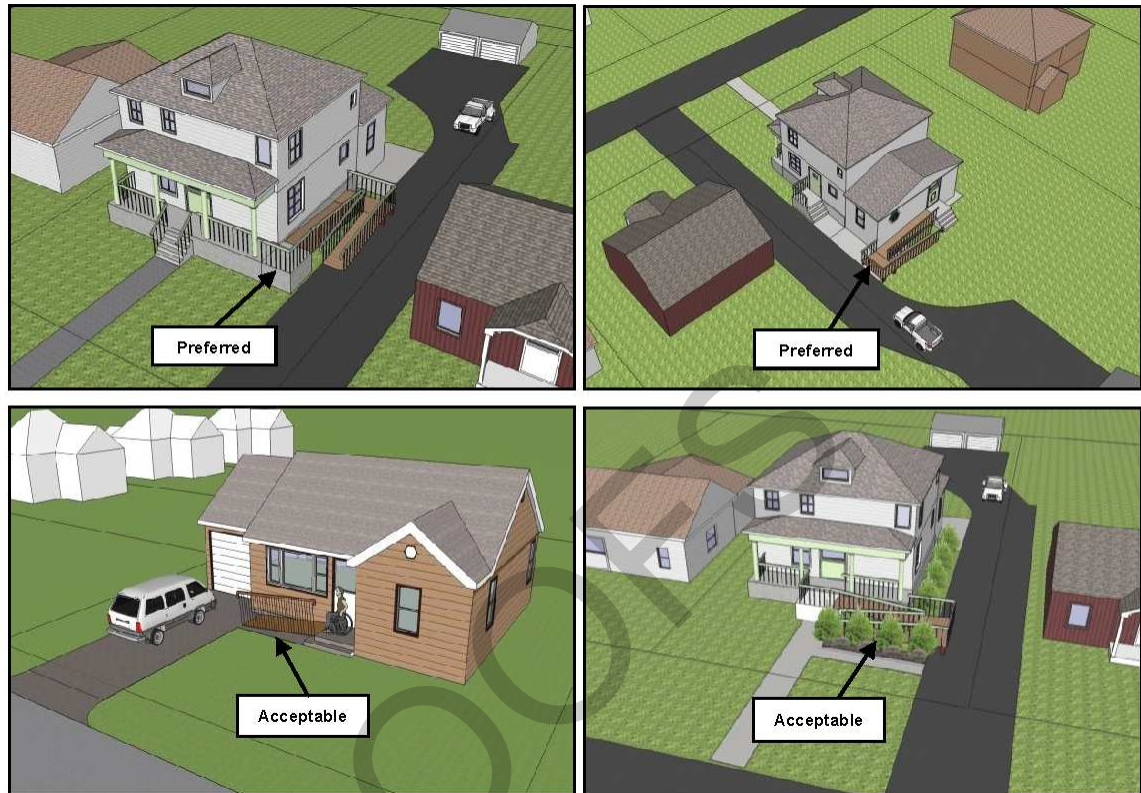
G. Building form and roofline.

1. Building form.

- a. Building forms shall be consistent with existing structures within the block or neighborhood.
- b. Simple rectangular solids are typically appropriate.

- c. "Exotic" building and roof forms that would detract from the visual continuity of the streetscape are prohibited. Examples include geodesic domes, A-frames, Cylindrical, pyramidal and other elaborate building forms.
- d. Raised foundations are preferred. Finished floor heights should be within the range typically seen in the neighborhood. Additionally, placement of potential future accessible ramps should be considered at the design phase of new construction.
- e. Accessible ramps shall be integrated with the landscape and architecture. Ramps shall be located to the side or rear of the structure whenever possible. However, in the event that accessible ramps cannot be located to the side or rear of the structure, e.g. proximity to property lines or steep site topography, accessible ramps are not subject to front yard setbacks.

PROCESSED



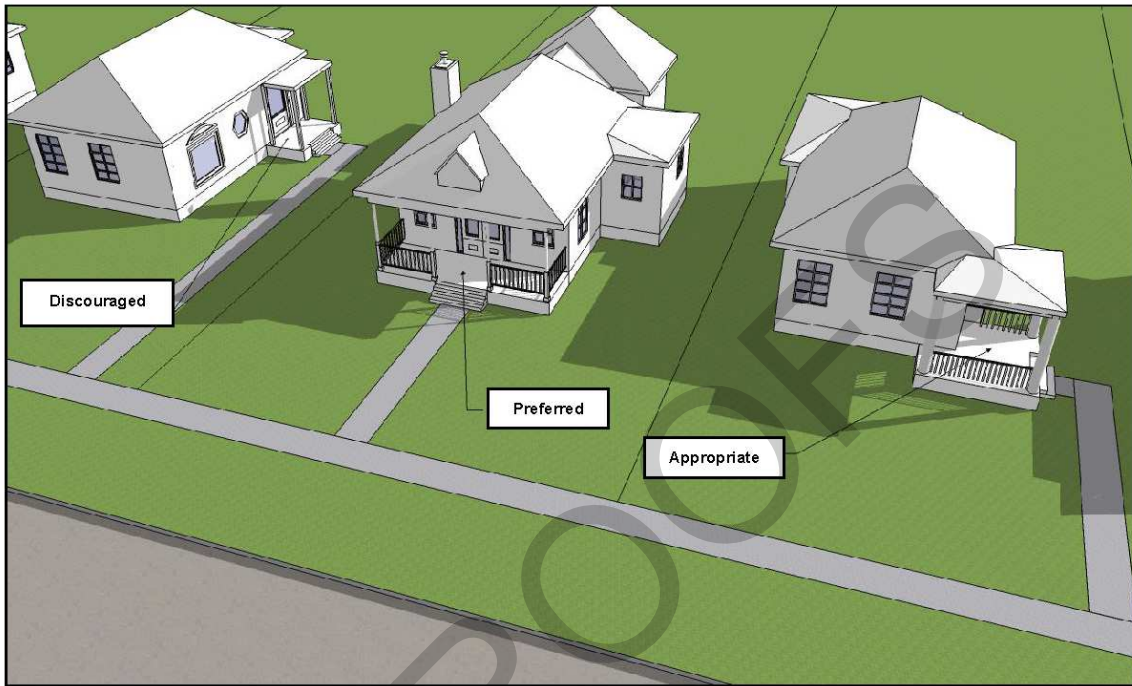
2. Roof forms.

- a. Sloping roof forms shall predominate on new structures and additions, to fit into the context of existing buildings in the block or neighborhood.
- b. Hip or gable roof forms are preferred for the primary roof of a structure.
- c. Larger developments may include flat roofs, as seen in the Central Business Zoning District (CBD). Parapet walls shall be used for screening flat roofs and be detailed with elements such as cornices to define the building roofline.

H. Building entrances.

1. The principal structure shall have one primary entrance that faces the street. Additional entrances may be located to the side or rear.
2. The primary entrance of a building shall be clearly identified.
3. A front porch or stoop may be used to define the primary entrance. The porch or stoop:
 - a. Shall be oriented to the street,
 - b. Shall be functional as a means of access to the building,
 - c. Should be open on the sides,
 - d. Should be covered, and
 - e. Shall be large enough to provide a transition area from public space to private space.

4. Access to the primary entrance shall be clearly defined.
 - a. The entry walkway shall be separate from the driveway.
 - b. Special paving treatments may be used to enhance the entry. Special paving treatments within the public right-of-way must be approved by the City Engineer and are required to be maintained by the property owner.



Examples of primary entrances.

I. Architectural features.

1. Architectural features consistent with traditional design in the neighborhood shall be used to enhance and maintain the character of the area.
2. Features may include porches, awnings, balconies, bay windows and stoops. Such elements shall be similar in form and scale to those traditionally found in the neighborhood.
3. Patterns created by similar shapes and sizes of building features in the neighborhood shall be repeated in new construction. Windows, porches and eaves are among the elements typically seen to align and create patterns along a block.

J. Building materials.

1. Materials used shall be consistent with materials traditionally and historically used within the neighborhood, to maintain the character of the area. The following are primary permitted materials, which are required on facades facing a street:
 - a. Wood lap siding.
 - b. Wood.
 - c. Fiber cement siding (such as HardiePlank).
 - d. Brick.
 - e. Stone.
 - f. Traditional stucco, a cement and sand based material, or stucco brick.

2. Prohibited materials shall include:
 - a. Metal siding.
 - b. Exterior finish insulation systems (EFIS), a lightweight synthetic wall cladding that includes foam plastic insulation and thin synthetic coatings; except as a trim, accent, cornice or profile material.
 - c. Masonite.
 - d. Mirror glass which reflects more than 40 percent of incident visible light.
 3. Other building materials may be permitted, but may be limited to the rear and sides of buildings, or to upper floors, or as a percentage of a façade, or only permitted as an incidental or accent material. These include:
 - a. Vinyl siding.
 - b. New, high quality materials.
 - c. Innovative or "green" materials, provided they appear similar in quality, texture, finish and dimension to permitted materials and which are recognized by an approved third party testing agency which meet or exceed the quality of the materials listed.
 - d. Notwithstanding the requirements of this subsection, owners of single and two-family residential dwellings occupied and used as a residential use shall be permitted to repair and replace vinyl siding on building facades.
 4. Simple material finishes are encouraged.
 5. Matte finishes are preferred.
- K. Roof materials.
1. Roof materials shall be compatible in appearance, with similar scale and texture, to those found traditionally in the neighborhood.
 2. Permitted roof materials include:
 - a. High-quality composition.
 - b. Tile.
 - c. Stone-coated steel.
 - d. New products which meet or exceed the quality of the listed materials above and which are recognized by an approved third party testing agency which meet or exceed the quality of the materials listed.
 3. Prohibited roof materials include metal products such as flat sheet metal panels, corrugated metal, and standing seam metal.
- L. Signs shall comply with Article 9, Signs, of this chapter.
- M. Lighting.
1. The lighting standards set forth in this division, Subdivision 5, Lighting Standards, shall apply, in addition to the standards below.
 2. Exterior lighting, if provided, shall be limited and be of a pedestrian scale compatible with residential uses within the neighborhood.
 3. Maximum light intensity shall be 150 watts per fixture, or the CFL or LED equivalent to 150 watts.
 4. Wall pack lights shall comply with Section 8.290 of this division, Subdivision 5, Lighting Standards and are encouraged to be designed to fit the architectural character of the structure. Wall pack light fixtures without full cut offs are prohibited.
 5. Parking lot pole lighting is permitted for parking lots with over ten spaces. Period style lighting is preferred. An LED or solar-powered light source is required. The maximum height of pole lights is 15 feet. The solar panel for any solar powered light fixture may extend five feet above the height of the fixture/ maximum pole height.
 6. Bollard type lighting may be used in parking lots, with a maximum height of four feet.
 7. Exterior building lighting may be used to accentuate building design and highlight architectural details and features, and should be integrated into the building design.
 8. Exterior lighting may be used to provide for a sense of safety.
 9. Accent lighting shall comply with Section 8.300 of this division, Subdivision 5, Lighting Standards.

N. Outdoor spaces.

1. Public outdoor space is encouraged to enliven the street edge and provide for human interest. The following are examples:
 - a. A grassy front lawn.
 - b. An interior courtyard.
 - c. Flower pots.
 - d. Paved plaza area.
 - e. Street art or yard art.
 - f. Street benches.

O. Landscape shall comply with Division III of this article, Landscaping, Buffers and Tree Protection, and Article 4, Zoning Districts, of this chapter.

1. Visibility of the primary structure from the street shall be maintained. The front setback area shall be designed to maintain a sense of openness of this semi-public space.
 - a. Plantings within the front setback shall include low ground cover, turf, shrubs, and ornamental trees.
 - b. Front yard fences are discouraged, except for required parking lot screening, consisting of a fence, wall or shrubs, which shall be a minimum of 30 inches and a maximum of 42 inches in height. Decorative front yard fences shall not exceed 42 inches and may only be used if they fit into the context of the neighborhood.
2. Existing mature trees shall be preserved to the extent feasible.
 - a. To the extent possible, new structures shall be located outside of the drip line of an existing tree to be preserved. Any required landscaping that is damaged or dead shall be replaced with a similar species.
 - b. Root systems of existing trees shall be protected by fencing prior to construction, and by avoiding trenching or soil compaction within the drip line.

Secs. 8.460—8.500. Reserved.

DIVISION II. PARKING

Sec. 8.510. Purpose and intent.

- A. The purpose of the parking and loading regulations is to ensure that all land uses have adequate off-street parking facilities and adequate facilities for vehicle movement and loading activities associated with a land or building use.
- B. The intent of these regulations is to ensure that the use of land does not negatively interfere with the use of and circulation on public rights-of-way, and that private on-site circulation does not pose a potential safety problem.
- C. The parking requirements contained in this division are minimum requirements only.

Sec. 8.520. Applicability.

- A. The minimum standards of this division shall be applicable for any of the following:
 1. The construction of a new building;
 2. The enlargement of an existing building or the increase in capacity of an existing building, such as the addition of dwelling units, guest rooms, seats or floor area;
 3. The establishment of a new use or change of use;
 4. The expansion of an existing use;
 5. Where an existing building or use has insufficient parking at the time of passage of this division or any amendment thereto, said building may be enlarged or use intensified only if adequate parking is provided for the entire building and all uses on the property in accordance with the requirements of this division.
- B. Maintenance. Vehicle parking areas, including drives and drive aisles, shall be maintained in proper repair with the required surfacing and curbing. Pot holes and surface cracks shall be filled and sealed in a timely manner. (Note: Drive approach even when located in public right-of-way is the responsibility of the private property owner.)
- C. Time limit. All required vehicle parking areas shall be ready for use, including the surfacing

requirement, before the issuance of a final certificate of occupancy (in the case of a new building or addition) or within 45 days after the issuance of an occupational license (in the case of a change of occupancy in an existing building). An extension of time may be granted by the Director due to adverse weather conditions. In no case shall any occupancy be permitted prior to the parking areas being striped.

Sec. 8.530. Vehicle parking.

A. Required spaces.

1. Table 8-1 shall be utilized to determine the minimum number of parking spaces to be provided. For uses not specifically identified, the Director shall establish the parking requirements either based upon a listed use deemed most similar to the proposed use or based upon industry standards.
2. The number of parking spaces to be provided for a particular use or development may be established through approval of an Alternate Parking Plan as described in this division. Use of an Alternate Parking Plan is encouraged in order to tailor the parking to the particular needs of the use or development and to allow introduction of operational solutions such as ride-sharing programs, shared parking or remote employee parking lots.

B. Dedication to parking use.

1. Parking lots. Unless approved otherwise, parking spaces located in parking lots provided to meet the minimum requirements of this division, along with the aisles and driveways necessary to provide access to those spaces, shall not be used for any other purpose than temporary vehicle parking. Specifically, no such parking area may be used for the sale, repair, dismantling or servicing of any vehicles, or for the sale, display or storage of equipment, goods, materials or supplies, except as further provided in this chapter.
2. Multi-family residential parking. Multi-family residential parking lots shall comply with Sub-section 1. above.

3. Single-family residential parking. Enclosed garage parking and associated driveways shall be used to meet minimum parking requirements. Garages may also be used for accessory storage provided there is still room for at least one vehicle. For inoperable vehicle maintenance and repair see Section 8.650.B. of this division.

C. Computation of required parking.

1. Multiple uses. Except as approved otherwise, developments containing two or more uses shall have the total number of parking spaces required for each use.
2. Floor area. All required parking calculations shall be based on gross floor area unless otherwise stated. Gross floor area (gfa) shall mean the total area of all floors, measured between the exterior walls of a building. Gross leasable area (gla) shall mean the total area of all floors intended for occupancy and the exclusive use of tenants, specifically excluding public or common areas such as utility rooms, stairwells, enclosed malls and interior hallways.
3. Fractions. Whenever the computation of the number of parking spaces required by this division results in a fractional parking space, one additional parking space shall be required for one-half or more fractional parking space, and any fractional space less than one-half of a parking space shall not be counted.

Table 8-1
MINIMUM PARKING BY USE

<i>Use</i>	<i>Number of Parking Spaces</i>	<i>Required for Each</i>
RESIDENTIAL		
Single-family residence	2	Dwelling unit (fully enclosed)
Single-family residence in a planned district	2	Dwelling unit (one must be fully enclosed)
Single-family residence — Old Lee's Summit Neighborhood	2	Dwelling unit (one must be fully enclosed)
Two-family, Three-family or Four-family residences	2	Dwelling unit (one must be fully enclosed) Visitor parking per plan approval
Loft dwelling	1	Dwelling unit
Dwelling units above 1st floor commercial in the Downtown Core area	.5	Dwelling unit
Multi-family residence	1 1.5 2 plus 0.5	Efficiency or studio unit 1 or 2 bedroom unit 3 or more bedroom unit per unit for visitor parking
Bed and breakfast — Home stay (max. 3 rooms), rooming house, boarding house	2 1	Residence Room for rent
Bed and breakfast inn (max. 12 rooms)	1 1	Room for rent Employee on maximum shift
Group homes	1.5	Employee on maximum shift
Group living quarters: Fraternity & sorority houses, dormitories, etc.	1	2 residents or beds
Hotel or motel with a restaurant or lounge open to the public	1.5	Room
Hotel or motel with no restaurant or lounge; or with a restaurant or lounge provided for guests only	1	Room
Nursing home/elder care	1 plus 1	2 beds Employee on maximum shift
Retirement community	1 plus 1	Dwelling unit Employee on maximum shift
COMMERCIAL		
Amusement center, recreational attraction, roller skating or ice skating rink	6	1,000 sq. ft. of gfa
Animal services (boarding, grooming and veterinary)	2.5	1,000 sq. ft. of gfa or determined by Director at plan approval
Automobile, truck, recreational vehicle, manufactured home or utility structure sales, equipment sales and service	2 plus 1 3	1,000 sq. ft. of indoor sales area 2,500 sq. ft. of outdoor display Service bay
Bank	4	1,000 sq. ft. of gfa

<i>Use</i>	<i>Number of Parking Spaces</i>	<i>Required for Each</i>
Banquet facility	1	3 persons based on calculated occupant load as determined by Building Code
Bars and taverns	1 plus 1	Employee on maximum shift 4 seats or building capacity as determined by Building Code
Bowling center	4.5	Lane
Car wash — Automated and self-service	1	Employee on maximum shift
Contractor building supplies, brick or lumber yard (not home improvement center)	2.5	1,000 ft. of indoor sales area
Convenience store, gas station	5	1,000 sq. ft. of gfa
Daycare center	2.5	1,000 sq. ft. of gfa
Funeral home	1 plus 1	3 fixed seats per 30 sq. ft. of assembly area with no fixed seats
Furniture or carpet store	1.5	1,000 sq. ft. of gfa
Golf course or driving range		Determined by Director at plan approval
Grocery store/specialty market (not a supermarket)	4	1,000 sq. ft. of gfa
Health club or fitness center	4.5	1,000 sq. ft. of gfa
Home improvement center/farm supply store	4	1,000 sq. ft. of gfa
Movie theater	1	4 seats
Offices — General and professional (not medical, dental or veterinary)	4	1,000 sq. ft. of gfa
Offices — Medical or dental	5	1,000 sq. ft. of gfa
Outdoor plant nursery, garden center (with or without building)		Determined by Director at plan approval
Outdoor recreational facility		Determined by Director at plan approval
Restaurant — Carry-out, drive-up or drive-through only	2 plus 1	Business Employee on maximum shift
Restaurant — Fast-food and sit-down	14	1,000 sq. ft. of gfa
Retail establishments not otherwise listed	5	1,000 sq. ft. of gfa
Service establishments not otherwise listed	5	1,000 sq. ft. of gfa
Service station, auto repair shop or garage	3	Service bay (each bay may be counted as a parking space)
Shopping centers (excluding pad sites): 25,000 sq. ft. — 399,999 sq. ft.	5	1,000 sq. ft. of gla
400,000 sq. ft. — 599,999 sq. ft.	4.5	1,000
600,000 sq. ft. +	4	1,000 sq. ft. of gla
Supermarket	5	1,000 sq. ft. of gfa

<i>Use</i>	<i>Number of Parking Spaces</i>	<i>Required for Each</i>
INDUSTRIAL — INCLUDING STORAGE, WHOLESALE AND MANUFACTURING		
Manufacturing	2.5	1,000 sq. ft. of gfa
Mini-warehouse storage facility	2 1	Facility Employee on maximum shift
Open storage of sand, gravel, petroleum, etc.	1	2,500 sq. ft. of outdoor sales area
Warehouse, including commercial sales to the public	4 plus 1	1,000 sq. ft. of sales or office space 1,000 sq. ft. of storage area
Warehouse, transfer and storage	1	1,000 sq. ft. of gfa
Wholesale, office-warehouse	4 plus 1	1,000 sq. ft. of office space 1,000 sq. ft. of storage area
INSTITUTIONAL AND OTHER		
Auditoriums, churches, theatres, stadiums and other places of assembly	1 1 1	3 seats, or 12 feet of pew, or 30 sq. ft. in the largest assembly room
Civic clubs, museums, fraternal lodges, etc.	5	1,000 sq. ft. of gfa
Hospital	1.8 plus 5	Bed 1,000 sq. ft. of office space
School — College/university (instructional space)	10	Classroom
School — Elementary, junior high school	2	Classroom
School — Senior high school	6	Classroom
School — Technical college, trade school	20	Classroom
Subdivision swimming pool/clubhouse	1 minimum of 6	16 lots in subdivision Pool/clubhouse facility

Sec. 8.540. Alternate Parking Plan.

A. A request for approval of an Alternate Parking Plan shall be accompanied by the following information:

1. A parking demand study or other data that establishes the number of spaces required for the specific use. The study or data may reflect parking for the same use existing at a similar location or for similar uses at other locations. Published studies may be utilized to support alternative parking requests.
2. If shared parking is proposed for a mixed use development, the sum of peak parking demands by use category shall be accommodated for day and night hours on weekdays and weekends. The guidelines for shared parking contained in this division may be used in lieu of a separate study.

3. If a remote or off-site parking lot is proposed to meet any portion of the parking required, the site and its current zoning classification must be identified, along with the method to transport parking patrons to the use.
4. If more parking spaces are proposed than would be allowed under the guideline standards of this division, a landscaping plan shall be submitted that illustrates compliance with the parking lot landscaping requirements of Division III of this division.

B. Consideration of plan.

1. Administrative process. The Director may approve an Alternate Parking Plan, including landbanking, as part of a final development plan if the Director determines that the number, configuration, location and landscap-

ing, if applicable, of proposed parking spaces satisfies the demand for parking generated by the proposed development, when viewed in light of all relevant factors.

2. Preliminary development plan process. The City Council may consider an Alternate Parking Plan as part of a preliminary development plan. Consideration of the preliminary development plan shall follow the procedures for approval of preliminary development plan applications as set forth in Article 2.
3. Appeal process. If the Director denies a proposed Alternate Parking Plan, the reason for the denial shall be provided to the owner in writing within 15 days after the date a complete Alternate Parking Plan is submitted to the Director for consideration. The applicant may appeal the decision to the Board of Zoning Adjustments or may apply for a modification through the preliminary development plan process.

C. Approved plan.

1. Following approval by the Director or the City Council, the requirements of the approved Alternate Parking Plan shall be included in any sale, lease, or other transfer of right of occupancy affecting any part of the development.
2. All tenants of the property or development, whether an owner, lessee, subtenant, purchaser, or other occupant, shall comply with the approved Alternate Parking Plan.

Sec. 8.550. Shared parking guidelines.

Parking facilities may be shared by multiple uses which have different hours of operation or peak periods of parking demand, subject to the following:

- A. The applicant shall submit a shared parking analysis to the Director demonstrating that no significant conflict in the principal hours of operation or periods of peak parking demand for the uses for which shared parking is proposed will exist. It shall address, at a minimum, the size and type of the development, the composition and description of the uses and their operational characteristics,

the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing spaces.

- B. The shared parking analysis shall be prepared pursuant to guidelines published by the Urban Land Institute or other generally accepted methodology.
- C. Parking spaces that are proposed to be shared must be clearly available to each use and not appear in any way to be serving a particular use through the use of signage or through design techniques that would tend to orient use of the spaces to a particular use or building.
- D. Shared parking arrangements assuring the continued availability of the number of parking spaces designated for shared use must be evidenced by a written agreement acceptable to the Director, and approved by the owners of each of the affected properties or uses. The approved agreement shall be recorded and a copy supplied to the Director.
- E. Should any of the shared parking uses be changed, or should the Director find that any of the conditions described in the approved shared parking plan or agreement no longer exist, the property owner shall have the option of submitting a revised shared parking study or of providing the number of spaces for each use as if counted separately. If the Planning Director determines that the revised shared parking study or agreement does not satisfy the off-street parking needs of the proposed uses, the shared parking request shall be denied, and no certificates of occupancy shall be issued until the full number of off-street parking spaces is provided.

Sec. 8.560. Landbanking.

Landbanking is the setting aside of sufficient green space for future parking expansion needs of a particular use or building. Landbanking of future parking spaces may be approved as part of an Alternate Parking Plan by the City Council when approving a preliminary development plan or the Director as part of a final development plan when deemed to be appropriate for the particular development and not in

conflict with the best interest of the City. The land area so delineated for future parking shall be brought to finished grade, landscaped and shall not be used for building, storage, loading or other purposes. Upon determination by the Director, City Council or owner that additional parking is needed, the owner shall construct it.

Sec. 8.570. Queuing requirements for drive-through facilities.

In addition to meeting the off-street parking requirements of this division, drive-through facilities shall meet the following standards:

- A. Required queue spaces. The minimum number of required queue spaces shall be as shown in

Table 8-2. Variations from these minimums may be allowed on a case-by-case basis by the Director. The applicant may appeal the decision to the Board of Zoning Adjustments or may apply for a modification through the preliminary development plan process.

**Table 8-2
REQUIRED QUEUE SPACES**

<i>Use Type</i>	<i>Minimum Spaces</i>	<i>Measured From</i>
Automated teller machine (ATM)	5 (single-lane facility) 3 (multi-lane facility)	ATM
Bank teller lane	5 (single-lane facility) 3 (multi-lane facility)	Window or kiosk
Car wash stall, automated	5	Stall entrance
Car wash stall, self-serve	3	Stall entrance
Dry cleaners	2	Window
Gasoline pump island	2	Pump
Restaurant drive-through	4 Plus 4	Menu board First window
Pharmacy drive-through	5 (single-lane facility) 3 (multi-lane facility)	Window or kiosk
Other	Determined on a case-by-case basis by the Director	

- B. Dimensions. Each queue space shall be a minimum ten feet wide by 20 feet long.

Sec. 8.580. Accessible parking spaces.

- C. Design. Each queue lane shall be clearly defined and designed so as not to conflict or interfere with other vehicular or pedestrian traffic using the site. Parking lots designed with one-way traffic flow shall have a bypass lane with a minimum width of ten feet or as required by the Fire Code. The bypass lane shall be clearly designated and distinct from the queuing area.

- A. A portion of the total number of required off-street parking spaces in each parking area shall be specifically designated and reserved for use by persons with physical disabilities.

- B. One in every eight required accessible spaces (but no less than one) shall be adjacent to an aisle eight feet wide clearly marked with a sign indicating that the space is "van accessible". All other accessible spaces shall have an adjacent aisle five feet wide.

C. Accessible spaces shall be provided in each parking lot in the following ratio to the total number of spaces required for the use. These spaces shall be counted as part of the total number of parking spaces required by this division. A modification or variance may not be granted for the number of required accessible spaces.

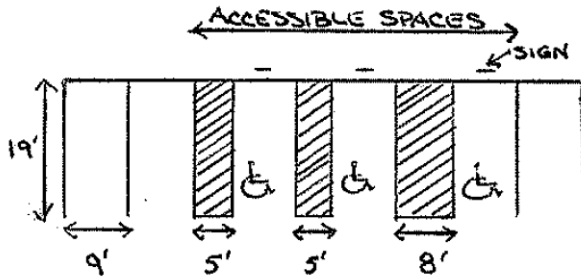


Table 8-3
ACCESSIBLE SPACES REQUIRED

Spaces Required for Use	Auto Accessible	Van Accessible	Total
1 to 25	0	1	1
26 to 50	1	1	2
51 to 75	2	1	3
76 to 100	3	1	4
101 to 150	4	1	5
151 to 200	5	1	6
201 to 300	6	1	7
301 to 400	7	1	8
401 to 500	7	2	9
501 to 1,000	7 per 8 accessible spaces	1 per 8 accessible spaces	2% of total spaces
1,001 and over	7 per 8 accessible spaces	1 per 8 accessible spaces	20, plus 1 per 100 spaces over 1,000

- D. Access aisles shall be on the same level as the parking spaces they serve.
- E. Accessible parking spaces shall be located on a surface with a slope not exceeding one vertical foot in 50 horizontal feet.

F. Accessible spaces shall be located at the nearest point to the front building entry and/or accessible ramp. Accessible spaces separated from the front building entry by a drive aisle shall have clearly discernable cross walks.

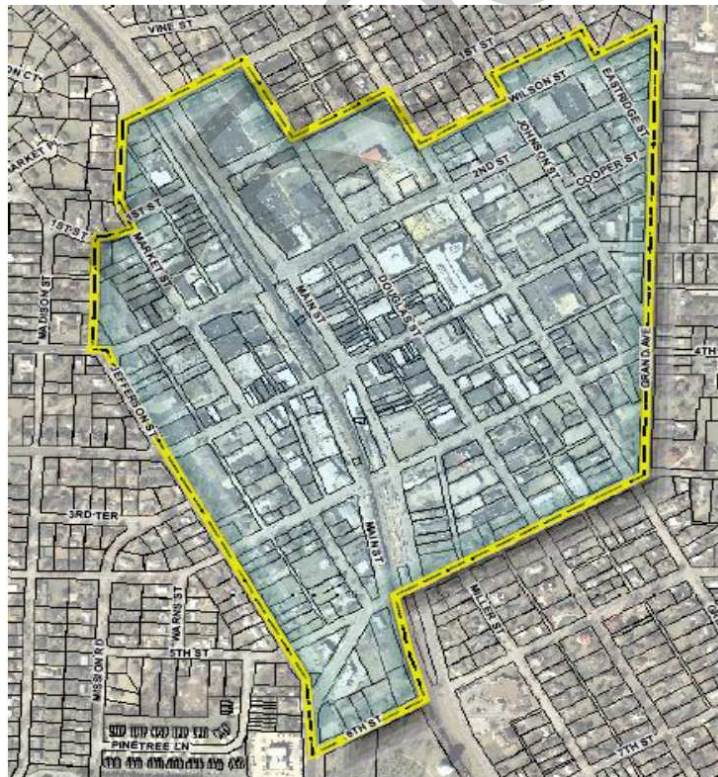
- G. Accessible ramps shall be designed and constructed so as to be integrated into the sidewalk. Ramps shall not be located within or extend into an accessible space, access aisle or any other portion of the parking lot.
- H. Parking spaces for vans shall have a vertical clearance of 98 inches minimum at the space and along the vehicular route thereto. In cases of a loading zone, a minimum vertical clearance of 114 inches shall be provided at passenger loading zones and along vehicle access routes to such areas from site entrances.
- I. Every accessible parking space required by this division shall be identified by a sign, mounted on a pole or other structure, located between 36 inches and 60 inches above the ground, measured from the bottom of the sign, at the head of the parking space. A sign identifying an accessible parallel parking space shall be mounted 84 inches above the ground, measured from the

bottom of the sign, and shall be placed at a point parallel to the center of the parking space. All identifying signs shall be 12 inches wide by 18 inches in height and meet the requirements set forth in the Manual on Uniform Traffic Control Devices, as referenced in the Lee's Summit General Code of Ordinances.

- J. In addition to the requirements of this section, all accessible parking spaces and areas shall comply with the requirements of the federal Americans with Disabilities Act.

Sec. 8.590. Downtown area parking guidelines.

- A. Downtown area defined. For the purposes of this section, "downtown area" shall mean the area loosely bounded by SE 1st Street on the north, SE 5th Street on the south, SW Jefferson Street on the west and SE Grand Street on the east.
- B. Residential uses. Vehicle parking shall be provided in accordance with Table 8-1.



C. Non-residential uses.1. Vehicle parking.

- a. In the downtown area, the vehicle parking requirements of this division for non-residential uses shall apply only to the net increase in floor area of use intensity created by new construction or building expansion or a substantial change in use. A substantial change in use is defined as a change which results in an increase in the demand for parking by 25 percent or more from the previous use.
- b. The parking requirement calculation for each non-residential use in the downtown area shall be based on the requirements of this division, or five spaces per 1,000 square feet of gross floor area, whichever requires the fewer number of spaces.
- c. Any existing vehicle parking spaces that are eliminated by new construction or expansion must be replaced by that business or use, unless such spaces are in excess of the requirements for that business or use being served, and are in the same ownership.

2. Shared parking district.

- a. The requirements for additional parking may be waived in the downtown area if available public parking is located on the same block or within 300 feet for residential or 500 feet for non-residential uses. This public parking must have sufficient capacity, as calculated by the City Traffic Engineer (or designee), to absorb the required number of spaces and cannot be on the opposite side of the railroad tracks running between SE Main Street and SW Main Street.
- b. Sufficient capacity will be based on a rolling 12-month inventory of public parking spaces in the area. This capacity will be evaluated against the projected demands determined by the City Traffic Engineer (or designee), taking into account time-of-day variations in parking

demand as calculated by local data provided by the Urban Land Institute or Institute of Transportation Engineers.

3. Loading zones.

- a. The application process for a curb loading zone shall be subject to the regulations of the Lee's Summit General Code of Ordinances.
- b. The use of curb loading zones shall be subject to the regulations of the Lee's Summit General Code of Ordinances.

Sec. 8.600. Proximity of parking spaces to use.

A. On-site parking. Unless otherwise provided under an approved Alternate Parking Plan, all parking spaces required to meet the standards of this division shall be located on the same lot as the use they serve.

B. Off-site parking. If required parking spaces are not located on the same lot or on a contiguous lot owned or leased by the intended user thereof for the particular use or building they are intended to serve, the following shall apply:

1. The parking spaces must be located on a property that has the same zoning classification as the property that the spaces serve, or a less restrictive zoning classification.
2. No required parking spaces may be located across a major arterial street or any State or US highway from the use they are intended to serve, unless a grade-separated pedestrian walkway connection is provided.

C. Park and rides. Parking lots intended for park and ride lots shall be approved only by Special Use Permit and shall comply with all setback, landscaping, stormwater detention/retention, and pavement requirements and any other city regulations associated with parking lot improvements.

Sec. 8.610. Improvement of residential driveways.

A. Residential driveways shall be constructed of asphaltic concrete, Portland cement concrete or masonry pavers engineered to support the weight of a vehicle.

- B. Parking on other than asphaltic concrete/Portland cement concrete/masonry paved driveways or pads is expressly prohibited, except for lots of one acre or greater in size zoned AG (agricultural) or RDR (rural density residential).
- C. Driveways on lots of one acre in size or greater zoned AG, RDR, RLL (residential large lot) or R-1 (single-family residential) shall be paved a minimum of 50 feet beginning from the edge of street pavement. The remainder may be gravel or paved.
- D. Where permitted, gravel driveways shall be maintained to meet the following standards:
 1. The surface of the driveway or parking area shall consist of a uniform layer of gravel evenly distributed from edge to edge, and shall be free of bare spots and vegetation.
 2. The depth of the gravel layer shall be an average of two inches and a minimum of one inch.
 3. The material used for a gravel driveway or parking area shall be rock or crushed stone not more than one inch in diameter and shall not contain dirt, sticks, construction debris or other foreign material. Sand, rock powder or other similar material less than one-eighth-inch in diameter is not prohibited, but shall not be included in the measurement of minimum gravel depth.

Sec. 8.620. Parking lot design.

The provisions of this section apply to all vehicle parking spaces and parking areas, whether the parking meets or exceeds the number of required spaces established in this division.

- A. Head-in parking. Head-in parking from any public right-of-way or private street shall not be permitted, except that the use of head-in parking in the downtown area, as defined in this division, may be considered on a case-by-case basis. Driveways serving single-

family, two-family, three-family and four-family residences are exempted from the head-in parking restriction.

B. Parking setback.

1. All parking lots shall be set back a minimum 20 feet from any public right-of-way or private street edge of pavement.
2. Parking lots shall be set back a minimum 20 feet from any residential district or use.
3. Parking lots shall be set back a minimum six feet from the side and rear property line when not part of shared parking and/or cross access.

C. Dimensions.

1. Standard parking space dimensions shall not be less than nine feet wide by 19 feet long.
2. Where the head of the parking space abuts a six-foot wide sidewalk or curbed landscaped area, the length of the parking space may be reduced by two feet to allow for vehicle overhang. Such overhang shall be measured from the face of the curb.
3. Parallel parking space dimensions shall not be less than nine feet wide by 23 feet long.

D. Striping.

1. All parking spaces shall be clearly demarcated with lines a minimum four inches in width. The width of each parking space shall be measured from the centers of the striping.
2. Striping shall not incorporate advertising of any kind.

E. Access and circulation.

1. Access aisles in parking lots shall have the following dimensions:

Table 8-4
PARKING LOT ACCESS AISLE WIDTH (FT.)

PARKING SPACE ANGLE						
	0° (Parallel)	30°	45°	60°	90°	No spaces*
One-way traffic	15	14	16	18	24	10
Two-way traffic	20	20	20	22	24	20

* Refers to access aisles with no parking spaces located on either side.

- 2. Minimum access aisle widths for parking lots with parking space angles different from those listed in Table 8-4 shall be determined on a case-by-case basis.
 - 3. One-way traffic aisles must be clearly marked with directional arrows on the pavement at each intersection with another aisle.
 - 4. Ingress and egress to parking areas shall be by means of paved driveways from the adjoining street. The minimum width of driveways for ingress and egress shall be the same as those specified above for aisles. Driveway width, for the purpose of this section, shall include only the pavement and not the curb and gutters.
 - 5. The location of all parking area driveways shall conform to the Access Management Code.
- F. Improvement of parking and loading areas.
- 1. Surface.
 - a. All vehicle parking areas and access drives shall be improved with one of the following:
 - (1) A minimum four-inch asphaltic concrete base overlaid with a one and one-half-inch asphaltic concrete surface, constructed on a subgrade of six-inch granular base course, over either Geogrid or six-inch stabilized subgrade.
 - (2) A minimum six inches of full depth unreinforced Portland cement concrete constructed on a subgrade of four inches of granular base course.
 - (3) The City Engineer is authorized to consider an alternative design for an asphaltic concrete or Portland cement concrete surface engineered to support the weight of the anticipated loads.
- b. Designated fire lanes, delivery/freight truck access lanes, and loading areas shall be improved with one of the following:
 - (1) A minimum five-inch asphaltic concrete base overlaid with a one and one-half-inch asphaltic concrete surface, constructed on a subgrade of six-inch granular base course, over either Geogrid or six-inch stabilized subgrade.
 - (2) A minimum six inches of full depth unreinforced Portland cement concrete, constructed on a subgrade of four inches of granular base course.
 - (3) The City Engineer is authorized to consider an alternative design for an asphaltic concrete or Portland cement concrete surface engineered to support the weight of the anticipated loads with certification from a geotechnical engineer that what is being proposed is equal to or greater than city standards.

**Table 8-5
PARKING LOT PAVING**

	<i>Vehicle parking areas & drives</i>	<i>Fire lanes and truck access</i>
Asphalt	Sec. 8.620.F.1.a.(1)	Sec. 8.620.F.1.b.(1)
Asphalt surface course	1.5"	1.5"
Asphalt base course	4"	5"
Subgrade	6" granular base course with Geogrid, or 6" granular base course with 6" stabilized subgrade	6" granular base course with Geogrid, or 6" granular base course with 6" stabilized subgrade
Concrete	Sec. 8.620.F.1.a.(2)	Sec. 8.620.F.1.b.(2)
Concrete — Full depth	6"	6"
Subgrade	4" granular base course	4" granular base course

- c. Trash enclosure areas shall be improved with a Portland cement concrete pad and a Portland cement concrete approach 30 feet in length, measured from the enclosure opening. The pad and approach shall be improved with a minimum six inches of full depth unreinforced Portland cement concrete constructed on a sub-grade of four inches of granular base course.

2. Curbing.

- a. All vehicle parking lot areas and access drives in all zoning districts shall have a boundary constructed of straight-back Portland cement concrete curbing (CG-1) or an integral Portland cement concrete sidewalk and curb with a vertical face. Driveways serving single-family, two-family, three-family and four-family residences are exempted from the CG-1 curbing requirement. This requirement shall also not apply to accessible parking spaces where the adjacent pedestrian walkway is designed to be at the same grade as the accessible spaces for the purpose of providing access to said walkway.
- b. The use of curb blocks in parking areas shall be prohibited, except at the head of accessible parking

spaces when they are adjacent to a pedestrian walkway with no raised curb.

- c. Temporary asphalt curbs may be used in areas to be expanded only as shown and approved on the final development plan.
- d. Storage lots, excluding tow lots, in CS and PI zoned districts may utilize gravel instead of a hard surface pavement provided they are engineered to support the weight of the anticipated loads and provide for a minimum of a 100-foot paved drive measured from the concrete drive approach.

- 3. Maintenance. See Section 8.520.
- 4. Time limit. See Section 8.520 — Applicability.

Sec. 8.630. Driveway approach design (see the City of Lee's Summit Design and Construction Manual).

Sec. 8.640. Loading.

- A. Required loading spaces shall be determined on a case-by-case basis by the Director through the required approval process.
- B. The dimensions of loading spaces will be determined on a case-by-case basis depending on

the requirements of each project, including the length of trucks to be served and configuration of building(s) on the site.

- C. All off-street loading areas shall be screened in accordance with Division III of this article.

Sec. 8.650. Restricted vehicles.

- A. No motor vehicles designed or regularly used for carrying freight, merchandise, or other property or more than eight passengers and that is licensed in excess of one ton gross vehicle weight, excluding any vehicle which is licensed as a recreational vehicle, shall be parked in a residential zone, except for deliveries. In no case shall said vehicle be stored in a residential zone.
- B. Inoperative vehicles may not be stored or repaired (other than in enclosed garages) on the premises.
- C. In zoning districts other than the industrial zoning districts, construction equipment and construction vehicles may not be stored or repaired on the premises (other than in enclosed garages), except as follows:
1. When being utilized for construction activities on the premises pursuant to a valid permit issued by the City for construction work necessitating the use of equipment, or when used for permitted work on the public right-of-way; or
 2. When the equipment is used as an accessory use in accordance with Division IV of Article 6; or
 3. When associated with a special use permit as part of an allowable primary use, such as an equipment rental business.

Sec. 8.660. Recreational vehicles and utility trailers.

A. Definitions.

1. Recreational vehicle shall include but not be limited to motor homes, camping/travel trailers, all-terrain vehicles (ATVs), boats and jet skis for the purposes of this division. Small recreational vehicles shall refer to those 20

feet in length and under. Large recreational vehicles shall refer to those over 20 feet in length.

2. Utility trailers shall mean both open and enclosed trailers that are used for:
 - a. Hauling equipment to and from employment job sites; and/or
 - b. Hauling brush and debris from a residence to a landfill or such place appropriate for disposal or recycling.

B. General requirements. The following requirements shall apply to the parking of recreational vehicles and utility trailers in residential districts at all times, except as otherwise provided by this division:

1. No more than two recreational vehicles shall be parked outdoors on lots zoned AG, RDR, RLL, R-1, RP-1 or RP-2. Of the two allowed recreational vehicles, no more than one may be a large recreational vehicle as defined in this section.
2. Parking of recreational vehicles or utility trailers in other districts shall be prohibited except when specifically approved as part of a preliminary development plan or special use permit for said purpose.
3. Recreational vehicles shall not be used for on-site dwelling purposes for more than seven days per year and shall not be permanently connected to sewer lines, water lines or electrical lines.
4. No part of a recreational vehicle or utility trailer shall extend over any lot line, sidewalk, right-of-way or into the 25-foot vision clearance triangle.
5. Parking of a recreational vehicle or utility trailer shall only be allowed on hard surfaces, i.e., asphaltic concrete, Portland cement concrete or masonry pavers engineered to support the weight of said vehicle, except as otherwise provided in this division.
6. Parking shall be limited to driveways in front of three-car garages, pads adjacent and connected to the driveway or in the case of rear yard parking/storage, such pad shall be permanently connected to the driveway with an

asphaltic concrete or Portland cement concrete drive, except as otherwise provided in this division.

7. Parking on a residential driveway is prohibited except for corner lots where a separate driveway is provided off the street on the other street frontage which does not interfere with the residential parking of passenger vehicles.
8. Recreational vehicles or utility trailers parked on a driveway or pad shall maintain a minimum ten feet of separation from the nearest structure on an adjacent property.
9. Utility trailers shall be kept free of debris when being parked outside a premise and be licensed, kept and maintained in good repair including, but not limited to, paint or finish, inflated tires and structural components.

Secs. 8.670—8.700. Reserved.

DIVISION III. LANDSCAPING, BUFFERS AND TREE PROTECTION

SUBDIVISION 1. IN GENERAL

Sec. 8.710. Purpose and definitions.

- A. Purpose. The purpose of this division is to improve the aesthetic qualities of the City and to protect and preserve the appearance, character and value of its neighborhoods and business areas by:
1. Providing for quality and consistency in the design of landscaping and screening;
 2. Providing for the separation of incompatible types of land use; and
 3. Providing for the conservation of existing trees and the planting of new trees in conjunction with the development of land.
- B. Definitions. Unless specifically defined below, words or phrases used in this division shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this division its most reasonable application:
1. Berm. A mound or embankment of earth, usually two to six feet in height, used to shield or buffer properties from adjoining uses, highways or noise.
 2. Buffer. An area of natural vegetation or man-made construction that is intended to provide a visual and dimensional separation between dissimilar land uses.
 - a. Natural buffer. A visual screen created by vegetation of such density so as to present an opaque visual separation when viewed from one side to the other throughout the year.
 - b. Structural buffer. A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, to present an opaque visual separation when viewed from one side to the other throughout the year.
 3. Caliper. The diameter of a tree (usually nursery stock) measured at a point six inches above the ground or top of the root ball for up to and including four-inch caliper trees, and at a point 12 inches above the ground or top of root ball for larger sizes.
 4. Critical root zone. The land area circular in shape and centered on the trunk of a tree, the radius of which circle is determined by the farthest extent of the drip line from the trunk.
 5. Development site. That portion of a tract of land that will be dedicated to a proposed development.
 6. Drip line. A perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
 7. Ground cover. A low-growing plant other than turf grass that forms a continuous cover over the ground surface.

8. Landscape materials. Any combination of living plant materials and nonliving materials, such as rock, pebbles, sand, mulch, pavers, berms, fencing, walls, fountains and other decorative materials.
9. Landscaping. The planting of shrubs, vines, turf, ground cover and the use of other landscape materials such as mulch, bark, decorative rock and other similar materials that are utilized to enhance the aesthetic and functional qualities of a site.
10. Opaque. Impenetrable to view, or so obscuring to view that features, buildings, structures, and uses become visually indistinguishable.
11. Plant materials. Living plants that include trees, shrubs, ground cover, grasses and perennial flowering plants, turf and vines that are suitable for ornamental or functional use.
12. Screen. Natural vegetation or a decorative structure that creates an opaque visual block or obscures an unattractive view. Screening may consist of any combination of the following, as approved by the Director:
 - a. Fencing.
 - b. Masonry walls.
 - c. Plant materials or natural vegetation.
 - d. Earthen berms.

For the purpose of this article, a screen is opaque to a height of six feet, two and one-half feet for parking lots, above the ground surface or, for a screen of plant materials, has the maximum opacity obtainable with the approved arrangement and species of plant materials, to a height of six feet or two and one-half feet for parking lots.
13. Shade tree. A broadleaf tree having an average height at maturity of a least 20 feet and having a broad spread relative to its height (excluding trees with pyramidal, conical, or columnar crowns) and a dense canopy, so as to provide shade in the summer months.
14. Significant tree. A tree in fair or better condition that has been determined to be of a high value by a knowledgeable person because of its species, size, age or other professional criteria.
 - a. A tree is considered in fair or better condition if:
 - (1) Its life expectancy is greater than 15 years;
 - (2) It has a relatively sound and solid trunk with no extensive decay or insect infestation.
 - b. Hardwood trees such as oaks and hickories that are of a 12-inch caliper or more and soft-wood trees such as pines and cedars, which are 16 feet in height or more, and small hardwoods such as dogwoods, redbuds or sourwoods with calipers of 6 inches or more shall be considered significant trees due to size.
15. Shrub. A self-supporting woody plant that normally reaches a height of less than 15 feet.
16. Tree. A self-supporting woody plant that normally reaches a height of at least 15 feet.
17. Turf. Ground cover composed of one or more species of perennial grass that is grown as a permanent lawn.
18. Vine. A plant that is typically woody and climbs by supporting itself on some other plant or structure.

SUBDIVISION 2. LANDSCAPING, BUFFERS AND TREE PROTECTION PLANS, INSTALLATION AND MAINTENANCE

Sec. 8.720. Landscaping and buffer plans; when required.

- A. Landscaping and buffer plans, as provided for in this section, shall accompany all preliminary and final development plan applications and be provided upon application for building permits for those developments not required to proceed through the Planning Commission or City Council development process.
- B. In cases where landscaping and buffer plan approval would cause harmful delay to the start of construction, the Director of Codes Administra-

tion may issue footing and foundation building permits for the project so that construction may proceed.

- C. Permits for construction beyond the footing and foundation shall not be issued until the landscaping and buffer plan has been submitted and approved.
- D. The provisions of this section shall not apply to structures for which landscaping and buffer plans have previously been submitted and approved.
- E. Except as noted herein, landscaping and buffer plans shall be approved prior to the issuance of a building permit.
- F. A landscaping and buffer plan shall only be required for that phase of development being considered for construction or for which a building permit is being acquired.
- G. Single-family and two-family (duplex) developments are exempt from landscaping requirements.

Sec. 8.730. Landscaping and buffer plans; requirements.

Landscaping and buffer plans shall include the following information:

- A. North point and scale not to exceed one inch equals 50 feet;
- B. The location and size of all utilities on the site;
- C. The location of all existing and proposed parking areas, and sidewalks and other paved surfaces;
- D. The location of all existing and proposed buildings and structures;
- E. The boundary of any required tree conservation area;
- F. The boundaries of each required buffer or landscape strip;
- G. The location and mature size of all landscape materials proposed to meet the requirements of this division, drawn to scale; and a planting schedule indicating plant names (scientific and common), quantities and size at planting;

- H. A separate planting schedule for each buffer, landscape strip, tree conservation area, parking lot, or other identifiable area where plant materials are to be installed;
- I. The location, size and common name of all existing plant materials to be retained; and
- J. The location and construction details, including a profile section, of each structure proposed to meet buffering requirements;

Sec. 8.740. Tree conservation plan.

- A. A tree conservation plan shall be submitted to the Department prior to any grading, bulldozing, or other removal of existing vegetation that may affect existing tree coverage. A preliminary plan may be submitted in certain circumstances, as provided below:

- 1. The full tree conservation plan shall show the following:
 - a. The extent of the development site;
 - b. All significant trees to be removed and all other trees of ten-inch caliper or larger to be removed;
 - c. All significant trees and all other trees ten-inch caliper or larger that will remain on the development site and be protected during construction; and trees less than ten-inch caliper that are submitted for credit as part of the requirement of this division;
 - d. In heavily wooded areas that will not be disturbed, the plan may show only the boundaries of each stand of trees and a list of the number, size, and type (e.g., hardwood, softwood; deciduous, evergreen) of trees in each stand that are submitted for credit;
 - e. Locations of proposed on-site underground utility lines;
 - f. Locations of other on- and off-site utility lines, indicating areas where trees cannot be planted because of interference with: (1) existing or proposed utilities on public rights-of-way or on utility rights-of-way or easements, and (2) existing utilities on adjoining properties;

- g. Limits of land disturbance, clearing, grading, and trenching;
 - h. Limits of tree conservation areas, showing trees to be maintained and planted, specifying type and size;
 - i. Grade changes or other work adjacent to a significant tree or any other tree ten-inch caliper or larger that would affect it adversely, with drawings or descriptions as to how the grade, drainage, and aeration will be maintained around the tree; and
 - j. Planting schedule, if applicable.
2. A preliminary tree conservation plan may be submitted for development of an industrial park where multiple sites will be cleared and graded for purposes of marketing vacant sites to prospects. Planting of new trees will not be required on a lot until a use is developed on that lot, and locations of new trees need not be shown on the preliminary plan. The preliminary tree protection plan shall show the following:
- a. The extent of the development site;
 - b. Limits of land disturbance, clearing, grading, and trenching;
 - c. All significant trees to be removed and all other trees ten-inch caliper or larger to be removed;
 - d. Grade changes or other work adjacent to a significant tree or any other tree ten-inch caliper or larger that would affect it adversely, with drawings or descriptions as to how the grade, drainage, and aeration will be maintained around the tree;
 - e. Trees that will be required on the lot when it is developed, calculated by subtracting one-third of the lot area as assumed building area; and
 - f. Removal of significant trees and other trees ten-inch caliper or larger shall be permitted only in conjunction with an approved preliminary tree conservation plan, an approved grading plan, and actual grading of building pads (i.e., not simply to clear the lot).

Sec. 8.750. Acceptable plant materials.

- A. The following are the minimum plant sizes and conditions to be used in satisfying the requirements of this division. Acceptable plant materials for landscaping, buffers and tree replacement shall be as approved by the Director:
 - 1. Medium shrubs, 18- to 24-inch balled and burlapped or two-gallon container.
 - 2. Large shrubs, 24- to 30-inch balled and burlapped or 5-gallon container.
 - 3. Ground cover, two and one-half-inch peat pot.
 - 4. Deciduous trees shall be a minimum of three-inch caliper, measured at a point 6 inches above the ground or top of the root ball, at planting.
 - 5. Evergreen trees shall be a minimum height of eight feet at planting.
- B. The American Standard for Nursery Stock, published by the American Association for Nurserymen, shall be the standard reference for the determination of plant standards. Publications of the University Extension, University of Missouri System, the Missouri Department of Conservation, and other authorities acceptable to the Director also may be used.
- C. Existing trees and/or shrubs that are to be retained to satisfy the requirements of this division shall meet the following standards:
 - 1. Evergreen trees shall be at least six feet in height.
 - 2. Deciduous trees shall be a minimum of a two-inch caliper.
 - 3. Trees shall be free from mechanical injuries, insect infestations and disease.
 - 4. Trees shall be protected from injury to roots, trunks and branches during grading and construction. Protective fencing, tree wells, or retaining walls shall be utilized where necessary to insure tree vigor upon completion of construction.

5. Shrubs that meet acceptable sizes per Section 8.750.A. and that are free from injury and disease may be counted toward the requirements of this division.

Sec. 8.760. Approval of plant materials.

Approval of a proposal to use a specific landscaping or buffer material shall be subject to a determination by the Director that the proposed material is appropriate for:

- A. The specific location, given surrounding land uses and the type of screening used on nearby properties, and
- B. The specific topography, soil, existing vegetation, and other factors that may influence the effectiveness of a plant material.

Sec. 8.770. Installation of plant materials.

Plant materials, as required by the provisions of this division, shall be installed by the date specified on the approved landscaping and buffer plan. The Director may allow one planting season in a 12-month period in which the installation of plant materials shall be completed.

Buffers, if required, shall be installed before a certificate of occupancy permit is granted; except where the weather is not suitable for planting and escrow provisions are made in accordance with guidelines of the Department.

Sec. 8.780. Maintenance of required plant materials.

- A. The owner, tenant and their agent, if any, shall be jointly responsible for the maintenance in good condition of the plant materials used to meet the minimum requirements of this division for landscaping, buffer or tree replanting. The plant materials shall be kept free from refuse and debris.
- B. Plants that are not in sound growing condition or are dead shall be removed and replaced with a plant of a species or variety as determined by the Director.
- C. Other landscape materials shall be maintained in proper repair and shall be kept clear of refuse and debris.

SUBDIVISION 3. LANDSCAPING REQUIREMENTS

Sec. 8.790. Landscaping—Minimum requirements.

A. Street frontage.

1. One tree shall be planted for each 30 feet of street frontage, public or private, within the landscaped setback abutting said street frontage. Such trees may be clustered or arranged within the setback if approved as part of the landscape plan. A minimum 20-foot-wide landscape strip shall be provided along the full length of any street frontage, except where the building setback is less than 20 feet.
2. In commercial and industrial districts, any parking or loading area visible from a street shall be separated from the street right-of-way with a landscape strip at least 20 feet wide.
3. One shrub shall be provided for each 20 feet of street frontage, or portion thereof, within the landscaped setback abutting such frontage. Such shrubs may be clustered or arranged within the setback.

B. Open yard areas.

1. The minimum open yard area landscaping requirements shall be two shrubs per 5,000 square feet of total lot area (except for tracts of land for which this chapter imposes no yard requirements and permits 100 percent coverage of the lot by buildings), excluding building footprint area. For schools and churches/places of worship large sports/play fields and other areas specifically open to the public for use, i.e., tennis courts, paved play areas, paved parking lots etc. shall be excluded in the calculation of this requirement.
2. All portions of the site not covered with paving or buildings shall be landscaped. Open areas not covered with other materials shall be covered with sod. Ground cover shall be utilized on all slopes in excess of 3:1 slope.

3. In addition to the trees required based upon street frontage, additional trees shall be required at a ratio of one tree for every 5,000 square feet of lot area not covered by buildings/structures. For schools and churches/ places of worship large open sports/play fields may be excluded in the calculation of lot area. The remaining open space shall be applied to the ratio for tree planting as stated herein.

- C. Trash storage containers. A detailed drawing of enclosure and screening methods to be used in connection with trash storage containers on the property shall be included with the landscaping plan. (See Section 8.290.G.)

Sec. 8.800. Landscape strips along street frontage.

- A. Frontage landscape strips shall contain no structures, parking areas, patios, storm water detention facilities unless included in the landscape plan as an amenity or any other accessory uses except for the following:
 1. Retaining walls or earthen berms constructed as part of an overall landscape design;
 2. Pedestrian-oriented facilities such as sidewalks and bus stops;
 3. Underground utilities;
 4. Driveways required for access to the property; or
 5. Signs otherwise permitted by this chapter.
- B. All portions of a frontage landscape strip shall be planted in trees, shrubs, grass or ground cover, except for those ground areas that are mulched or covered by permitted structures.
- C. Plant materials in the frontage landscape strip are not to extend into the street right-of-way unless specifically allowed by the Public Works Department.

SUBDIVISION 4. PARKING LOT AND LOADING AREA LANDSCAPING

Sec. 8.810. Parking lot landscaping and trees.

Deciduous shade trees shall be provided within any parking lot designed or intended to accommodate ten cars or more, in accordance with the requirements of this section.

- A. Landscape islands, strips or other planting areas shall be located within the parking lot and shall constitute at least five percent of the entire area devoted to parking spaces, aisles and driveways. Every four rows of parking shall include a landscape island of at least ten feet in width. Industrial zoned properties, PI-1, PI-2 and BP, shall be exempt from this requirement.
- B. As a minimum, a landscaping island shall be located at the end of every parking bay between the last parking space and an adjacent travel aisle or driveway. The island shall be no less than nine feet wide for at least one-half the length of the adjacent parking space. The island shall be planted in trees, shrubs, grass, or ground cover, except for those areas that are mulched.
- C. Tree planting areas shall be no less than ten feet in width. No tree shall be located less than four feet from the back of curb. All parking lot landscape islands, strips or other planting areas shall be curbed with minimum six-inch high curbs of the type required by this chapter or other regulations for parking areas.
- D. Planting requirements. See Section 8.790 of this division.

Sec. 8.820. Screening, parking lot.

For any parking lot designed or intended to accommodate five cars or more and any area set aside for loading or unloading of trucks or vans, if such parking lot or loading area is visible from a street right-of-way, a visual screen shall be provided as required below.

- A. Screening to a height of two and one-half feet must be provided along the edge of the parking

lot or loading area closest to and parallel to the street. A driveway to the parking lot or loading area may interrupt the screening.

- B. Screening shall be decorative and 100 percent opaque to a height of two and one-half feet above the elevation of the parking/loading area or the street, whichever is highest.
- C. Screening may be provided in any of the following ways:
 1. Planted only. A hedge consisting of at least 12 shrubs per 40 linear feet that will spread into a continuous visual screen within two growing seasons. Shrubs must be at least 18 inches tall at the time of planting and be of a species that will normally grow to at least two and one-half feet in height at maturity and be suitable for the parking lot application.
 2. Earthen berm. An earthen berm constructed to a height of two and one-half feet above the adjacent elevation of the street or parking/loading area, whichever is highest, shall not exceed a slope of 3:1 and shall have a crown of at least two feet. The berm shall be planted in ground covers and other plant materials to achieve a decorative effect to the satisfaction of the Director.
 3. Wall. A wall of brick, stone, PVC plastic fencing or finished and textured concrete may be constructed to a height of two and one-half feet and 100 percent opacity and landscaped with plant material to achieve a decorative effect to the satisfaction of the Director.
 4. Combination. Any combination of hedge, berm or wall that effectively provides a visual screen of the parking lot or loading area to a height of two and one-half feet and achieves a decorative effect through appropriate use of landscaping and plant material.
- D. The street-side screening treatment may be located within the landscape strip required under this division along the front yard of the property.
- E. Berming and/or screening shall not encroach into the required sight triangle of streets or access drives.

Sec. 8.830. Parking lot permit—When required.

No person shall initiate construction of a new parking lot or expansion of an existing parking lot without first obtaining a permit from the Director. A parking lot permit shall not be required for the resurfacing or re-striping (painting) of an existing parking lot consistent with the current striping.

Sec. 8.840. Parking lot permit—Application, content and submission requirements.

Application for a parking lot permit shall be made on a form provided by the Director and shall be accompanied by a site plan depicting:

- A. The parking lot layout; including proposed striping,
- B. Number and location of parking spaces, including handicapped spaces;
- C. Structures on the same property;
- D. Structures and parking areas on adjacent property;
- E. Ingress and egress for the property; and
- F. All other information required by the Director.

Sec. 8.850. Parking lot permit—Consideration.

The parking lot permit application shall be considered by the Director. The permit may be issued if the Director determines that all requirements of this chapter have been satisfied and that criteria for parking lot construction pursuant to the Design and Construction Manual have been satisfied.

Sec. 8.860. Parking lot permit—Appeals.

The applicant may appeal the non-issuance of a parking lot permit, and a permit holder may appeal the revocation of a parking lot permit, to the Board pursuant to Section 4.660.

SUBDIVISION 5. BUFFER/SCREEN REQUIRED BETWEEN LAND USES

Sec. 8.870. Buffer/screen; where required.

- A. Buffer/screen between developments of differing land uses adjoining one another or sepa-

rated from one another by only a street or alley shall comply with Table 8.890, Typical Buffers. The intensity of the required buffer/screen is established according to the intensity of the abutting uses, i.e., retail development adjacent to or across the street from a residential use or development requires a more intense buffer/screen than would retail adjacent to or across from office use, etc.

- B. If a single-family subdivision is approved or built adjacent to a previously approved or built but separate single-family subdivision, and the difference in the average minimum lot size between the two subdivisions is 120 percent or more, the subsequently approved or built subdivision shall contain a buffer/screen along the periphery adjacent to the previously approved or built subdivision.

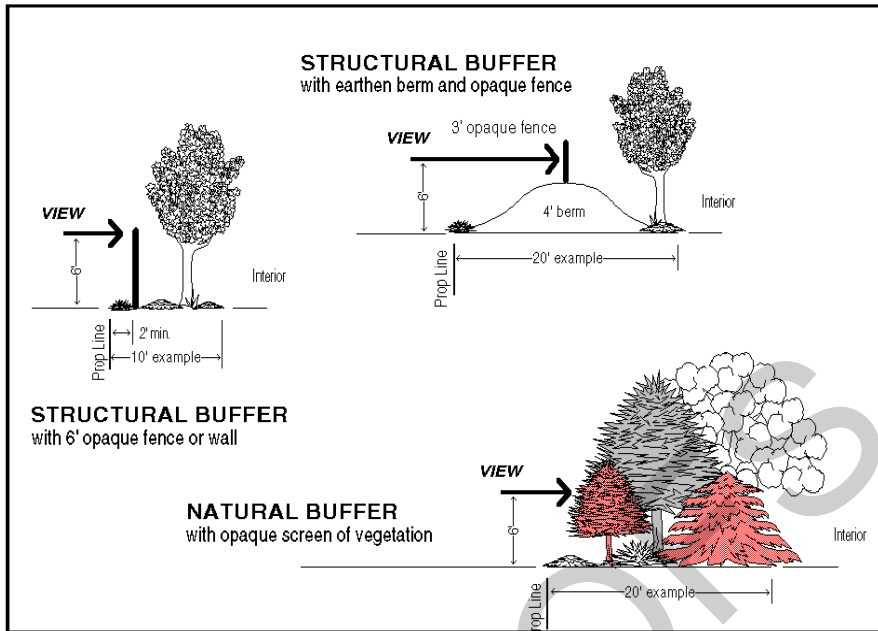
Sec. 8.880. Buffer design standards.

- A. General. Buffer areas shall contain no driveways, parking areas, patios, storm water detention facilities, or any other structures or accessory uses except for a fence, wall, or earthen berm constructed to provide the visual screening required to meet the standards of this chapter. Underground utilities may be permitted to cross a buffer if the screening standards of this division will be subsequently achieved. Required vehicular access through a buffer may be allowed as a condition of preliminary development plan approval.
- B. Natural buffers. Natural buffers may contain deciduous or perennial vegetation but shall contain evergreen shrubs and trees suitable to local growing conditions that will provide an opaque visual screen during all seasons of the year.

- C. Structural buffers. Structural buffers shall meet the following criteria:

1. Structural buffers shall be vegetated throughout the minimum area required for the buffer around any fences or walls and upon any earthen berms, which may include grass, ground covers, shrubs, and trees.
2. All earthen berms shall have a maximum side slope of three horizontal to one vertical (3:1). Earthen berms shall not be constructed within the drip line of any existing trees that will remain on the property.
3. Trees shall be located or planted within any structural buffer at a density of no less than one tree for each 30 feet of buffer length or portion thereof. New trees shall have a caliper of no less than three inches upon planting and may be clustered for decorative effect, following professional landscaping standards for spacing, location, and design.
4. Fences and freestanding walls shall present a finished and decorative appearance to the abutting property. Where a fence or wall is set back from the property line, shrubs, ground covers, or other vegetation shall be provided between the fence or wall and the property line so as to provide a decorative effect, following professional landscaping standards for spacing, location and design.

- D. Examples of buffers. The accompanying illustration above provides examples of natural and structural buffers. Typical buffer/screens are provided in the examples following Table 8.890 for low, medium and high impact screening.



Sec. 8.890. Minimum buffer/screen requirements.

A buffer/screen required by this chapter shall meet the following criteria:

A. Width of buffer.

1. Side lot line. Buffers required along any side lot line shall be no less than 20 feet or as approved by the Governing Body.
2. Rear lot line. Buffers required along any rear lot line shall be no less than 20 feet or as approved by the governing body.

B. Minimum required screening. Minimum required screening shall conform to Table 8.890 depending on the impact identified. Structural buffers (high impact screening) shall meet the height required when installed. Planted materials (trees and shrubs) shall meet the expected opacity within two growing seasons.

C. Maintenance. Every buffer required by this chapter shall be maintained by the owner of the property where the buffer is located, in order to provide the visual screen at the opacity identified, on a year-round basis.

D. Buffer modifications.

1. If a structural buffer with landscaping is provided that creates an opaque screen to a height of no less than eight feet instead of six feet, the buffer may be reduced to a width of no less than ten feet.
2. The Director may waive a buffer requirement or reduce its extent to a temporarily appropriate level of screening if the Comprehensive Plan anticipates future development on the adjoining property in a land use category such that a buffer would not be required by this chapter once the adjoining property is rezoned or developed.

Table 8.890
Buffer/Screen Impact

Proposed Use	Adjoining Use															
	AG	RDR	R-1	RP-1	RP-2	RP-3	RP-4	PRO	PO	CP-1	CP-2	CBD	CS	PI		PMIX
AG					L	M	M	M	M	M	H		H	H		**
RDR					L	M	M	M	M	M	H		H	H		**
R-1			*	*	L	M	M	M	M	M	H	H	H	H		**
RP-1			*	*	L	M	M	M	M	M	H	H	H	H		**
RP-2	L	L	L	L		M	M	M	M	M	H	H	H	H		**
RP-3	M	M	L	L	L		M	M	M	M	H	H	H	H		**
RP-4	M	M	H	H	M	M		M	M	M	H		H	H		**
PRO	M	M	M	M	M	M	M		M	M	H	L	H	H		**
PO	M	M	M	M	M	M	M	M		L	L	L	M	M		**
CP-1	M	M	M	M	M	M	M	M	L		L		M	M		**
CP-2	H	H	H	H	H	H	H	H	L	L			M	M		**
CBD			H	H	H	H	H	L	L							**
CS	H	H	H	H	H	H	H	H	M	M	M			L		**
PI	H	H	H	H	H	H	H	H	M	M	M		L			**
PMIX	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**

* If lot size differs by 120 percent or more, a low impact screen shall be provided.

** Per approved plan.

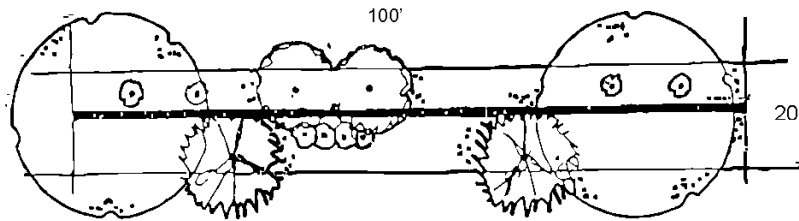
Screening options:

- 1) Six-foot masonry wall.
- 2) Six-foot opaque vinyl fence with masonry pilasters.
- 3) Earth berms.
- 4) Plant material.

Sec. 8.900. Required typical impact screens.

The following impact screens shall be required between any district as identified in Table 8.890 in which the perspective development is located and adjacent to or across from:

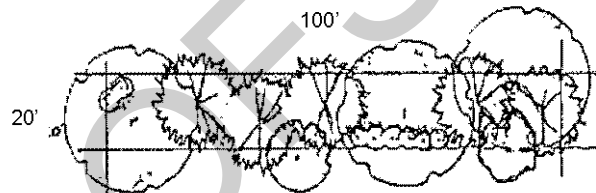
- A. High impact screening. A 100 percent opaque screen between land uses, which are dissimilar in character. When the proposed plan is considered to have a high impact on surrounding properties or the adjacent property is considered to have an adverse impact, both of the following shall be installed within the 20-foot buffer yard: (1) a six-foot high masonry wall or opaque vinyl fence, (2) and low impact screening shall be planted on both sides of the wall or the fence.



B. Medium impact screening. A 70 percent semi-opaque screen between land uses which are dissimilar in character. Semi-opaque screening should partially block views from adjoining land uses and create a separation between the adjoining land uses. For medium impact screening, either a landscape screen or fencing is required. A medium impact landscape screen must meet one of the following screening options:

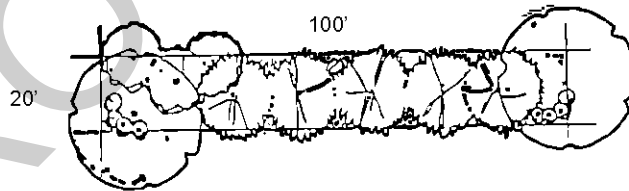
Screen A

Shade trees	1/500 sq. ft.
Ornamental trees	1/750 sq. ft.
Evergreen trees	1/300 sq. ft.
Shrubs	1/200 sq. ft.



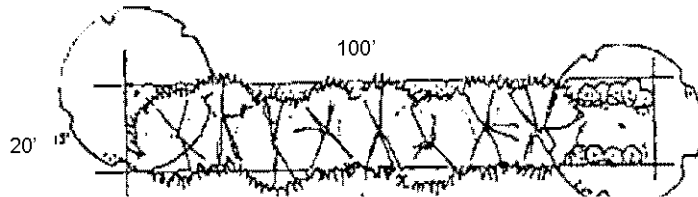
Screen B

Shade trees	1/1,000 sq. ft.
Ornamental trees	1/500 sq. ft.
Evergreen trees	1/300 sq. ft.
Shrubs	1/200 sq. ft.



Screen C

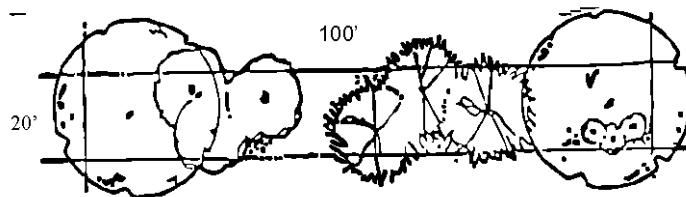
Shade trees	1/750 sq. ft.
Ornamental Trees	0 sq. ft.
Evergreen trees	1/200 sq. ft.
Shrubs	1/200 sq. ft.



C. Low impact screening. An open screen between relatively similar land uses. Open screening shall provide an attractive separation between land uses. A low impact landscape screen must portray one of the following screening options:

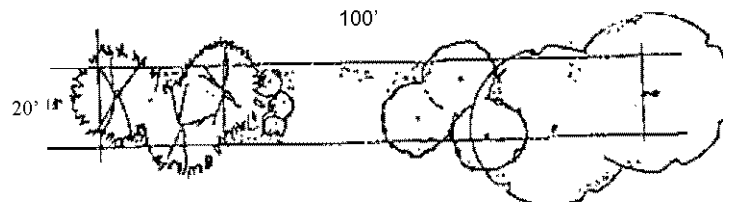
Screen A

Shade trees	1/500 sq. ft.
Ornamental trees	1/750 sq. ft.
Evergreen trees	1/500 sq. ft.
Shrubs	1/500 sq. ft.



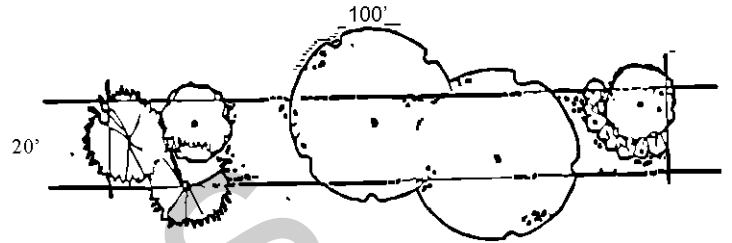
Screen B

Shade trees	1/1,000 sq. ft.
Ornamental trees	1/500 sq. ft.
Evergreen trees	1/500 sq. ft.
Shrubs	1/500 sq. ft.



Screen C

Shade trees	1/750 sq. ft.
Ornamental trees	1/750 sq. ft.
Evergreen trees	1/750 sq. ft.
Shrubs	1/200 sq. ft.



PROOFS

PROOFS

ARTICLE 9.

SIGNS

Division I. Purpose and Findings

- Sec. 9.010. Purpose and intent.
- Sec. 9.020. Findings.

Division II. Applicability

- Sec. 9.030. Generally.
- Sec. 9.040. Message neutrality.
- Sec. 9.050. Exempted signs.
- Sec. 9.060. Prohibited signs.

Division III. Definitions and Measurement Standards

- Sec. 9.070. Sign definitions.
- Sec. 9.080. Measurement of sign area.
- Sec. 9.090. Measurement of sign height.

Division IV. Sign Permit Process

- Sec. 9.100. Sign permit required; applicability.
- Sec. 9.110. General.
- Sec. 9.120. Exemptions from sign permit.
- Sec. 9.130. Sign permit application.
- Sec. 9.140. Sign permit consideration.
- Sec. 9.150. Planning Commission approval; when required.
- Sec. 9.160. Planning Commission consideration.
- Sec. 9.170. Sign permit validity, suspension or revocation.
- Sec. 9.180. Appeals.

Division V. Requirements for Sign Categories

- Sec. 9.190. General requirements.
- Sec. 9.200. Attached signs.
- Sec. 9.210. Freestanding signs.
- Sec. 9.220. Temporary signs.

Division VI. Electronic Message Boards

- Sec. 9.230. Electronic message boards.

Division VII. Billboards

- Sec. 9.240. Regulations relating to billboards.

Division VIII. Enforcement

- Sec. 9.250. Removal of abandoned and illegal signs.

Division IX. Permitted Permanent Signs

- Sec. 9.260. Permitted permanent signs.

PROOFS

DIVISION I. PURPOSE AND FINDINGS

Sec. 9.010. Purpose and intent.

This article is intended to:

- A. Regulate existing and proposed signs of all types;
- B. Implement the Comprehensive Plan;
- C. Protect the public health, safety and general welfare;
- D. Protect state and federal constitutional rights to free speech;
- E. Protect property values;
- F. Create a more attractive economic and business climate;
- G. Enhance and protect the physical appearance of Lee's Summit;
- H. Preserve the scenic and natural beauty of Lee's Summit and provide a more enjoyable and pleasing community; and
- I. Promote attractive signs which clearly present the visual message in a manner that is compatible with their surroundings.

Sec. 9.020. Findings.

A. General findings. The City finds that the standards and procedures in this article:

1. Implement the goals and policies of the Comprehensive Plan by establishing uniform standards and procedures to control the size, type, number, design, placement, illumination and maintenance of signs;
2. Protect public health and safety by:
 - a. Minimizing visual distractions and obstructions that contribute to traffic accidents,
 - b. Prohibiting signs that constitute a traffic hazard or obstruct the visibility of motorists, bicyclists or pedestrians, or cause confusion by virtue of visual similarity to traffic control signs,
 - c. Reducing hazards that are caused by signs that overhang or project over public rights-of-way,

- d. Providing more visual open space, and
- e. Preventing potential deterioration of the community's appearance and attractiveness that would create a blighting influence;

3. Encourage signs that are attractive and functional for the type of establishment to which they pertain, and that are in scale and architectural harmony with the project site, project building(s), adjacent buildings and development in the district or neighborhood in which they are located;
4. Reduce visual clutter and physical obstructions caused by a proliferation of signs that could diminish the City's image, property values and quality of life;
5. Keep signs within a reasonable scale with respect to the building(s) to which they relate;
6. Encourage the upgrading, updating or removal of signs that are poorly maintained, out of character with their surroundings, or do not conform to this article; and
7. Prevent signs that are potentially dangerous to the public due to structural deficiencies and disrepair.

B. Design. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, signs should convey their messages clearly and simply to be compatible with their surroundings.

DIVISION II. APPLICABILITY

Sec. 9.030. Generally.

- A. This article applies to all signs that are visible from a public right-of-way, adjacent property, or outdoor areas of public property.
- B. No signs shall be erected, placed, displayed, or maintained in any district within the City of Lee's Summit, except as specifically allowed in this article.

Sec. 9.040. Message neutrality.

- A. This article regulates signs in a manner which is consistent with the speech freedoms of both the United States and Missouri Constitutions and the Missouri Statutes, and is content neutral.
- B. Notwithstanding any other provision of this article, no sign is subject to any limitation based on its content. Any sign authorized in this chapter may contain any non-commercial copy in lieu of any other copy.

Sec. 9.050. Exempted signs.

- A. This article does not apply to the following:
 1. Architectural features;
 2. Flags, government;
 3. Governmental signs and legal notices;
 4. Historical markers;
 5. Holiday decorations which would not otherwise meet the definition of any type of sign set forth herein;
 6. Incidental signs that are attached to a building or window and do not exceed one square foot;
 7. Interior signs, including interior window signs;
 8. Manufacturer's marks;
 9. Property address sign, not exceeding two square feet;
 10. Warning signs, that are posted on private property and do not exceed three square feet in area;
 11. Signs preempted from regulation by state or federal law.
- B. See Section 9.110 for signs that are regulated by this article, but exempt from sign permits.

Sec. 9.060. Prohibited signs.

The following signs are prohibited as stated below, except as otherwise provided in this article:

- A. Abandoned sign;
- B. Animated or moving sign;
- C. Attention attracting device;

- D. Beacon;
- E. Flag, commercial;
- F. Home occupation sign;
- G. Human sign; costumed characters;
- H. Inflatable display;
- I. Internally illuminated signs with white background;
- J. Obscene sign;
- K. Off-premise sign, excluding billboards;
- L. Painted wall sign;
- M. Painted and/or architectural wood sign (except as approved by planning commission);
- N. Pennant/streamer;
- O. Pole sign;
- P. Portable sign;
- Q. Private sign, placed on public property;
- R. Projection sign;
- S. Raceway, except as further provided in this article;
- T. Roof sign;
- U. Snipe sign;
- V. Sound or smoke emitting sign;
- W. Window sign, exterior;
- X. Any sign or sign structure determined by the Director to be structurally unsafe or a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
- Y. Any sign which obstructs the vision of drivers, or unduly distracts attention of drivers, or obstructs the visibility of any traffic sign or traffic control device by reason of size, location, coloring, or illumination;
- Z. Any sign which obstructs free ingress and egress from a required door, window, fire escape, or other exitway, and any other sign prohibited by the building code;
- AA. Any sign unlawfully installed, erected, or maintained;
- BB. Signs in the right-of-way, excluding governmental signs and traffic signs;

CC. Signs that are directed to incite or produce imminent lawless action and are likely to incite or produce such action, as determined by the Director;

DD. Signs that convey threats of violence that are directed at a person or group of persons that have the intent of placing the target at risk of bodily harm.

DIVISION III. DEFINITIONS AND MEASUREMENT STANDARDS

Sec. 9.070. Sign definitions.

- A. This article contains numerous graphics, pictures, illustrations, and drawings in order to assist the reader in understanding and applying the sign requirements. However, to the extent that there is any inconsistency between the text of this article and any graphic, picture, illustration, or drawing, the text controls unless otherwise provided in the specific section.
- B. The following words and terms as used in this article have the meanings stated in this section:
1. Abandoned sign. Any sign remaining in place or not maintained for a period 90 days after it no longer advertises or identifies an ongoing business, product or service available on the establishment premises where the display is located.
 2. Abandoned sign structure. A sign structure which:
 - a. By reason of neglect, damage or deterioration, requires repair, and
 - b. The owner, or other party responsible for maintaining the sign, fails to undertake and complete the repairs within 30 days after written notice to do so from the City.
 3. Address. A sign that displays the official address of the property or building.
 4. Animated or moving sign. A sign depicting motion, the act of motion, action, light or color changes through environmental, mechanical, or electrical means or through patterned illusionary movement. This definition includes a person or figure, whether costumed or not, located outside a building or use, for the purpose of attracting attention to said business or use. This definition does not include electronic message boards, as defined herein and further regulated in Division VI of this article.
 5. Architectural features. Decorative materials, embellishments, attachments, or other elements of buildings that do not contain letters, trademarks, moving parts or lights. Examples include columns, cornices, arches, dormers, public and private art, and sculptures attached to the building.
 6. Architectural support structure. A structure that serves as the base of a sign, or the structural members supporting sign, containing architectural features or designs to provide a decorative finish or covering over the supporting members.
 7. Attention attracting device. Any flasher, blinker, animation, banner, clock or other object designed or intended to attract the attention of the public to an establishment or to a sign.
 8. Attached sign. An "attached sign" is a sign that is attached to a building. The term "attached sign" includes any awning sign, canopy sign, marquee sign, over canopy sign, painted wall sign, projecting sign, under canopy sign, or wall sign, defined as follows:
 - a. Appliqué sign. A commercial sign made of flexible film material similar to a decal that is applied to a wall surface in a manner that can also be easily removed without damaging the wall surface. Such signs are usually applied by heat and adhere to wall surfaces without the use of any other means.



Awning Sign

- b. Awning sign. A sign that is painted, stenciled or attached to the surface of an awning. An "awning" means an overhead covering that projects from and is supported by the wall of a building to shield a doorway, walkway, or window from inclement weather or the sun. Awnings are slanted, sloped, or rounded; are often made of non-rigid material such as fabric or flexible plastic, supported by a rigid frame; or can be constructed with rigid materials, such as metal. An awning may be retractable into the face of the building.
- c. Canopy sign. A sign attached to the surface of a canopy. A "canopy" means an overhead structure made of rigid material, parallel to the ground, which is either: 1) attached perpendicular to a building wall and extends at least 12 inches from the face of the building, or 2) a freestanding overhead structure supported by posts. A canopy may also be referred to as a "marquee."



Canopy or Marquee Sign

- d. Marquee sign. See "Canopy sign."

- e. Over canopy sign. A sign on the top of a canopy over a covered porch or walkway, to identify the tenant of the adjoining space.



Over Canopy Sign

- f. Painted wall sign. Any sign painted, drawn or sculpted on the exterior surface of a building or other structure depicting any business, service or product.



Painted Wall Sign

- g. Projecting sign. A sign which is supported by a building wall or column, and which has its copy area oriented perpendicular to the building wall or column supporting it; or secondly, a sign, any part of which extends more than 12 inches from the building wall. (Note: A sign extending less than 12 inches from the building wall is considered a wall sign.)



Projecting Sign

- h. Under canopy sign. A sign suspended from the underside of a canopy, a covered porch or a walkway.



Under Canopy Sign

- i. Wall sign. A sign that is fastened directly to the exterior wall of a building and extends from the surface of the wall no more than 12 inches. (Note: A sign extending more than 12 inches from the building wall is considered a projecting sign.)



Wall Sign

9. Awning sign. See "Attached sign."
10. Banner. See "Temporary sign."
11. Beacon. Any stationary or revolving light which flashes, projects or directs one or more beams of single or multiple colored light, in any manner which, intended or not, attracts or diverts attention.
12. Billboard. Large outdoor advertising sign (usually 12 feet by 25 feet or greater) erected alongside a highway. A billboard is a specific type of off-premise sign.
13. Canopy sign. See "Attached sign."
14. Changeable copy. Characters, letters, numbers, or illustrations that can be manually replaced or altered through the placement of letters or symbols on a panel mounted in or on a track system.



15. Construction sign. See "Temporary sign."

16. Directional sign. Sign designed to provide direction to pedestrian and vehicular traffic within a facility.
17. Directory sign. See "Multi-tenant sign" under "Freestanding sign."
18. Digital display. A sign which uses electronic means to display changeable or intermittent images, such as by turning on or off various lighting elements. This includes any illuminated sign on which the illumination is not kept stationary or constant in intensity and color at all times when the sign is in use. The term includes display technology such as LED (light emitting diode) or digital displays which can vary in color or intensity, or any functionally equivalent system. This sign type is also known as a "changeable electronic variable message" sign. A digital sign is a form of electronic message board (EMB).
19. Electronic message board (EMB). A sign or portion of a sign with a fixed or changing display/message which can be electronically changed or rearranged without altering the face or the surface of the sign.
20. Elevation. A two-dimensional drawing, drawn to scale, showing horizontal and vertical elements of a building or structure, including but not limited to walls, roof lines and other architectural features.
21. Event sign. See "Temporary sign."
22. External indirect lighting. See "Illumination, external indirect."
23. Façade. That portion of any exterior elevation of a building extending vertically from grade to the top of the parapet wall or eaves and horizontally across the entire width of the building elevation, including slanted wall surfaces sometimes referred to as a mansard.
24. Façade, multi-tenant. Same as Façade except applies only to individual tenant leased space.
25. Flag, commercial. A piece of fabric or other flexible material, usually rectangular in shape, with distinctive colors and patterns that displays the symbol(s) of a company, or that advertises a product or service.
26. Flag, government. A piece of fabric or other flexible material, usually rectangular in shape, with distinctive colors and patterns that displays the symbol(s) of a nation, state, or local government.
27. Foot candle. A measure of illuminance. Illuminance is the amount of light coming from a lit object and striking an unlit object at a given distance away. One foot candle is the equivalent light coming from a wax candle and striking an unlit object at a distance of one foot away.
28. Freestanding sign. A "freestanding sign" means a sign that is permanently attached to the ground and that is wholly independent of any building or other structure. The term "freestanding sign" includes, but is not limited to, any ground sign, hanging sign, landscape wall sign, menu board, monument sign, multi-tenant monument sign, pillar sign, pole sign, sandwich board, or subdivision monument sign, defined as follows:

- a. Ground sign. A freestanding sign, other than a pole sign, which is: (1) supported by at least two architectural support structures, (2) pedestrian scale or low to the ground, and (3) not directly in contact with the ground.



Ground Sign

- b. Hanging sign. A sign which is suspended from the underside or attached to the side of a wooden or iron post.



Hanging Sign

- c. Landscape wall sign. A sign consisting of individual letters mounted on a screen (as defined in Section 8.710), perimeter wall or retaining wall.



Landscape Wall Sign

- d. Drive-through facility sign. An outdoor sign which is part of drive-through or drive-in facilities. This type of sign may include, but is not limited to, a changeable point of purchase advertising display that allows the retailer to list products and prices, for example, the bill of fare for a fast food restaurant.



Drive-through Facility Sign

- e. Monument sign. A freestanding sign in which the entire bottom of the sign is in contact with the ground, or which is mounted on a solid base at least two-thirds of the width of the sign face, providing a solid and continuous background for the sign face from the ground to the top of the sign.



Monument Sign

- f. Multi-tenant Sign. A sign structure designed with two or more removable panels to identify the tenants in a building with more than one tenant, or in a development with more than building.



Multi-tenant Sign

- g. Pillar sign. A slender, three-dimensional freestanding vertical sign.



Pillar Sign

- h. Sandwich board. A portable sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame and forms the cross-sectional shape of the letter "A" when viewed from the side.



Sandwich Board

- i. Subdivision monument sign. A monument sign that is located at an entrance of a residential subdivision and is associated with identification of the subdivision.



Subdivision Monument Sign

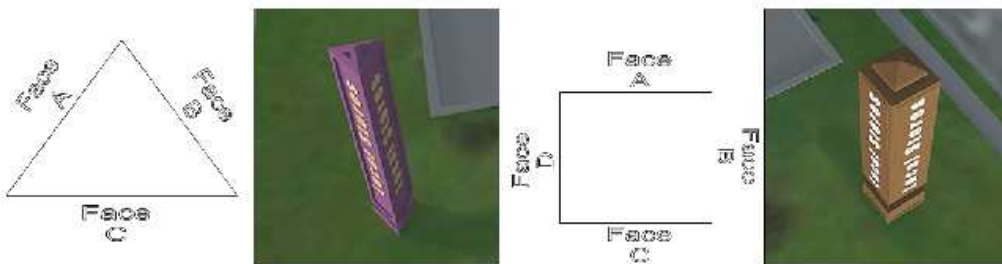
29. Glare. Glare results from areas of high brightness in the visual field and can cause discomfort, irritation and obscuration of the message.
30. Governmental sign. Any sign placed by any city, county, state or federal governmental agency.
31. Ground sign. See "Freestanding sign."
32. Halo-lighting. See "Illumination, internal indirect."
33. Hanging sign. See "Freestanding sign."
34. Historical marker. A plaque or sign to commemorate a person, place or event of historic interest. These markers are generally placed by the city, county, state or national historical organization.
35. Home occupation sign. A sign which identifies, advertises, or attracts attention to any home occupation as defined in this chapter.
36. Human sign. See "Animated or moving sign."
37. Illuminated sign. A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.
38. Illumination, external indirect. A source of external illumination located away from the sign, which lights the sign, but the direct light source is not obviously visible to persons viewing the sign from any street, sidewalk or adjacent property.
39. Illumination, internal. A source of illumination contained entirely within the sign which makes the contents of the sign visible at night by means of light being transmitted through a translucent material, but wherein the source of the light is not visible.
40. Illumination, internal indirect. A source of illumination entirely within an individual letter, cabinet or structure which makes the sign visible at night by means of lighting the background upon which the individual letters are mounted. The letters are typically opaque, and thus are silhouetted against the background. The source of illumination is not visible. Also called "halo" or "reverse channel" lighting.
41. Incidental sign. An announcement or other display providing information about the occupancy or conduct of business permitted on a premises, such as logos of credit cards accepted on the premises, hours of operation, a "closed" or "open" sign, emergency contact person name and telephone number, street address, "help wanted," "no loitering or solicitations," security system notices, notices required by law, and similar information.

42. Inflatable display. A display, object or sign that is intended to be filled with air or other gas that depicts any container, figure, product, object or message.



Inflatable Displays

43. Interior sign. Any sign placed within a building, including interior window signs and interior window displays.
44. Internal lighting. See "Illumination, internal."
45. Landscape wall sign. See "Freestanding sign."
46. Legal notice. A sign furnished by the City for the purpose of informing the general public of the time and place of the public hearing on a development application associated with the property or properties.
47. Manufacturer's marks. Brand names, logos, or instructions on products, product containers, structures, or dispensers that are an integral part of the product or the product's packaging that customarily remain attached to the product or product's packaging.
48. Marquee sign. See "Attached sign."
49. Menu board. See Drive-through facility sign under "Freestanding sign."
50. Model home sign. See "Temporary sign."
51. Monument sign. See "Freestanding sign."
52. Multi-faced sign. A sign structure that contains two or more sign face surfaces that are located on different sides of the structure and are connected or separated from each other at their nearest point by no more than three feet.



Multi-faced Sign

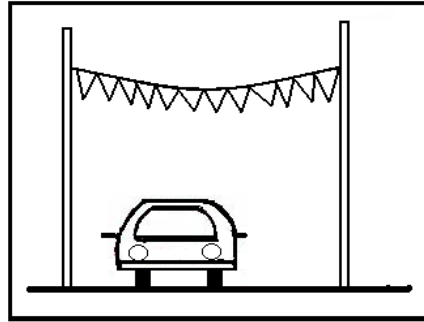
53. Multi-tenant sign. See "Freestanding sign."

54. Multi-tenant nonresidential development. A single office, commercial or industrial property that is designed or intended for occupancy by two or more businesses.
55. Neon sign. An internally illuminated sign containing glass tube lighting in which a gas and phosphors are used in combination to create a colored light. A neon sign is either:
- An illuminated sign where a neon glass tube provides the illumination but the lighting tube is not visible, or
 - Exposed neon, where the glass tube lighting is meant to be visibly seen and creates the signage.



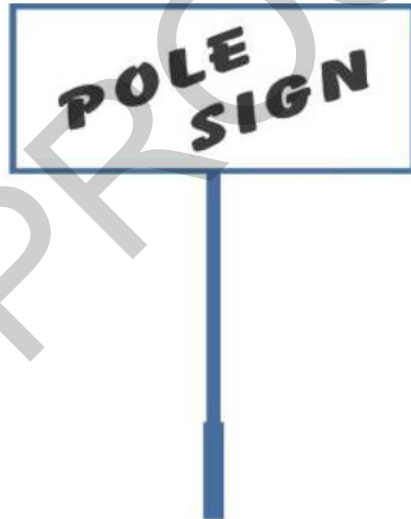
56. Obscene sign. A sign which contains material that when taken as a whole (i) applying contemporary community standards, its predominant appeal is to prurient interest in sex; and (ii) the average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and (iii) a reasonable person would find the material lacks serious literary, artistic, political or scientific value.
57. Off-premise sign. A sign directing attention to a specific business, product, service, entertainment event or activity, or other commercial activity that is not sold, produced, manufactured, furnished or conducted at the property upon which the sign is located. A billboard is a specific type of off-premise sign; see "billboard" definition.
58. On-premise sign. Any sign that identifies, advertises or attracts attention to a business, product, service, event or activity sold, existing or offered upon the same property or land use where the sign is displayed.
59. Over canopy sign. See "Attached sign."
60. Painted wall sign. See "Attached sign."

- 61. Pennant/streamer. Any small strips of lightweight plastic, fabric, or similar material shaped triangularly or rectangularly, suspended from a rope, wire, or string, usually in a series. The term "pennant" shall not include a "banner" or an "official or personal flag" as regulated herein.



Pennant/Streamer

- 62. Pillar sign. See "Freestanding sign."
- 63. Pole sign. A freestanding sign that is mounted on a pole, tube, or other fabricated member without any architectural covering of the support structure.



Pole Sign

- 64. Political sign. See "Temporary sign."

65. Portable sign. A sign that is not permanently affixed to one location and has the capability of being moved from one site to the next site, including any vehicle or trailer containing any advertising matter, words, symbols, or pictures, that is parked on public or private property, for the primary purpose of advertising or directing attention to a business. This definition does not include sandwich sign or permitted temporary sign.



Portable Sign

66. Private sign on public property. Any sign for a specific business, product, service, entertainment event or activity, or other commercial activity that is located on property owned by any city, county, state or federal governmental agencies.
67. Projection sign. A sign which is projected onto a building or structure.
68. Projecting sign. See "Attached sign."
69. Public right-of-way. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation, and used or intended to be used, wholly or in part, as a public street, alley, walkway, drain or public utility line.
70. Quill banner. See "Temporary sign."
71. Raceway. A metal conduit or channel containing the electrical power lines for illuminated signs.



Raceway

72. Real estate sign. See "Temporary sign."
73. Roofline. The fascia, soffits, guttering, bargeboards and cladding that form the frontage immediately below the roof and the eaves of a building. Essentially it's where the roof meets the wall material of the building.

74. Roof sign. A sign that is mounted on the roof of a building; is located above the roofline; or is attached to a structure located on a roof. This definition does not include a sign attached to a wall located below the uppermost roofline of a building, or to an over canopy sign which is located below the roofline; or to a sign mounted on a vertical, or nearly vertical, parapet or mansard.



Roof Sign

75. Sandwich board. See "Freestanding sign."
76. Sight triangle. The triangular area for sight distance preservation defined by the American Association of State Highway and Transportation Officials (AASHTO) "Green Book." This sight triangle is normally formed by lines at least 25 feet in length along the edges of the pavement of intersecting streets or a driveway intersecting a street, from their point of intersection.



Sight Triangle

77. Sign. Any object, device, display, or structure, or part thereof, that is used to advertise, identify, display, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

78. Sign face. The area or display surface used for the message.
79. Sign height. The vertical distance to the highest point of a sign structure, as measured from the average grade at the base of the structure or the lowest vertical point of a projecting structure.
80. Sign structure. All elements of a freestanding sign, including the sign face, background or decorative elements related to the presentation of the sign's message, and the structural supports.
81. Snipe sign. Any sign of a material such as cardboard, paper, pressed wood, plastic or metal that is attached to a fence, tree, utility pole or temporary structure or located within a public right-of-way.
82. Sound or smoke emitting sign. A sign that emits or utilizes in any manner any sound capable of being detected by a person with normal hearing; or a sign that emits smoke, vapor, particles, or odors.
83. Special event sign. See "Temporary sign."
84. Streamer. See "Pennant/streamer."
85. Subdivision monument sign. See "Freestanding sign."
86. Temporary sign. A sign displayed for an activity having a specific duration, or the end of which is related to a specific action, usually lasting for less than 12 months at a time.
- a. Commercial temporary signs are banners used to promote products, services, or businesses, or to announce open houses and grand openings for businesses. Banner is defined as follows:
- (1) Banner. A sign made of fabric, plastic, or vinyl or similar non-rigid material, and is either: 1) attached to a building or structure or 2) attached to posts, stakes or other temporary framing mechanism. A banner may be rectangular, or in the shape of a quill, sail, feather, blade or teardrop, mounted on a solid or flexible pole or cord. This definition does not include flags, pennants or streamers.



Banner Attached to Structure



Banner Attached to Framing

- b. Non-commercial temporary signs are used to make special announcements, communicate events, or express opinions, or are associated with the sale, lease or development of property. They may be either banners or small rigid signs made of plastic, wood or metal, attached to posts, stakes or other temporary framing mechanism. Non-commercial temporary signs may include, but are not limited to, the following:
- (1) Construction sign. Sign placed on a site during construction of a building or development project, or the rehabilitation, remodeling or renovation of a building.
 - (2) Garage sale sign. Sign advertising personal or household goods for sale, typically on a residential property, generally referred to garage sales or yard sales.
 - (3) Home parade signs, including directional arrows to homes on a homes tour, including "Parade of Homes" event occurring in the spring and fall of the year.
 - (4) Political sign. Sign displayed prior to an election, political campaign, referendum or ballot proposition put to the voters as part of city, state or federal governance.
 - (5) Real estate sign. Sign displayed on a property or premises which is for sale, for lease, or for rent.
 - (6) Special event sign. Sign displayed to advertise either: a) a special event as defined and regulated under Article 6, Division 5, or b) a non-commercial event exempt from special event permit, such as on-premise church and school activities.
87. Tenant. One who possesses or occupies land or buildings by title, under a lease, or through payment of rent; an occupant, inhabitant, or dweller of a place.
88. Under canopy sign. See "Attached sign."
89. Uniform sign plan. Coordinated drawings and specifications that establish a unified design concept with regard to the location, materials, size, letter style, and color of all signs to be placed on a property or series of adjacent properties.
90. Wall sign. See "Attached sign."
91. Warning sign. A non-advertising sign that conveys a message of caution, warning, or danger. Examples of warning signs include, but not limited to, "Danger High Voltage," "No Dumping," and "No Trespassing."
92. Window sign, exterior. Any sign posted, painted, placed, affixed to or over the exterior of any window.

93. Window sign, interior. Any sign posted, painted, placed, affixed to or over the interior of any window.

94. Window display, interior. The display of merchandise or objects associated with a business or institution that is located interior to a building, and that is not posted, painted, placed, or affixed to a window.

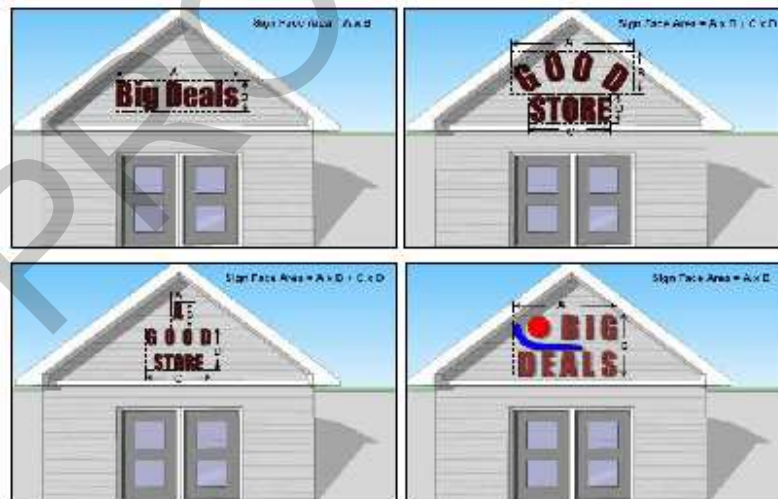
C. New signs not listed. Any new sign not identified above shall be interpreted by the Director with appeal to Planning Commission.

Sec. 9.080. Measurement of sign area.

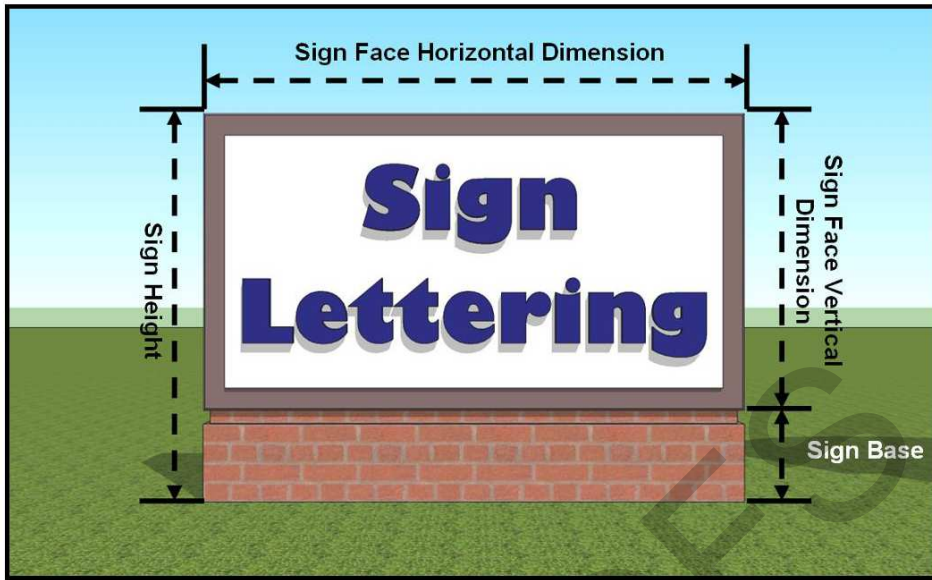
A. Sign area. To determine compliance with the maximum allowable sign areas permitted under this article, the area of a sign shall be considered the area of the sign face unless otherwise stated.

1. Sign face area.

- a. The area of a sign face is computed as the area within the smallest rectangle enclosing the limits of a sign face, or the combination of the areas of all such rectangles delimiting each sign face, together with any frame or material, texture, or color forming an integral part of the sign face or used to differentiate the sign face from the structure upon which it is placed.



- b. The sign face area does not include any of the following elements outside of the rectangle that delimits the sign face:
 - (1) The structure, supports or uprights on which the sign face is placed, and
 - (2) Any part of the sign structure that does not contain any message or idea and is purely structural or decorative in nature. This includes any base or frame of a monument sign.



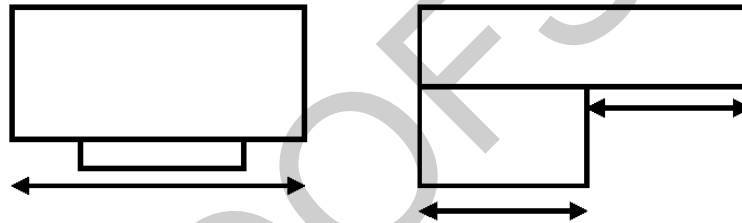
Measuring Sign Face Area and Sign Height



Measuring Sign Face Area

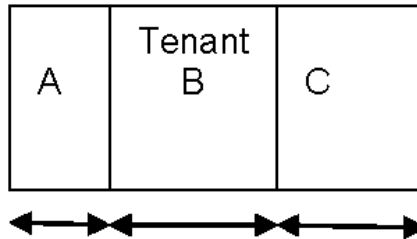
- c. If the sign includes words, letters, figures, symbols, logos, fixtures, colors, or other design elements that routinely change from time to time, the sign face area includes the entire area within which:
 - (1) The changeable copy is placed, and
 - (2) Any frame or material, texture, or color forming an integral part of the sign face or used to differentiate the sign face from the structure upon which it is placed.

- d. Any open space contained within the limits of the rectangle delimiting the sign face is included in computing the area of the sign face, sign face module, or sign structure.
 - e. For multi-faced signs, when the sign face surfaces are parallel (back-to-back), or where the interior angle formed by the faces is 45 degrees or less, the area of the sign is the area of the largest side. For all other multi-faced signs, the area of the sign is the total area on all sides that can be viewed at one time from any angle.
- B. For purposes of calculating permitted sign area as a percentage of building façade, the following measurements apply:
1. The area of a building façade shall be computed as width times height of the building, not including the roof.
 2. If the building façade has one or more offsets of less than five feet, the entire façade, without regard for the offsets, may be counted as a single plane of the building. If the building façade has an offset of five feet or greater, each plane of the building shall be counted as a separate façade.



Measuring Façade Area

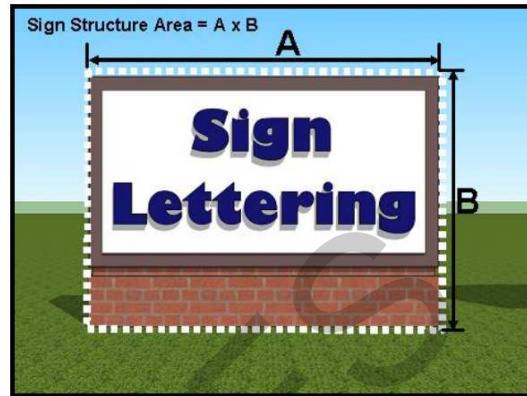
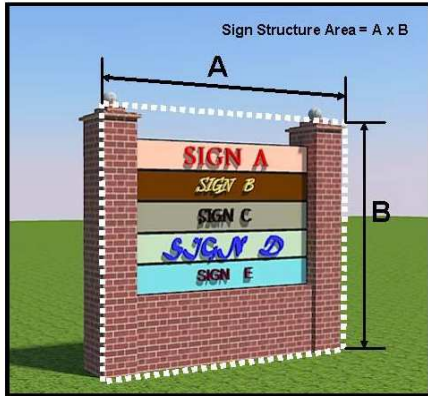
3. For multi-tenant buildings, the building façade area shall be the width times height of the tenant space occupied by the business.



Measuring Façade Area

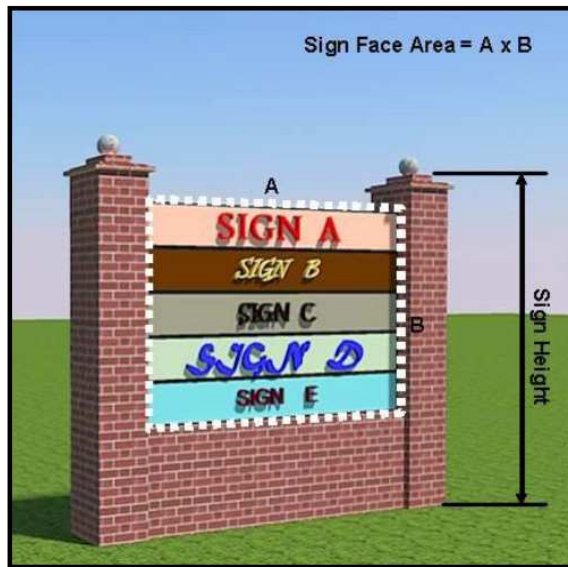
4. For attached awning and canopy signs, the building façade area shall be the width of the awning or canopy times height of the building.

- C. Sign Structure Area. For freestanding signs, the sign structure area includes every part of the sign, including the sign area, as defined above, plus all other elements of the sign, including supports, uprights, base, frame, decorative and design elements, and any open space contained within the limits of the rectangle delimiting the sign structure.



Sec. 9.090. Measurement of sign height.

- A. Attached sign. For attached signs, sign height is the vertical distance from the furthest points along the top and the bottom of the sign area.
- B. Freestanding sign. For freestanding signs, sign height is the vertical distance from grade adjacent to the sign footing, to the top of the sign, including the support structure and any design elements.





Measuring Sign Face and Sign Height

DIVISION IV. SIGN PERMIT PROCESS

Sec. 9.100. Sign permit required; applicability.

- A. Sign permit required. No person shall install, erect, display, alter, move or replace any non-exempt sign without first obtaining a sign permit issued by the Director in accordance with this division. This section does not apply if the sign is exempt from sign permits as provided below.

Sec. 9.110. General.

- A. Electrical permit. An electrical permit shall be obtained, in addition to a sign permit, if required under Chapter 7 of the Code of Ordinances.
- B. Business license requirement. The Director shall issue sign permits only to:
1. Individuals, companies or organizations that possess a valid occupation license in the City, or

2. Persons or entities that are exempt from an occupation license.

Sec. 9.120. Exemptions from sign permit.

- A. This article does not require sign permits for:
1. Changing the message in a changeable copy sign.
 2. Exempted signs listed in this article.
 3. Sign panel replacement on multi-tenant sign, provided the panel to be replaced does not exceed six square feet.
 4. Temporary signs, non-commercial, including, but not limited to, construction signs, garage sale signs, home parade signs, political signs, real estate signs, and opinion signs.
 5. Special event signs, which are approved as part of a special event permit, per Article 6, Division V.

6. Repainting, cleaning or other normal maintenance of sign or sign structure for which a permit has previously been issued so long as the sign display or sign structure is not modified or enlarged in any way. The replacement of a sign panel, except as noted above, is considered a structural change that requires a sign permit.
- B. While the signs listed in Subsection A. are exempt from the sign permit requirements, they are subject to all other applicable requirements of this article.

Sec. 9.130. Sign permit application.

- A. Sign permit requirements. An application for a sign permit shall be made in writing upon a form provided by the Planning and Development Department. The application is to be accompanied by the written consent of the owner, lessee, agent, or trustee having charge of the property on which the sign is proposed to be located, and the following information:
1. Accurate and scaled site plan showing the location of the property lines, buildings, parking areas, driveways, landscaped areas, utility lines, and the existing and proposed free-standing signs on the site.
 2. Accurate and scaled building elevation(s) showing existing and proposed attached sign(s) (exempt signs need not be shown).
 3. Accurate and scaled plans, details and samples showing the location, dimensions, materials and illumination of each proposed sign.
 4. Photographs of the proposed sign location and the existing signs.
 5. Any electrical permit required and issued for the sign.
 6. Any other information that the Director determines is needed to determine whether the proposed sign complies with the intent of this article.
- B. Fees and penalties.
1. Every applicant shall, before the issuance of a sign permit, pay to the City the sign permit

fee(s) as established by the latest Schedule of Fees and Charges, adopted by the City Council.

2. Any person who commences any work on a sign or sign structure prior to obtaining the necessary sign permit(s) shall pay an additional penalty equal to the amount of the permit fee as established on the adopted Schedule of Fees and Charges. The payment of this additional penalty does not exempt any person from compliance with all other provisions of this code nor any penalty prescribed by law.

Sec. 9.140. Sign permit consideration.

- A. If the sign permit application is complete, the Director shall review the sign permit application.
- B. If the sign permit complies with all applicable requirements of this article, the Director shall issue the permit.
- C. If the required Planning Commission approval has been obtained (see below), the Director shall issue the permit.
- D. The Director may issue the permit with conditions needed to ensure compliance with the requirements of this article.

Sec. 9.150. Planning Commission approval; when required.

- A. Planning Commission approval shall be required for any sign(s) for which a sign permit cannot be granted administratively without further authorization.
- B. Planning Commission approval is not required for any sign(s) that can be approved administratively.
- C. A Planning Commission sign application is not required when approval of a sign modification is granted by the City Council as part of a Preliminary Development Plan, in accordance with Article 2.
- D. The Planning Commission shall not grant approval for a prohibited sign, as identified in this article.

- E. When required, a Planning Commission sign application shall be submitted in accordance with the general application requirements and plan submission requirements in Section 2.040, including the fee(s), as established by the latest Schedule of Fees and Charges, adopted by the City Council.
- F. If a sign application is approved by the Planning Commission, the applicant shall apply for a sign permit for each sign so approved, which shall be issued by the Director upon satisfaction of the sign permit requirements.

Sec. 9.160. Planning Commission consideration.

- A. The Commission may consider sign applications for permitted permanent sign types listed in Table 9-1 which exceed the maximum number of signs permitted, maximum sign area, or maximum height. In reviewing the sign application, the Commission may consider:
 1. The purpose and intent of this article,
 2. Use of the facility,
 3. Size of the site,
 4. Height of the building,
 5. Number, size and height of signs on surrounding properties,
 6. Number, size and height of signs previously approved for similar uses within the community,
 7. Surrounding zoning and land uses,
 8. Topography of the site, and
 9. Any other factor relating to:
 - a. The physical character of the sign, excluding content except for obscenity,
 - b. Its physical relationship to the principal building and site, and
 - c. Any unique visibility considerations.

Sec. 9.170. Sign permit validity, suspension or revocation.

- A. A sign permit becomes null and void unless:
 1. The work on the site authorized by that permit is commenced within 180 days after its issuance, or
 2. The work authorized on the site by that permit is suspended or abandoned for a period of 180 days after the time the work is commenced.
- B. If a permit becomes null and void, the applicant shall not commence the activities authorized by the permit until a new sign permit is obtained.
- C. A sign permit does not authorize any violations of any provisions of this code or of any other City ordinance. The Director may stop any sign or advertising structure installation which violates this article, or any other City ordinance.
- D. The Director may suspend or revoke a permit issued in error or based on incorrect, inaccurate, or incomplete information, or in violation of any City ordinance or regulation. The applicant may appeal a revocation with the Board of Zoning Adjustment pursuant to Article 14.

Sec. 9.180. Appeals.

- A. An applicant may appeal the failure to issue a sign permit.
- B. A permit holder may appeal the revocation of an issued sign permit.
- C. Appeals are filed with the Board of Zoning Adjustment pursuant to Articles 2 and 14.

DIVISION V. REQUIREMENTS FOR SIGN CATEGORIES

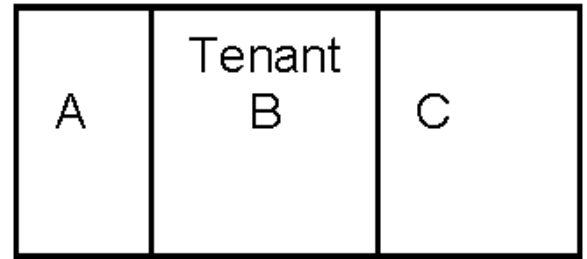
Sec. 9.190. General requirements.

- A. On-premise requirement. All signs shall be located on the same premises where the product or merchandise being advertised is located. This restriction does not apply to:
 1. Situations where this article allows off-premise advertising, or
 2. Non-commercial speech.

- B. Signs in the right-of-way prohibited. No sign shall be erected in, located in, extend into or over, a public right-of-way, except where specifically allowed by this article.
- C. Interference with safety provisions. No sign shall interfere with the free ingress or egress of any fire escape, exit, standpipe, or window, or obstruct any required ventilator or door stairway.
- D. Sight triangle. No sign shall be located within a sight triangle, as defined herein.
- E. Conformance to building codes.
1. Signs shall be designed to conform to all structural and wind-load resistive standards of the Building Code (Chapter 7 of the City Code).
 2. All signs involving internal lights or other electrical devices or circuits shall display a label certifying it as being approved by the Underwriter's Laboratories, Inc.
 3. All electrical service to a sign shall comply with the Electrical Code (Chapter 7 of the City Code).
 4. Clearance from all electrical power lines shall conform to the requirements of the Electrical Code (Chapter 7 of the City Code).
- F. Attachments to freestanding signs. No guys, braces, attachments, banners, flags, inflatable display or other similar devices shall be attached to any freestanding sign.
- G. Sign maintenance. All signs, together with all their supports, braces, guys, and anchors, shall be kept in good repair and, unless constructed of galvanized or noncorroding metal, shall be given a protective coating as necessary to maintain a clean appearance in a safe condition. All signs shall be maintained in accordance with all City ordinances, including ordinances concerning nuisances and vegetation.
- Sec. 9.200. Attached signs.**
- A. Applicability. Attached signs shall conform to the standards in Table 9-1.
- B. Appliqué signs.
1. See wall signs, Subsection H.1.
 2. Appliqué signs shall be maintained in good repair and removed at the time the advertised business is no longer associated with the sign.
 - a. The appliqué shall be kept in good condition for the life of the sign. An appliqué shall be deemed to be in a state of disrepair when 25 percent or more of the display surface area contains peeling or flaking surface, or is otherwise not preserved in the manner in which it was originally created.
 - b. The display surface shall be kept clean and neatly painted and free from corrosion.
 - c. Any appliqué that is not maintained according to the maintenance standards herein established may be ordered removed by the Director, or his/her designee.
- C. Awning signs.
1. May either be attached to or incorporated into the material of the awning.
 2. When the maximum sign area is a percentage of building facade, the calculation shall be based on the width of the awning times the height of the building.
- D. Canopy signs.
1. On attached canopies, if the sign area is a percentage of building façade, the calculation shall be based upon the width of the canopy times the height of the building.
 2. On freestanding canopies, the sign area shall be calculated as a percentage of the canopy fascia to which the sign is attached.
 3. On freestanding canopies, canopy signs shall not extend above or below the top or bottom of the canopy fascia.
- E. Over canopy signs.
1. Are permitted on canopies attached to a building.
 2. Are not allowed on freestanding canopies.
 3. Shall not extend above the roofline of the building.

F. Projecting signs.

1. Shall not project more than five and one-half feet beyond the face of the building.
2. Shall be a minimum of ten feet above the level of any sidewalk from the bottom of the sign.



G. Under canopy signs.

1. Shall be rigidly mounted if greater than four square feet in area.
2. Shall have eight feet of clearance between the base of a rigidly mounted under canopy sign and the sidewalk.

2. A multi-tenant advertising sign shall not be permitted as an attached sign. This does not apply to building directories at the entrance to a building.

H. Wall signs.

1. Shall not obscure window or door openings, other open areas within a building facade, or architectural features such as arches, columns, eaves, cornices, moldings, dormers, pediments, or ornamental materials such as metal, glass or woodwork.
2. Shall be fastened directly to the exterior wall of a building and extend from the surface of the wall no more than 12 inches.
3. Shall not have visible exterior raceways or conduit. Exception: Visible exterior raceways or conduit may be permitted for a new electrical sign on an existing structure when considered and approved by the Director of Planning and Development or his/her designee.

Sec. 9.210. Freestanding signs.

A. Applicability. Permanent freestanding signs shall conform to Table 9-1, below. Sign permits are required for all permanent freestanding signs, unless otherwise specified below.

B. General.

1. Lighting. Any lighting shall be designed to minimize glare in all directions to the greatest extent possible. High intensity lights, such as floodlights, shall not be used to illuminate the sign, except when the light source is shielded or hidden from view at the property or street right-of-way line.
2. Landscaping. A minimum of 25 square feet of landscaped area, exclusive of the sign structure, shall be located at the base of each principal freestanding sign. The landscaping shall contain living landscape materials consisting of shrubs, and/or perennial ground cover plants spaced throughout the required landscape area.
3. Spacing. Each freestanding sign shall be located at least 75 feet from any other freestanding sign on the same side of the street. This distance may be reduced upon approval by the Director if it cannot be met due to the location of existing signs on separate

I. Attached signs on multi-tenant buildings.

1. An attached sign for a particular tenant shall only be permitted on the portion of the building façade corresponding to the space occupied by that tenant.

but adjoining lots. This reduction shall be the minimum required to maintain the greatest separation possible from existing signs.

4. Setbacks. There shall be no setback requirement from any property line, provided there is no encroachment on any utility easement or sight triangle, as defined herein.

C. Driveway/parking lot signs.

1. In addition to freestanding signs permitted in Table 9-1, freestanding driveway signs shall be permitted as follows:
 - a. Maximum of two per driveway entrance.
 - b. Maximum area: Six square feet.
 - c. Maximum height: Two and one-half feet or 30 inches.
 - d. Internal lighting is permitted.
2. Additional driveway/parking lot signs within the site do not require sign permits.

D. Ground signs.

1. The bottom of the sign face of a ground sign shall be no more than four feet above the ground.

E. Hanging signs.

1. Hanging signs shall be landscaped as provided above, but are exempt from the minimum landscaped area.

F. Landscape wall signs.

1. Signs placed on a landscape wall shall be considered freestanding signs.
2. The area of a landscape wall sign shall be the sign face area, as described in Section 9.080, Measurement of sign area.
3. A landscape wall shall not be considered a sign structure for purposes of the maximum sign structure area, provided the landscape wall serves the function of a screening wall, perimeter wall, or retaining wall, as determined by the Director.

G. Drive-through facility signs.

1. Additional freestanding signs than those permitted in Table 9-1 are permitted for drive-through and drive-up facilities.

2. Size, number and placement of drive-through facility signs shall be subject to review by the Director as part of a Final Development Plan.

3. Drive-through facility signs shall not be counted toward the maximum number of permanent signs in Table 9-1.

4. Drive-through Facility signs may be internally illuminated or externally illuminated, subject to the lighting condition in Subsection B.1. above.

H. Monument signs.

1. Monument sign base. The sign base of a monument sign shall have a width of at least two-thirds of the width of the sign face or cabinet.
2. Monument sign base materials. The monument sign base shall have a masonry or concrete substructure with an exterior base consisting of durable masonry materials and include brick, split or scored concrete masonry units (CMU), natural or synthetic stone, or other architectural material(s) that, in the opinion of the Director, meet the intent of this section. Painted surfaces and wood shall not be used.

I. Pillar signs.

1. Maximum width of each sign face is three and one-half feet.
2. Shall be mounted on a masonry base with a maximum height of two feet. Overall maximum permitted height is 20 feet.

J. Sandwich boards.

1. Sandwich boards are permitted in all commercial districts.
2. One sandwich board is allowed per tenant space, in addition to other permitted signs.
3. Sandwich boards shall be placed in front of the tenant space being advertised. If multiple tenants are advertised on one sign, the sandwich board shall be placed in front of one of the businesses being advertised.

K. Subdivision monument signs.

1. Subdivision monument signs are allowed in any district.

2. Up to two subdivision monument signs are allowed at the entrance of a subdivision to an arterial or collector street.

Sec. 9.220. Temporary signs.

A. Applicability. Temporary signs shall conform to the standards in Table 9-2.

B. General.

1. Temporary signs shall not be illuminated.

C. Banners.

1. All banners shall be considered temporary signs.
2. All commercial banners shall require a permit.
3. No banner shall be used as a permanent sign.
4. Banners shall not be hung as canopy signs, flown as flags, or used as any other form of permanent sign.
5. Banner materials shall be weather resistant fabric, plastic or vinyl.
6. Banners may be either attached to a building or freestanding.

D. Non-commercial temporary signs. Non-commercial temporary signs do not require a sign permit, but must comply with the following standards, in addition to the standards for number, sign area, height, and design as specified in Table 9-2:

1. Signs are permitted on private property only. They are not permitted on public rights-of-way or on public property.
2. Signs may be placed only by the property owner, or with the property owner's permission.
3. Signs may not be located closer than 11 feet to the paved portion of a street and must be at least five feet from any other privately owned property.
4. Additional temporary signs, when allowed. In addition to the number of temporary signs

allowed as specified in Table 9-2 or elsewhere in this article, additional temporary signs are allowed as follows:

- a. During times of election: During time of election involving candidates from federal, state or local office that represents the district in which the property is located or involves an issue on the ballot of an election within the district where the property is located one additional temporary sign per issue per candidate shall be allowed. Such additional signs shall be permitted beginning the first day of qualification of candidates or certification of a ballot question and termination upon the election of a candidate to office or resolution of a ballot question.
- b. During times of sale: One additional temporary sign may be located on a property when:
 - (1) The owner consents and that property is being offered for sale through a licensed real estate agent,
 - (2) If not offered for sale through a licensed real estate agent, when the sign is owned by the property owner and the property is offered for sale by the owner through advertising in a local newspaper of general circulation, and
 - (3) For a period of 15 days following the date on which a contract for sale has been executed by a person purchasing the property.
- c. During times property is open to the public: One additional temporary sign may be located on the owner's property on a day when the property owner is opening the property to the public; however, the owner may not use this type of sign on more than 15 days a year.
- d. One additional temporary sign shall be allowed upon submittal of a final development application or issuance of a building permit, and shall terminate upon issuance of any certificate of occupancy

or approval for connection to electric power for the work authorized by the building permit.

- e. Except for additional temporary signs pursuant to Subsection D.4.a. of this section, in no event shall the additional temporary signs allowed in this subsection at one time exceed four additional temporary signs on the property.
- 5. Special event as approved with a special event permit, per Article 6, Division V.

DIVISION VI. ELECTRONIC MESSAGE BOARDS

Sec. 9.230. Electronic message boards.

- A. All freestanding signs with electronic message boards (EMBs) shall be monument signs, except billboards as provided in this article.
- B. All attached EMBs shall be canopy signs for drive through facilities such as banks, gas stations or convenience stores.
- C. Monument signs with electronic message boards shall have a sign base, consisting of a masonry or concrete substructure with an exterior base consisting of durable masonry materials and include brick, split or scored concrete masonry units (CMU), natural or synthetic stone, or other architectural material(s) that, in the opinion of the Director, meet the intent of this section. Painted surfaces and wood shall not be used.
- D. In order to minimize glare, electronic message boards shall not have a white background. EMBs may display images other than text, as long as all conditions in this article are met.
- E. For all signs except billboards, the digital display shall change messages immediately from one message to another, with a minimum of eight seconds for each message to be displayed between changes, so as not to simulate a moving display. For digital billboards, see Division VII, Section 9.240.
- F. There shall be no flashing, moving, scrolling, or intermittent displays of text or images.
- G. Brightness. Signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three-tenths foot candle above ambient light, as measured using a foot candle (lux) meter calibrated within the past 12 months and in conformance with the following process:
 - 1. Light measurements shall be taken with the meter aimed perpendicular to the sign message face or at the area of the sign emitting the brightest light if that area is not the sign message face, at a preset distance depending on sign size. Distance shall be determined by taking the square root of the product of the sign area and 100. Example using a 12 square foot sign: $\sqrt{(12 \times 100)} = 34.6$ feet measuring distance.
 - 2. An ambient light measurement shall be taken using a foot candle meter at some point between the period of time between 30 minutes past sunset and 30 minutes before sunrise with the sign turned off to a black screen.
 - 3. Immediately following the ambient light measurement taken in the manner required by this subsection, an operating sign light measurement shall be taken with the sign turned on to full white copy.
 - 4. The brightness of a sign conforms with the brightness requirements of this subsection if the difference between the ambient light measurement and the operating sign light measurement is three-tenths foot candle or less.
- H. Documentation by manufacturer. Prior to permitting the applicant shall submit a signed letter from the EMB manufacturer stating that the sign in question is equipped with the ability to comply with all applicable regulations of this section. The applicant shall also submit a letter from the sign owner and/or operator stating that they have read and understand the applicable regulations pertaining to their sign and that they will not violate the ordinance.
- I. Auto dimming. All permitted EMBs shall be equipped with a sensor or other device that automatically determines the ambient illumina-

tion and programmed to automatically dim according to ambient light conditions, not to exceed 0.3 foot candles above ambient light.

J. Size of electronic message boards:

1. EMBs within monument signs shall be subject to the sign area limitation set forth in Table 9-1.
2. EMBs on a canopy shall not exceed five percent of the canopy façade on which located, and may not extend above or below the canopy edge.

DIVISION VII. BILLBOARDS

Sec. 9.240. Regulations relating to billboards.

A. Purpose and findings.

1. Billboards targeting messages at drivers on the interstate and primary highways within the City have a significant adverse impact on the safety of the traveling public when their size, lighting, spacing, location, height or design distract or confuse travelers, interfere with vision, or obscure traffic signs or signals.
2. Billboards targeting messages at drivers on the interstate and primary highways within the City also have a significant adverse aesthetic impact on the City when they dominate the surrounding environment both visually and physically with their large sizes, bright lighting, close spacing, intrusive locations, and great heights. The adverse aesthetic impact of billboards can be especially harmful at entryways to the City, which are a visitor's first impression of the community.
3. Therefore, the erection and placement of billboards along the interstate and primary highways within the City are subject to reasonable regulations relative to size, lighting, spacing, location and height to avoid adverse safety and aesthetic impacts.
4. These regulations further the substantial public interest in protecting private investment in adjoining properties and public investment in the interstates and highways, promote the recreational value of public travel, preserve

the natural beauty of the community, provide a favorable first impression of the community and promote the safety of public travel.

- B. Special use permit required for a billboard. In addition to complying with the terms of this article, a special use permit must be obtained in accordance with the procedures set forth in Article 6, Division III of this chapter prior to the erection of a billboard or erection of a digital screen, sign or face on an existing billboard.

C. Placement of billboards.

1. Generally. Billboards shall be located on private property.
2. Spacing. A billboard shall not be located closer than 1,500 feet from any other billboard or 3,000 feet between digital billboards.
3. Measurement.
 - a. Spacing shall be determined based on signs that have received a special use permit or that are signs established as legal non-conforming uses.
 - b. Signs having received prior authorization or that are a legal non-conforming use shall have priority over a later applicant in determining compliance with the spacing restrictions.
 - c. Where two different applications conflict with each other, so that only one of the applications may be granted, the first application received by the Department will be the first considered for approval. The second application shall remain pending until resolution of the first application. The second applicant shall be advised in writing if the first application considered is granted, and the second application shall be automatically denied. If the first application is denied, the second application shall then be considered.
4. To preserve the natural beauty and promote the recreational value of public travel in the City, billboards shall not be located within 1,500 feet of a corporate boundary of the City.

5. Billboards shall not be located adjacent to or within 1,500 feet of any interchange, intersection at grade or safety rest area that is existing or approved for construction. This 1,500 feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way or if there is no pavement widening, then from the midpoint of the intersection.
 6. To preserve adjoining property values and avoid adverse aesthetic impacts, billboards shall not be located within 1,500 feet of land zoned for residential purposes.
 7. Billboards shall be permitted only within 660 feet of the nearest edge of the rights-of-way of the following interstate or primary highways: U.S. Highway 50, Missouri 350 and Federal Interstate I-470.
 8. Billboards shall be permitted only in the following zoning districts: B-P, PI-1 and PI-2 with a special use permit.
 9. No billboard shall be permitted to be mounted, attached or affixed to a building rooftop or the walls of any building.
- D. Size of billboards. Billboards shall not exceed a maximum area for any one sign of 1,200 square feet with a maximum height of 30 feet and a maximum length of 60 feet, inclusive of border and trim but excluding the base or apron, supports and other structural members. The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in a V-type construction with not more than two displays to each facing, but the sign structure shall be considered as one sign.
- E. Setbacks and height of billboards.
1. To provide a safety zone to prevent injury or property damage from collapse caused by acts of nature or other causes, billboards shall meet the following minimum setback requirements from all points of the sign:
 - a. At least 90 feet from its nearest edge to the rights-of-way of any interstate or primary highway;
 - b. At least 90 feet from all property lines and all roofed structures; and
 - c. At least 90 feet from any other structure that would require a building permit for its construction.
 2. To provide a further safety zone to prevent injury or property damage from collapse of billboards caused by acts of nature or other causes, billboards shall, not exceed 30 feet in height above the grade of the rights-of-way from which it is viewed. In cases where the grade at the location of the proposed billboard is higher than the grade of the right-of-way adjacent to which it is located, the City may require the overall height of the sign to be lowered as a condition of granting a permit to prevent the sign from unreasonably detracting from the visibility of other neighboring signs or properties.
 3. The application for the billboard sign permit shall contain documentation to the satisfaction of the Director that the applicant has secured the legally enforceable right to prevent the erection of structures within the setback zones. No building permit shall be issued for construction of any structure within the setback clearance zone.
- F. Service drives to billboards. Billboards shall be accessible by means of a paved drive that is internal to the lot or parcel on which the sign is located. All vehicles, equipment, and people used to build, service, maintain, and repair the signs must confine their activity so as not to interfere with pedestrian or vehicular traffic on public roads.
- G. Digital billboards. In addition to those regulations established for general billboards in this article, the following regulations shall also apply to digital electronic billboards:
1. Digital billboards may utilize the multiple advertisement display format that allows the digital sign face to change, immediately, from one scene, message, image and/or advertisement to another. Transitions between each message, image and/or advertisement shall be immediate and shall occur simultaneously on the entire display area. Each scene or advertisement shall be displayed for a

minimum of eight seconds before changing to another so as not to simulate a moving display.

2. No digital billboard shall display light of such intensity or brilliance as to cause glare or otherwise impair the vision of a driver or result in a nuisance. No digital billboard shall be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal. To that end, digital billboard intensity of illumination shall be established by the Director at the time of installation and may be adjusted periodically upon the Director's request so as not to interfere with the enjoyment of adjacent uses, impair the vision of the driver of a motor vehicle on any portion of the traveled way, or interfere with the effectiveness of an official traffic sign, device, or signal. The Director's decisions under this subsection may be appealed to the Board of Zoning Adjustments in accordance with Article 14 of this chapter.

H. Additional information required prior to permitting of a billboard.

1. The Director will not accept a sign permit application for a billboard until a permit has been issued by the Missouri Highway and Transportation Commission.
2. Billboards shall not be permitted before the applicant has submitted the following certifications from the appropriate professionals registered in Missouri:
 - a. Certification from a professional engineer registered in the State of Missouri that the soil and subsoil surface is capable of accepting the projected loads;
 - b. Certification from a professional engineer registered in the State of Missouri as to the electrical portion of the sign;
 - c. Certification from a professional engineer registered in the State of Missouri as to the structural strength of the sign; and
 - d. A certified boundary survey from a surveyor registered in the State of Missouri, of the site and its setback/clearance zones.

3. Billboards shall not be permitted before the applicant has submitted a sign survey to indicate the relative vertical and horizontal distances between the proposed sign and all principal freestanding signs within 1,500 feet or, for digital billboards, within 3,000 feet. If by reason of height, size or spacing, the proposed sign creates a significant disharmony with a principal freestanding sign within 1,500 feet or unreasonably detracts from the visibility of other neighboring signs or properties, the City may require reasonable modification of the billboard's dimensions to cure these deficiencies as a condition to granting a permit.
4. Billboards shall not be permitted before the applicant has submitted to the City financial security in the form of a bond, letter of credit, or other financial security as approved by the Director; a right of access; and any other measures necessary and sufficient to ensure removal of signs that are not validly permitted or that constitute a nuisance.

I. Annual inspection of billboards.

Owners of all billboards erected after the effective date of this chapter shall be required to submit an annual inspection report from a Missouri Licensed engineer concerning to the sign's structural integrity. The certification shall be done on or before July 1 of each year. Failure to submit a report shall result in the immediate revocation of the sign's permit.

DIVISION VIII. ENFORCEMENT

Sec. 9.250. Removal of abandoned and illegal signs.

A. Abandonment defined.

1. Any sign that provides notice of a special event or a temporary event or any other temporary purpose that has occurred shall be deemed to have been abandoned.
2. Any sign that fails to meet the maintenance requirements of this article shall be deemed to be abandoned.

B. Sign removal.

1. Prohibited signs may be removed immediately by an order of the Director.
2. Signs that are deemed to be abandoned shall be removed by the owner of the sign or owner of the premises within 30 days from the written notice by the Building Official. The Building Official shall have the discretion to grant an additional 30 days for the required improvements to be made provided substantial progress is being made to correct the deficiencies and a written request for an extension is received at least five working days before the end of the original notice. Any signs not removed within the time period required by this subsection may be removed by the City and all costs charged to the owner of the premises upon which the sign was located, or the owner of the sign itself.
3. Should any sign become insecure or in danger of falling or otherwise unsafe in the opinion of the Building Official, the owner or person or firm maintaining the sign shall, upon written notice from the Building Official, forthwith in the case of immediate danger and in any case within ten days, remove such sign or secure it in a manner approved by the Building Official. Any sign not removed or secured within ten days from the written notice may be removed by the City and all costs charged to the owner, agent, or person having beneficial interest of the building or premises upon which the sign was located, or in the sign itself.
4. If any sign is installed, erected, or constructed in violation of this article, the owner or person or firm maintaining the sign shall, upon written notice from the Building Official, within ten days, remove the sign or bring it into compliance with this article. Any sign not removed or properly altered within ten days from the written notice may be removed by the City and all costs charged to the owner, agent, or person having beneficial interest of the building or premises upon which the sign was located, or in the sign itself.

DIVISION IX. PERMITTED PERMANENT SIGNS

Sec. 9.260. Permitted permanent signs.

Table 9-1. Permitted Permanent Signs

Zoning District	Use	Sign Type	Maximum Number	Maximum Sign Area	Height	Illumination (Lighting)	Special Conditions
AG RDR RLL R-1 RP-1 RP-2 RP-3 RP-4	Residential subdivision	Freestanding: -Subdivision entrance monument; -Landscape wall sign	2 per subdivision entrance from arterial or collector street	32 sq. ft. sign face area 72 sq. ft. structure area	6 feet	External indirect Halo	
	Multi-family development, apartment complex	Freestanding: -Ground -Hanging -Landscape wall sign	1 per street frontage	16 sq. ft.	6 feet	External indirect Halo	75 feet between free-standing signs
	Non-residential use (Churches, Schools, Institutional, or Special Uses)	Wall Attached: -Applique	1 per street frontage	5% of building façade	2 foot max. letter height	External indirect Halo	
		Freestanding: -Monument -Monument with EMB -Landscape wall sign	1 per driveway entrance	32 sq. ft. sign face area 72 sq. ft. structure area	6 feet	External indirect Halo	75 feet between free-standing signs
NFO TNZ	Non-residential use	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	1 attached	6 sq. ft.	2 foot max. letter height	External indirect	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Hanging -Ground -Monument	1 freestanding	8 sq. ft. — hanging 16 sq. ft. — ground and monument	6 feet		75 feet between free-standing signs

Zoning District	Use	Sign Type	Maximum Number	Maximum Sign Area	Height	Illumination (Lighting)	Special Conditions
PRO	Non-residential/Office	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	1 attached (1 per tenant if multi-tenant)	6 sq. ft.	2 foot max. letter height	External indirect	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument	1 freestanding	6 sq. ft. for ground or hanging; 16 sq. ft. for monument	6 feet		75 feet between free-standing signs
PO CP-1	Single tenant building	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	2 attached	5% of building façade for wall, awning or canopy; 6 sq. ft. for projecting, over or under canopy	2 foot max. letter height	External indirect Halo Internal	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument with EMB -Landscape wall sign	1 freestanding	16 sq. ft. for ground or hanging; 32 sq. ft. sign face area; 72 sq. ft. structure area for monument	6 feet		75 feet between free-standing signs

Zoning District	Use	Sign Type	Maximum Number	Maximum Sign Area	Height	Illumination (Lighting)	Special Conditions
PO CP-1	Multi-tenant building or multi-building center	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	2 attached per tenant	5% of building or tenant lease space facade 6 sq. ft. for projecting, over or under canopy	2 foot max. letter height	External indirect Halo Internal	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument -Monument with EMB -Landscape wall sign	1 freestanding per building	16 sq. ft. for ground or hanging; 72 sq. ft. sign face area; 72 sq. ft. structure area for monument	6 feet		75 feet between free-standing signs
CP-2	Single tenant building	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	3 attached	10% of building facade for awning, canopy, or wall; 6 sq. ft. for projecting, over or under canopy	6 foot max. letter height	External indirect Halo Internal	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument -Monument with EMB -Landscape wall sign -Pillar	1 per street frontage; maximum of 2	16 sq. ft. for ground or hanging; 72 sq. ft. sign face area 96 sq. ft. structure area for monument 70 sq. ft. for pillar	6 feet for ground or hanging; 12 feet for monument; 20 feet for pillar	External indirect Halo Internal	75 feet between free-standing signs

Zoning District	Use	Sign Type	Maximum Number	Maximum Sign Area	Height	Illumination (Lighting)	Special Conditions
CP-2	Multi-tenant building	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	2 per tenant	10% of building facade for wall, awning or canopy; 6 sq. ft. for projecting, over or under canopy	6 foot max. letter height	External indirect Halo Internal	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument -Monument with EMB -Landscape wall sign -Pillar	1 per building per street frontage; maximum of 2 per lot	16 sq. ft. for ground or hanging; 72 sq. ft. sign face area 96 sq. ft. structure area for monument; 70 sq. ft. for pillar	6 feet for ground or hanging; 12 feet for monument; 20 feet for pillar	External indirect Halo; Internal	75 feet between free-standing signs
CBD	Uses permitted in CBD	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	2 attached per tenant	10% of building facade for awning, canopy, or wall; 6 sq. ft. for projecting, over or under canopy	2 foot max. letter height	External indirect Halo Exposed Neon (not for the purpose of internal illumination)	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument	1 freestanding	16 sq. ft. for ground or hanging; 32 sq. ft. sign face and structure area for monument 12 sq. ft.	6 feet		75 feet between free-standing signs
		Sandwich board	1 per tenant		6 feet		Only in front of business advertising

Zoning District	Use	Sign Type	Maximum Number	Maximum Sign Area	Height	Illumination (Lighting)	Special Conditions
CS	Uses permitted in CS	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	1 per façade maximum of 2	10% of building façade for awning, canopy, or wall; 6 sq. ft. for projecting, over or under canopy	6 foot max. letter height	External indirect Halo Internal	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument -Monument with EMB -Landscape wall sign	1 per building	16 sq. ft. for ground or hanging; 72 sq. ft. sign face area and 96 sq. ft. structure area	6 feet		75 feet between free-standing signs
PI	Uses permitted in PI	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall	1 per façade, maximum of 2	10% of building façade for awning, canopy, or wall; 6 sq. ft. for projecting, over or under canopy	6 foot max. letter height	External indirect Halo Internal	10 feet clearance for projecting; 8 feet for under canopy
		Freestanding: -Ground -Hanging -Monument -Monument with EMB -Landscape wall sign	1 per building	16 sq. ft. for ground or hanging; 72 sq. ft. sign face area; and 96 sq. ft. structure area	6 feet		75 feet between free-standing signs

Zoning District	Use	Sign Type	Maximum Number	Maximum Sign Area	Height	Illumination (Lighting)	Special Conditions
PMIX	Residential uses	Subdivision entrance monument; Landscape wall sign	2 per subdivision entrance from arterial or collector street	32 sq. ft. sign area; 72 sq. ft. structure area	6 feet	External indirect Halo	75 feet between free-standing signs
PMIX	Non-residential uses	Attached: -Applique -Awning -Canopy -Over Canopy -Projecting -Under Canopy -Wall Freestanding -Ground -Hanging -Monument -Monument with EMB -Landscape wall sign	3 per building, or 2 per tenant 1 per building	10% of building facade for awning, canopy, or wall; 6 sq. ft. for projecting, over or under canopy 16 sq. ft. for ground or hanging; 72 sq. ft. sign face area and 96 sq. ft. structure area	6 foot max. letter height 12 feet	External indirect Halo Internal	As approved per plan; 10 feet clearance for projecting; 8 feet for under canopy 75 feet between free-standing signs

Table 9-2. Permitted Temporary Signs

Zoning District	Primary Use of Property	Type of Event*	Banner	Rigid	Number Allowed	Maximum Sign Area	Time Limit**	Sign Permit Required
AG	Residential use	Non-commercial	X	X	1 per lot**	40 sq. ft.	No limit	No
AG	Non-residential use (church, school, or other permitted use)	Special Event	X	No	1 per street frontage, or as approved with Special Event Permit	40 sq. ft.	Duration of event	No

Zoning District	Primary Use of Property	Type of Event*	Banner	Rigid	Number Allowed	Maximum Sign Area	Time Limit**	Sign Permit Required
AG	Non-residential use	Commercial advertising of permitted use	X	No	1 per lot or property	40 sq. ft.		Yes
RDR RLL R-1 RP-1 RP-2	Residential use	Non-commercial	X	X	1 per lot or common area tract**	6 sq. ft. for a lot with a residence (40 sq. ft. for a common area tract)	No limit	No
RDR RLL R-1 RP-1 RP-2	Non-residential (church, school, or other permitted use)	Commercial advertising of permitted use	X	No	1 per lot or property	40 sq. ft.	15 days, 6 times per year, 90 days total/yr	Yes
RDR RLL R-1 RP-1 RP-2	Non-residential (church, school, or other permitted use)	Special Event	X	X	1 per street frontage, or as approved with Special Event Permit	40 sq. ft., or as approved with Special Event Permit	Duration of event	No
RP-3 RP-4	Multi-family use	Commercial advertising of multi-family use	X	No	1 per lot or property	40 sq. ft.	15 days, 6 times per year, 90 days total/yr	Yes
RP-3 RP-4		Non-commercial	X	X	1 per lot**	40 sq. ft.	No limit	No
NFO TNZ	All uses permitted in NFO and TNZ	Commercial advertising of permitted use	X	No	1 per building or lot**	20 sq. ft.	15 days, 6 times per year, 90 days total/yr	Yes
NFO TNZ	Residential uses	Non-commercial	X	X	1 per building or lot**	6 sq. ft.	No limit	No

Zoning District	Primary Use of Property	Type of Event*	Banner	Rigid	Number Allowed	Maximum Sign Area	Time Limit**	Sign Permit Required
PRO PO CP-1 CP-2 CBD CS PI PMIX	Residential uses	Non-commercial	X	X	1 per building or lot**	40 sq. ft.	No limit	No
PRO PO CP-1 CP-2 CBD CS PI PMIX	Commercial uses	Commercial advertising of permitted use	X	No	1 per building or lot	40 sq. ft.	15 days, 6 times per year, 90 days total/yr	Yes
PRO PO CP-1 CP-2 CBD CS PI PMIX	Commercial uses	Non-commercial	X	X	2 per building or lot, provided the aggregate sign area does not exceed the maximum sign area allowance	40 sq. ft.	No limit	No

*If a special event permit is required, as set forth in Article 11, Special Events, signs are considered as part of the special event application and approval process. Additional signs or larger signs may be considered. Separate sign permits are not required.

**NOTE: See Section 9.220.D.4. for additional non-commercial temporary signs. At no time shall there be more than 4 additional temporary signs on the property.

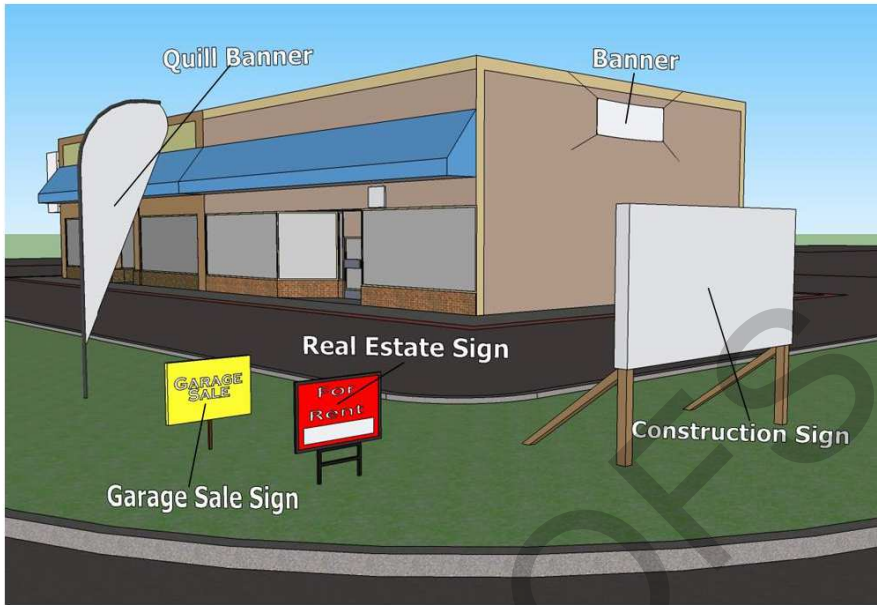
Permitted Temporary Sign Types



Permitted Wall Sign

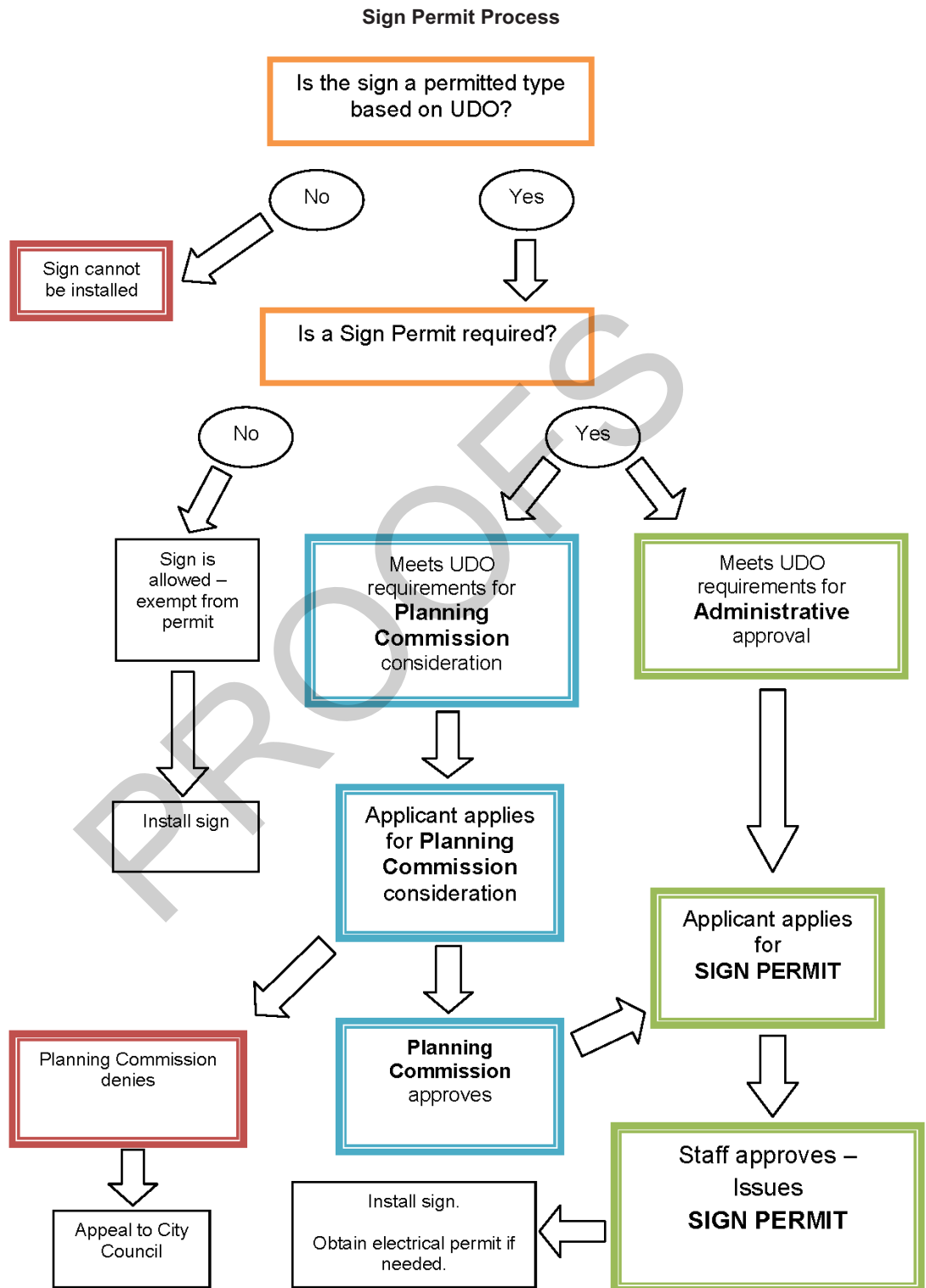


Permitted Temporary Sign Types



Prohibited Sign Types





PROOFS

ARTICLE 10.

NONCONFORMING SITUATIONS AND VESTED RIGHTS

- Sec. 10.010. Definitions.
- Sec. 10.020. Nonconformities in general.
- Sec. 10.030. General statement of intent.
- Sec. 10.040. Lawful nonconformities.
- Sec. 10.050. Change from one nonconforming use to another.
- Sec. 10.060. Lawful nonconforming uses superseded.
- Sec. 10.070. Reconstruction of certain lawful nonconforming structures.
- Sec. 10.080. Prohibition on the re-establishment of nonconforming uses and structures in combination.
- Sec. 10.090. Appeals.
- Sec. 10.100. Completion of nonconforming projects—Vested rights.
- Sec. 10.110. Exception for residential nonconforming use.
- Sec. 10.120. Repair, maintenance and restoration.
- Sec. 10.130. Burden to establish entitlement of continuation.
- Sec. 10.140. Nonconforming signs.
- Sec. 10.150. Nonconforming billboards.

PROOFS

PROOFS

Sec. 10.010. Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning set forth in this section when used in this article.

Cost means the cost of renovation, repair or restoration shall mean the fair-market value of the materials and services necessary to accomplish a renovation, repair or restoration. Cost shall mean the total cost of all intended work, and no person may avoid the intent of this definition by doing the intended work incrementally.

Effective date of this chapter means whenever this chapter refers to the effective date of this chapter, the reference shall include the effective date of any ordinance that amends this chapter, if the ordinance, rather than this chapter as originally adopted, creates a nonconforming situation.

Expenditure means a sum of money paid in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

Nonconforming lot means a nonconforming situation existing on the effective date of this chapter that occurs when a lot (not created for purposes of evading the restrictions of this chapter) does not meet the minimum area requirement of the applicable zoning district.

Nonconforming project means any structure or development that is incomplete on the effective date of this chapter and would be inconsistent with one or more of the applicable zoning district regulations, if completed as proposed or planned.

Nonconforming sign means a nonconforming situation existing on the effective date of this chapter when an existing sign does not conform to one or more of the regulations set forth in Article 9.

Nonconforming site improvement means a nonconforming situation existing on the effective date of this chapter that occurs when a site improvement on a lot, including but not limited to parking areas, storm drainage facilities, sidewalks and landscaping, does not conform to one or more of the applicable zoning district regulations.

Minor repairs or renovation means repairs or renovation costs that do not exceed ten percent of the structural value of a structure or site improvement.

Nonconforming use means a primary use of property existing on the effective date of this chapter that occurs when property is used for a purpose or in any manner made unlawful by the use regulations or performance and design standards applicable to the zoning district in which the property is located. The term also refers to the activity that constitutes the use made of the property. The term does not refer to accessory use of property.

Nonconforming situation means a situation that occurs when, on the effective date of this chapter, an existing lot, structure or improvement, or the use of an existing lot, structure or improvement no longer conforms to one or more of the applicable zoning district regulations.

Structural value means the present day cost of a structure or its replacement value if destroyed.

Sec. 10.020. Nonconformities in general.

Within the zoning districts established by this chapter or its subsequent amendment, there exist a) lots; b) structures; c) uses of structures; e) uses of land and structures in combination; and f) characteristics of use, which were lawful before this chapter was adopted or amended, but which would now be prohibited, regulated or restricted under the terms of this chapter or its subsequent amendment. Such instances shall hereafter be considered lawful nonconformities.

Sec. 10.030. General statement of intent.

It is the intent of this chapter to recognize the legitimate interest of owners of lawful nonconformities by allowing such lawful nonconformities to continue, subject to the provisions contained herein. At the same time, it is recognized that lawful nonconformities may substantially and adversely affect the orderly development, maintenance, use and taxable value of other property in the same zoning district, property that is itself subject to the regulations and terms of this chapter. In order to secure eventual compliance with the Comprehensive Plan and with the standards of this chapter, it is therefore neces-

sary to carefully regulate lawful nonconformities and to prohibit the re-establishment of such nonconformities that have discontinued.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. "Actual building construction" is hereby defined to include the placement of construction materials in permanent position and fastened in a permanent manner.

Sec. 10.040. Lawful nonconformities.

A. Lots. Any lot having insufficient area, width or depth for the zoning district in which it is located, or insufficient frontage on an improved public or private street of a planned district, or any combination thereof, shall be considered a lawful nonconforming lot only if:

1. It was lawfully platted and recorded and on file in the office of the Jackson County Recorder prior to the adoption of this article;
2. There has been a building permit issued on that lot; or
3. It was lawfully recognized by the City prior to August 1, 2001.

On any single lawful nonconforming lot within a zoning district which permits single-family detached residential dwellings, one such dwelling may be constructed by right, provided that height, lot coverage, and off-street parking requirements of the zoning district within which the parcel is located are complied with, and all appropriate permits are obtained prior to any construction activity.

B. Further, no such lot or portion thereof shall be used or sold in a manner which will increase its degree of nonconformity. Structures that were lawfully constructed prior to the adoption of this chapter, but which could not be constructed under the terms of this chapter by reason of restrictions on area, lot coverage, height, setbacks (yards), location on the lot or other requirements concerning structures, shall hereafter be considered lawful nonconforming structures. As such,

they may continue to exist so long as they remain otherwise lawful, provided that no reconstruction, enlargement or alteration of said structures shall occur that will increase their nonconformity except as provided for in Section 10.070 of this chapter. However, any lawful nonconforming structure or portion thereof may be altered to reduce its nonconformity.

C. Uses.

1. Uses of land. Any use of land, or use of land which involves no individual structure with a replacement value exceeding \$1,000.00 which would not be permitted under the terms of this chapter but was lawfully existing at the time of the adoption of this chapter, shall hereafter be considered a lawful nonconforming use of land. As such, it may be continued so long as it remains otherwise lawful and provided that no enlargement, increase or extension of the lawful nonconforming use of land occurs so that a greater area of land is occupied than what was occupied at the time of the adoption of this chapter, and that no additional structures or additions to structures existing at the time of the adoption of this chapter shall be constructed on the same zoning lot. Further, no such lawful nonconforming use of land shall be moved or relocated in whole or in part to any other portion of the zoning lot on which it is located than that portion occupied at the time of the adoption of this chapter. If any lawful nonconforming use of land ceases for any reason for a period of more than 180 consecutive days, any subsequent use of such land shall conform to the terms of this chapter.
2. Uses of structures. Any use of a structure with a replacement cost of \$1,000.00 or more which would not be permitted under the terms of this chapter but was lawfully existing at the time of the adoption of this chapter shall hereafter be considered a lawful nonconforming use of that structure. As such, it may be continued so long as it remains otherwise lawful and provided that the structure in which the lawful nonconforming use is located shall not be enlarged, extended, constructed, reconstructed, moved, relocated or structurally altered except in changing the use to a

permitted use in the district in which it is located or as otherwise provided for in this chapter. However, a lawful nonconforming use of a structure may be extended throughout any parts of the structure in which it is located where said structure or parts thereof were manifestly arranged or designed for such use at the time of adoption of said chapter, but no lawful nonconforming use of a structure shall be extended to occupy any land outside such structure. If any lawful nonconforming use of a structure is discontinued for any reason for a period of one year, (except when government action impedes access to the premises), such structure shall only thereafter be used in conformity with the terms of this chapter.

3. Uses of land and structures in combination. Any use of land in combination with a structure with a replacement cost of more than \$1,000.00 which would not be permitted under the terms of this chapter but was lawfully existing at the time of the adoption of this chapter shall hereafter be considered a lawful nonconforming use of land and structure in combination. As such, it may continue so long as it remains otherwise lawful and provided the use complies with the provisions herein.
4. Characteristics of use. When an otherwise lawful existing use is permitted generally in any given zoning district but where, due to adoption of this chapter, required off-street parking, paving of residential driveway, paving commercial drive access and parking area, landscaping, screening and similar regulations are not provided, such deficiencies attributable to the use shall be considered lawful, nonconforming characteristics of use. Said deficiencies shall be brought into conformance when the use they are attributable to is expanded, enlarged or the intensity is increased, even though the use is permitted generally.

Sec. 10.050. Change from one nonconforming use to another.

One existing lawful nonconforming use of a structure may be changed to one other nonconforming use of

the same structure by the Director based upon review of the following criteria and when deemed that such a change will not adversely affect the purpose and intent of this chapter. If any of the criteria cannot be met or are violated due to the requested change from one nonconforming use to another, then the request shall be reviewed by the Board in accordance with the provisions set forth in Section 10.090 of this chapter for their disposition:

1. The proposed use is no more intensive than the existing use;
2. The proposed use occupies no more area of the structure than the existing use;
3. The proposed use requires no more off-street parking than the existing use; and
4. Existing lawful nonconforming uses of a structure that changes owners but continue the same use shall be permitted to do so provided that an agreement is signed by the new owner and Director stating that the new owner agrees to all conditions placed on the previous owner and use(s) of the structure.
5. All signage for the existing use shall be removed and all signage for the proposed use shall conform to the underlying district in which it is located as provided in Article 9 of this chapter except that where signage is prohibited then one wall mounted sign of a maximum area not to exceed five percent of the wall area shall be permitted and the proposed use otherwise complies with the terms of this chapter and approval has first been obtained from the Board, when required, before any change or conversion is commenced.

Sec. 10.060. Lawful nonconforming uses superseded.

Anywhere a lawful nonconforming use is superseded by a permitted use, such lawful nonconforming use shall not thereafter be resumed.

Sec. 10.070. Reconstruction of certain lawful nonconforming structures.

Should any lawful nonconforming structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruc-

tion, it may only be reconstructed in conformance with the provisions of this chapter; except that lawful nonconforming structures that are single family detached dwellings, duplexes or townhouses of not more than two laterally attached single family dwellings, or multi-family dwellings/townhouses not exceeding four units may be reconstructed to their former condition, dimensions and location on the lot provided that the destruction was caused by an accident or act of God occurring after the adoption of this chapter and such reconstruction does not increase the degree of nonconformity that existed prior to the destruction. Reconstruction of a lawful nonconformity, where permitted, must commence within 24 months of destruction. In such case where reconstruction does not commence within this limited time frame, the nonconformity will be considered abandoned and such structure shall only be reconstructed as a permitted use.

Sec. 10.080. Prohibition on the re-establishment of nonconforming uses and structures in combination.

Where nonconforming status applies to a use and structure in combination, and where removal or destruction of said structure was caused by an accident or act of God after the adoption of this chapter, and where removal or destruction exceeded 50 percent of the cost to replace said structure, the re-establishment of the nonconforming use shall be prohibited.

Sec. 10.090. Appeals.

Appeals from an administrative decision related to this article shall be made in accordance with Article 11 of this chapter.

Sec. 10.100. Completion of nonconforming projects—Vested rights.

All nonconforming projects with respect to which a permit was issued prior to the effective date of this chapter and that are at least ten percent completed in terms of the total expected cost of the project on the effective date of this chapter may be completed in accordance with the terms of their permits, so long as those permits were validly issued, remain unrevoked and unexpired. If a development has been

approved for completion in stages, this subsection shall apply only to the phase that is under construction.

Sec. 10.110. Exception for residential nonconforming use.

Any structure used as a single-family home and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of the existing nonconformities with respect to such matters as setback and parking requirements.

Detached accessory structures may be permitted for single family residential uses that are non-conforming uses in the district in which they are located, provided they meet the lot area and setback requirements of an R-1 district, and all other code and regulations are met.

Sec. 10.120. Repair, maintenance and restoration.

Minor repairs to and routine maintenance of structures and property, where nonconforming situations exist, are permitted and encouraged. Major renovation, i.e., work estimated to cost more than 50 percent of the structural value of the structure to be renovated, shall not be permitted except as further provided for herein.

Sec. 10.130. Burden to establish entitlement of continuation.

The burden shall be on the landowner or developer to establish entitlement to continuation of nonconforming situations or completion of nonconforming projects.

Sec. 10.140. Nonconforming signs.

- A. Continuance of nonconforming signs. Subject to the restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this chapter may be continued.
- B. Prohibition on expansion of nonconforming signs. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign

may be enlarged or altered in a manner that aggravates the nonconforming condition, nor may illumination be added to any nonconforming sign.

- C. Sign conformance with chapter. A nonconforming sign may not be moved or replaced, and the face of a sign may not be changed, except to bring the sign into complete conformity with the provisions of Article 9; provided that "sign maintenance" as defined in this chapter may occur and is encouraged.
- D. Maintenance and repair. Subject to the other provisions of this section, nonconforming signs may be maintained and repaired so long as the cost of the work within any 12-month period does not exceed 50 percent of the value (tax value if listed for tax purposes) of the sign. No such work shall be done until the person proposing to do the work first submits the information required to satisfy the Director and the Director determines that the cost of the work will not exceed 50 percent of the value of the sign.
- E. Abandonment of nonconforming sign. If a nonconforming sign, other than a billboard, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed within 30 days after the abandonment by the sign owner, owner of the property where the sign is located, or other person having control over the sign.

Sec. 10.150. Nonconforming billboards.

- A. Continuance of nonconforming billboards. Subject to the restrictions of this section, nonconforming billboards may be continued.
- B. Limitation on expansion of nonconforming billboards. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming billboard. Without limiting the generality of the foregoing, no nonconforming billboard may be enlarged or upgraded in any manner that aggravates the nonconforming condition, except that a nonconforming billboard may be upgraded to a digital billboard but only as provided in Subsection C. below.

- C. Conversion of nonconforming billboards. Nonconforming billboards may only be converted to digital billboards upon approval of an application for a special use permit, acquisition of all necessary permits and approvals, and compliance with each of the following conditions:

1. For every nonconforming billboard sign ("face") that is proposed to be converted to digital, two billboard faces owned by the applicant and located within the jurisdictional limits of the City must be permanently removed.
2. The overall size of the message board or screen on the converted billboard shall not be increased in size by more than ten percent of its existing size.
3. The digital faces on the converted billboard must comply with all of the requirements of this article and all other applicable legal or regulatory provisions.
4. When an existing legal nonconforming billboard is converted to a digital billboard, the converted digital billboard shall retain its legal nonconforming status as a billboard and shall remain subject to the regulations of this article.
5. Except in the case of a conversion of an existing traditional billboard to a digital billboard, the removal of billboard faces for exchange purposes must include removal of the supporting structure(s) upon which the billboard faces are located.
6. All applications for conversion of a traditional billboard face to a digital billboard face must identify the traditional billboard faces to be removed. The City's issuance of a permit for a digital billboard that is converted under the terms of this article shall only occur in conjunction with the issuance of permits for the demolition or removal of the billboard faces identified for removal. The billboard faces to be exchanged must be removed completely prior to the City's issuance of a certificate of completion for the digital billboard face, and shall remain as a condition of approval of the special use permit. The removal of billboards or billboard faces oc-

curing prior to the effective date of this section shall not be counted for exchange purposes under this section.

- D. Illumination. Except for the internal illumination accompanying a billboard that is converted in accordance with subsection C above, no other illumination shall be added to any nonconforming billboard.
- E. Billboard conformance with this chapter. A nonconforming billboard may not be moved or replaced, except to bring the billboard into complete conformity with this chapter; provided that sign maintenance as defined herein may occur and is encouraged.
- F. If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and, within 30 days after such abandonment, shall be altered to comply with this and all applicable provisions of Article 9 or be removed by the sign owner, owner of the property where the sign is located, or other person having control over the sign. For purposes of this section, a sign is "blank" if:
1. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;
 2. The advertising message it displays becomes illegible in whole or substantial part; or
 3. The advertising copy paid for by a person other than the sign owner or promoting an interest other than the rental of the sign has been removed.

ARTICLE 11.

RENEWABLE ENERGY AND GREEN DEVELOPMENT STANDARDS

Division I. Green Development

Sec. 11.010. Purpose.

Division II. Wind Energy

Sec. 11.020. Definitions.

Sec. 11.030. Terms associated with wind generators.

Sec. 11.040. Standards.

Sec. 11.050. Application—Contents and submission requirements.

Sec. 11.060. Abandonment and removal.

Division III. Solar Energy (Reserved)

PROOFS

PROOFS

DIVISION I. GREEN DEVELOPMENT

Sec. 11.010. Purpose.

The purpose of this article is to provide regulations and procedures for the review of applications for the installation of alternative sources of energy, including wind turbines and solar panels, in order to offer opportunities to help alleviate the rising costs of energy. These regulations and procedures seek to minimize the potential adverse effects on the public health, safety and general welfare without unduly restricting the potential of alternative energy production for sustainability.

DIVISION II. WIND ENERGY

Sec. 11.020. Definitions.

Blades means the aerodynamic surface that catches the wind.

Large/utility scale wind turbine means a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce electricity for sale to a rate regulated or non-regulated utility or use off site. Turbines in this category are typically grouped together to form wind farms or a wind power plant, these groupings may also be referred to as a wind facility. The pictures below are examples of large scale wind turbines.



Source: www.vestas.com

Meteorological or met tower means a temporary tower designed to support the gathering of wind energy resource data to determine how much wind power a site can be expected to generate. A met tower includes the tower; base plate; anchors; guy cables and hardware; anemometers (wind speed indicators); wind direction vanes; booms to hold equipment, anemometers and vanes; data logger; instrument wiring; and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

Micro wind turbine means a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of ten kW or less. Examples of

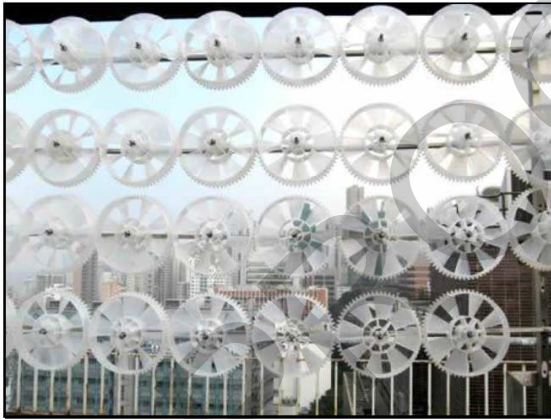
items they can be used to power include small appliances in boats and campers, a few lights, or portable communication systems, such as radio equipment. The images shown below and on the top of the next page are examples of micro wind turbines.



Source: www.homeenergymerica.com



Source: www.avinc.com



Sources: <http://www.motorwavegroup.com>



Source: www.bergey.com



Source: www.swiftwindturbine.com

Small wind turbine means a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of more than ten kW, up to and including 100 kW, which is primarily intended to reduce the on-site consumption of utility power. The picture below is an example of a small wind turbine.



Source: www.redriven.net

Tower means the monopole, freestanding, or guyed structure that supports a wind generator. Towers are made from tubular steel, concrete, or steel lattice. The vertical component of a wind energy conversion system that elevates and supports the wind turbine generator and attached blades above the ground up out of the turbulent wind.

Turbine means the parts of a wind system including the blades and nacelle.

Wind energy conversion system (WECS) means any machine designed for the purpose of converting wind energy into electrical energy. The WECS includes all parts of the system.

Wind facility means all equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

Wind turbine sizes means the size categories wind turbines are generally divided into based upon their rated power (capacity).

Sec. 11.030. Terms associated with wind generators.

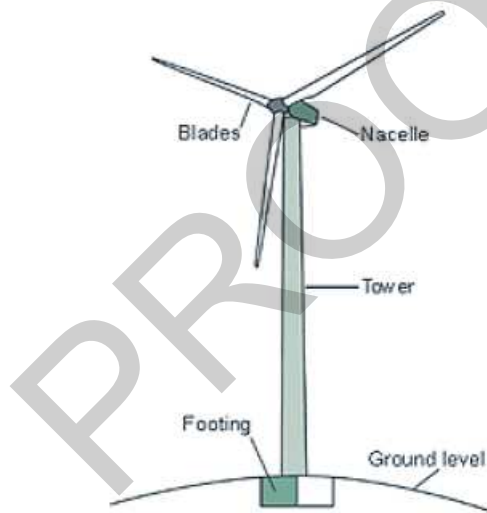
Horizontal axis wind turbines (HAWTs) means the type of wind turbine that has the main rotor shaft and electrical generator at the top of the tower, and must be pointed into the wind. The turbine is generally pointed upwind of the tower, and the blades placed some distance in front of the tower. The pictures below are examples of this type of wind turbine.

Hybrid wind systems means small wind turbines used in connection with diesel generators, batteries, and photovoltaic systems.

Nacelle means the body of the propeller-type wind turbine.



Source: www.windenergy.com



Source: <http://www.deus.nsw.gov.au/energy/renewable%20energy/wind.asp>

Overspeed controls means mechanisms that are used to limit the speed of blade rotation to below the design limits of the WECS. The following systems describe different methods for slowing or stopping a wind turbine in the event of malfunction, for repairs, or any other incident as needed:

1. Braking means a method of overspeed control that utilizes a disc brake, which can be applied mechanically, electrically, or hydraulically to stop the rotor in emergencies.
2. Feathering means a method of overspeed control that rotates the blade axis, or rotors, at an angle to maintain the torque at above rated wind speeds.
3. Furling means the method of overspeed control by which the blades are turned away from the direction of the wind.

Vertical axis wind turbines (VAWTs) means the type of wind turbine that has the main rotor shaft arranged vertically; as a result this type of turbines does not have to be pointed into the wind. This type of turbine also allows the generator and gearbox to be placed near the ground, and is typically mounted either near the ground or on a building rooftop. The pictures on the top of the next page are examples of this type of wind turbine.



Source: www.pacwind.net



Source: www.helixwind.com

Sec. 11.040. Standards.

A. General.

1. Federal and state regulations. All wind turbines shall meet or exceed current State and Federal standards and regulations including, without limitation:
 - a. Applicable Federal Aviation Administration (FAA) regulations, including necessary approvals for installations close to airports. Any wind turbine proposed to be within 20,000 feet of the center of the existing airport runway is subject to a required review by the FAA to determine whether it is a hazard or obstruction to aviation users of the airport.
 - b. RSMo 386.890, also known as the Net Metering and Easy Connection Act, which mandates that covered equipment conform to applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code (NEC), the National Electrical Safety Code (NESC), the Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), and the Federal Energy Regulatory Commission.
2. Building Code compliance. All wind turbines shall meet or exceed the current standards expressed in the adopted International Family of Codes, as amended.
3. Utility connections. Reasonable efforts shall be made to locate utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4. Electrical wires. All electrical wires associated with a wind energy system shall be located underground except for those wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires.
5. Self-supporting structures. All tower structures shall be of monopole construction unless attached to a structurally reinforced roof where such support is not warranted. No lattice structures shall be permitted. Towers requiring guy wire supports shall be limited to lots of one acre or more and the guy wires shall be setback from all property lines a minimum of ten feet.
6. Tower access. The supporting tower shall either be enclosed with a six-foot tall fence or the base of the tower shall not be climbable up to 12 feet above ground level. All access doors to the tower and electrical equipment shall be locked.
7. Safety shutdown. Each wind turbine shall be equipped with both manual and automatic overspeed controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No wind turbine shall be permitted that lacks an automatic braking, furling, or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades, and turbine components.
8. Lighting. Wind turbines shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA) or other applicable authority. Large wind facilities may utilize security lighting around the base of the tower or other structure associated with the wind turbine(s) if the lighting complies with Article 8, Division I, and no light is directed toward adjacent properties or rights-of-way.
9. Minimum blade clearance. The blade tip clearance for micro wind turbines shall, at its lowest point, have a ground clearance of not less than 15 feet. The minimum blade clearance for any other wind turbine shall be 30 feet.
10. Noise. The noise emitted from any wind turbine shall not exceed 55 dbA, as measured at the nearest property line, except during short-term events such as utility outages and severe windstorms.
11. Historic districts. WECS proposed for locations within any designated local historic district or for locations which will be visible from multiple points of a recognized historic district shall obtain a certificate of appropriateness.
12. Signage. Signs shall be limited to the manufacturer's or installer's identification, and appropriate warning signs (e.g. electrical hazard or high voltage) placed on the wind turbine tower(s), electrical equipment, and the wind turbine. Commercial advertising is strictly prohibited.
13. Color/finish. Wind turbines, exclusive of the towers, shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Towers shall maintain galvanized steel, brushed aluminum or white finish, unless FAA standards require otherwise.

B. Size specific.

1. Micro and small WECS.
 - a. Location. All micro and small wind turbines shall be located in the rear yard only. Exceptions to this standard for small wind turbines may be reviewed as part of the special use permit application.
 - b. Utility notification. No building permit for a micro or small WECS shall be issued until a copy of the utility company's approval for interconnection of a customer-owned generator has been provided. Off-grid systems shall be exempt.

2. Large/utility WECS.

- a. Soil. All new applications for large or utility scale wind turbines shall provide certification from a professional engineer registered in the State of Missouri that the soil and subsoil surface is capable of accepting the projected loads.
- b. Shadow/flicker. Large or utility scale wind turbines shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses and right-of-way through either siting or mitigation.
- c. Use of met towers. Met towers may be utilized for large or utility scale wind turbines only as approved by the Governing Body. The location, height, and length of time such structures are to be erected shall be provided as part of the application for preliminary development plan and special use permit.

Table 11-1: Standards for Roof-Mounted Wind Turbines

<i>Turbine Size</i>	<i>Zoning District Permitted In</i>	<i>Maximum Height</i>	<i>Minimum Setback</i>	<i>How Permitted</i>
Micro Wind Turbines	PI-1 and PI-2	Equal to ½ the building height	Equal to the height of the tower from all property lines and any buildings	Accessory Use
		Greater than ½ the building height		Special Use Permit

Table 11-2: Standards for Free-Standing Wind Turbines

<i>Turbine Size</i>	<i>Zoning District Permitted In**</i>	<i>Minimum Lot Size</i>	<i>Maximum Height*</i>	<i>Minimum Setback</i>	<i>How Permitted</i>
Micro Wind Turbines	AG Thru RP-4	< 1 acre	40 feet	Equal to the height of the tower* from all property lines and any buildings	Conditional Use
	AG Thru RP-4	1 acre	80 feet		
	PO Thru PI-2	1 acre	80 feet		
	AG Thru RP-4	2 acres	100 feet		
	PO Thru PI-2	2 acres	100 feet		
Small Wind Turbines	AG Thru RP-4	2 acres	100 feet	110% of the height of the tower* from any property line or above ground utilities	Conditional Use
	PO Thru PI-2	2 acres	100 feet		
	CP-1 Thru PI-2	3 acres	120 feet		
Large/Utility Wind Turbines	AG, PI-1, PI-2	10 acres	N/A	150% of the height of the tower* from any property line or above ground utilities	Special Use Permit

*The height shall be measured from ground level (grade) to the top of the tower nacelle.

**The size, height, and approval process for districts zoned PMIX shall be determined based upon the underlying uses within that district.

C. Homeowners associations and common property.

Table 11-3: Free-Standing Wind Turbines on Common Property

<i>Turbine Size</i>	<i>Zoning District Permitted In**</i>	<i>Maximum Height*</i>	<i>Minimum Setback</i>	<i>How Permitted</i>
Micro or Small Wind Turbines	AG Thru RP-4	Determined per Special Use Permit	110% of the height of the tower* from any property line or above ground utilities	Special Use Permit

*The height shall be measured from ground level (grade) to the top of the tower nacelle.

**The size, height, and approval process for districts zoned PMIX shall be determined based upon the underlying uses within that district.

Sec. 11.050. Application—Contents and submission requirements.

A. Administrative process for conditional and accessory uses. The following items shall be submitted in support of an application for building permit for (a) micro or small wind turbine(s):

1. Signed and notarized affidavits from all property owners who have a shared lot line with the applicant and consent to the proposed wind turbine. If a property owner sharing a lot line with the applicant does not consent to the proposed wind turbine, the use shall not be allowed as a conditional use. The applicant may proceed with an application for a special use permit. (For conditional use only.)
2. A plot plan, utilizing a standard engineering scale not to exceed 1:100, indicating the placement of the wind turbine(s) and distances from the proposed turbine location to the nearest built structure, any above ground utilities, the nearest tree(s), and all property lines.
3. Turbine information: Specific information on the type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower and electrical transmission equipment.
4. Data in sufficient detail to allow for a determination that the proposed WECS shall meet all the aforementioned standards.
5. Drawings of the wind turbine structure, including the tower, base, and footings. In addition, an engineering analysis of the tower showing compliance with the International Building Code certified by a licensed professional engineer.
6. Building permit applications for micro or small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the adopted National Electrical Code (NEC). All building permits require installations to be designed and sealed by an engineer licensed in the State of Missouri, designs shall include structural analysis.

B. Special use permit process. The following items shall be submitted in support of a special use permit application for (a) large/utility scale wind turbine(s):

1. All plan submission requirements of Sections 2.300 and 6.630.
2. The site plan shall include the distance from the proposed turbine location to the nearest built structure, any above ground utilities, the nearest tree(s), and all property lines.
3. The proposed location and design of the wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.

4. Turbine information: Specific information on the type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower, and electrical transmission equipment.
5. A noise study, prepared by a qualified professional, shall demonstrate that except for during short-term events such as utility outages and severe windstorms, the large/utility scale wind turbine shall not produce noise in excess of 55 dbA at the property lines. The noise study shall include:
 - a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis for such expectations.
 - b. A description and map of the noise sensitive environment, including any sensitive noise receptors (e.g. residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers and other facilities where quiet is important or where noise could be a nuisance) within 1,000 feet.
 - c. A survey and report prepared by a qualified engineer that analyzes the pre-existing ambient noise (including seasonal variation) and the affected sensitive receptors located within 1,000 feet.
 - d. A description and map of the cumulative noise impacts.
 - e. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.
6. Soil. A geotechnical report shall be furnished along with the certification which shall, at a minimum, include the following:
 - a. Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing.
 - b. Foundation design criteria for all proposed structures.
 - c. Slope stability analysis.
 - d. Grading criteria for ground preparation, cuts and fills, and soil compaction.
7. Shadow/flicker. A shadow/flicker model shall demonstrate that shadow/flicker shall not fall on, or in any existing residential structure. The shadow/flicker model shall:
 - a. Map and describe within a 1,000-foot radius of the proposed wind energy system the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed;
 - b. Calculate the locations of shadow/flicker caused by the proposed project and the expected durations of the shadow/flicker at these locations, calculate the total number of hours per year of shadow/flicker at all locations;
 - c. Identify problem areas where shadow/flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.
8. Impact on wildlife. A study shall be provided by a professional that demonstrates that the development and operation of the wind turbine(s) in question shall not have an adverse impact on endangered or threatened avian or bat species and their critical habitats.
9. The Director, Commission, or Governing Body may require additional technical studies deemed necessary to fully evaluate the application. Should the services of an outside consultant be needed to evaluate any such technical studies, the cost of such services shall be borne by the applicant.

Sec. 11.060. Abandonment and removal.

- A. If the use of any wind turbine ceases, and the turbine is not used for a continuous period of 12 months, the turbine shall be considered abandoned, and the owner of such wind turbine shall remove the WECS within 90 days of receipt of notice from the City notifying the owner of such abandonment. If such wind turbine is not removed within said 90 days, the City may remove such wind turbine at the owner's expense.
- B. The owner of a large or utility scale wind turbine shall provide to the City financial security in the form of a bond, letter of credit, or other financial security as approved by the City Attorney; right of access; and any other measures necessary and sufficient to ensure such removal, should it become necessary.

DIVISION III. SOLAR ENERGY (RESERVED)

PROOFS

ARTICLES 12, 13.

RESERVED

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PROOFS

ARTICLE 14.

ADMINISTRATION

Division I. Board of Zoning Adjustment

- Sec. 14.010. Board of Zoning Adjustment—Continuation.
- Sec. 14.020. Board of Zoning Adjustment—Membership, terms, organization.
- Sec. 14.030. Board of Zoning Adjustment—Meetings.
- Sec. 14.040. Board of Zoning Adjustment—Powers.
- Sec. 14.050. Board of Zoning Adjustment—Appeal and procedure.
- Sec. 14.060. Board of Zoning Adjustment—Appeal to Circuit Court.
- Sec. 14.070. Board of Zoning Adjustments—Re-submission of application.
- Sec. 14.080. Administrative variance.
- Secs. 14.090, 14.100 Reserved.

Division II. Planning Commission

- Sec. 14.110. Planning Commission—Continuation.
- Sec. 14.120. Planning Commission—Membership, terms and vacancies.
- Sec. 14.130. Planning Commission—Officers.
- Sec. 14.140. Planning Commission—Meetings.
- Sec. 14.150. Planning Commission—Powers and duties.
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Division III. Historic Preservation Commission

- Sec. 14.170. Historic Preservation Commission—Continuation.
- Sec. 14.180. Preservation Commission—Membership, terms, vacancies.
- Sec. 14.190. Preservation Commission—Officers.
- Sec. 14.200. Preservation Commission—Meetings.
- Sec. 14.210. Preservation Commission—Authority and organization.
- Sec. 14.220. Preservation Commission—Power and duties.

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DIVISION I. BOARD OF ZONING ADJUSTMENT

Sec. 14.010. Board of Zoning Adjustment—Continuation.

The Board of Zoning Adjustment is continued in accordance with the provisions of RSMo ch. 89 and amendments thereto.

Sec. 14.020. Board of Zoning Adjustment—Membership, terms, organization.

The Board shall consist of five members who shall be appointed by the Mayor and approved by the Council. The Council may, on its own accord, appoint up to three alternates whose terms will expire as designated by the Council. The alternates shall serve in case of absence or abstention of a regularly voting member. Each member shall serve for five years and may be removed for cause by the appointing authority, upon written charges and after public hearings. Members and alternates shall be citizens of the City. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board shall adopt rules for the transaction of business in accordance with the provision of this chapter and RSMo ch. 89, as amended.

Sec. 14.030. Board of Zoning Adjustment—Meetings.

The Board shall hold regular meetings and special meetings as they provide for by rule. The Chairman, or in the Chairman's absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, which shall show the vote of each member upon questions, or, if absent or failing to vote, indicating this 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 of the City, and shall be a public record. All testimony, objections thereto, and rulings thereon, shall be taken down by a reporter employed by the Board for that purpose.

Sec. 14.040. Board of Zoning Adjustment—Powers.

A. The Board shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in an order, require-

ment, decision or determination made by an administrative official in the enforcement of this chapter.

2. To hear and decide all matters referred to it or upon which it is required to pass under the provisions of this chapter or other chapters of the City Code.
3. In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction, or alteration of buildings or structures or the use of land in conformance with the standards specified in Section 5.780 so that the spirit of the Chapter shall be observed, public safety and welfare maintained, and substantial justice done.
4. In exercising the above mentioned powers, the Board may, in conformity with the provisions of this section reverse or affirm wholly or in part or modify the order, requirement, decision, determination appealed from, and to that end shall have all powers of the officer from whom the appeal is taken. In no case shall the Board decide an appeal from any action of the Council. All voting members shall have attended the hearings preliminary to the vote or have familiarized themselves with the cases otherwise. In all instances, the spirit and intent of this chapter shall be observed, public safety and welfare secured, and substantial justice be done.
5. The concurring vote of four members of the Board will be necessary to reverse the order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter.

- B. In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations.

The Board may require the variance to be recorded with the County Recorder of Deeds to be effective.

The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfaces, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the City Engineer and shall be enforceable by or payable to the City in the sum equal to the cost of constructing the required improvements.

In place of a performance bond, the Board may set the effective date for such variance as subsequent to completion of such conditions, safeguards and restrictions. In lieu of the performance bond or delayed effective date, the Board may specify a time limit for completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may, at a regularly scheduled meeting and after notice to applicant, revoke the granting variance.

**Sec. 14.050. Board of Zoning Adjustment—
Appeal and procedure.**

Appeals to the Board of Adjustments may be taken by any person aggrieved, or by an officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustments a notice of appeal specifying the grounds thereof. Said application or petition shall be accompanied by a filing fee payable to the City of Lee's Summit. The amount of such filing fee shall be determined in accordance with a schedule of fees and charges adopted by the Governing Body. No portion of the filing fee shall be refunded to the applicant. Any expenditures in excess of the filing fee, incurred by the Board of Adjustments that are necessary and incident to the processing of the application, shall be billed to the applicant or petitioner. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustments after the notice of appeal shall

have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustments or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustments shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decided the same within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney.

**Sec. 14.060. Board of Zoning Adjustment—
Appeal to Circuit Court.**

Appeal from any final action of the Board may be made to the Circuit Court within 30 days after the filing of the decision in the office of the City Clerk in accordance with RSMo 89.110, as amended.

**Sec. 14.070. Board of Zoning Adjustments—
Re-submission of application.**

Whenever, any application or petition presented has been finally acted upon by the Board of Adjustments under the provision of this article, said Board of Adjustments shall not, for a period of six months from the date of its decision, receive or entertain any identical or similar application seeking the same or similar relief on the same property.

Sec. 14.080. Administrative variance.

The Director is authorized to grant a variance for building setbacks of ten percent but not to exceed one foot. Refusal to grant such variance shall not prohibit the owner from seeking the requested variance through Section 11.050 Appeal and Procedure.

Secs. 14.090, 14.100 Reserved.

DIVISION II. PLANNING COMMISSION

Sec. 14.110. Planning Commission—Continuation.

The Commission is continued in accordance with the provisions of RSMo ch. 89 and amendments thereto.

Sec. 14.120. Planning Commission—Membership, terms and vacancies.

- A. The Commission shall have ten members, including the mayor, if the mayor chooses to be a member and a member of the Council selected by the Council, if the Council chooses to have a member serve on the Commission.
- B. The remaining members of the Commission shall be citizens of the City, who shall be appointed by the mayor and approved by the Council, and these members shall serve without compensation. The term of each citizen member of the Commission shall be for four years, except that the term of the citizen members first appointed shall be for varying periods so that succeeding terms will be staggered.
- C. Vacancies shall be filled for the unexpired term by appointment as described in Subsection B.

Sec. 14.130. Planning Commission—Officers.

The Commission shall elect its chairperson and secretary from among its citizen members. The term of the chairperson and secretary shall be for one year with eligibility for re-election.

Sec. 14.140. Planning Commission—Meetings.

The Commission shall hold regular meetings and special meetings as they provide for by rule, and shall adopt rules for the transaction of business. The Commission shall keep a record of its proceedings. This record shall be a public record.

Sec. 14.150. Planning Commission—Powers and duties.

The powers and duties of the Commission shall be those authorized by RSMo 89.300 through 89.491, as amended.

Sec. 14.160. Planning Commission as Zoning Commission.

The Commission shall have and perform all the functions of the zoning commission provided for in RSMo 89.010 to 89.250.

DIVISION III. HISTORIC PRESERVATION COMMISSION

Sec. 14.170. Historic Preservation Commission—Continuation.

The Historic Preservation Commission is continued in accordance with the provisions of RSMo 253.415 and amendments thereto and shall be known as the Preservation Commission.

Sec. 14.180. Preservation Commission—Membership, terms, vacancies.

- A. Number. The Preservation Commission is to be composed of seven members.
- B. Appointment. The Mayor, with the consent and approval of the majority of the members of the City Council shall have the power to appoint seven members. In addition two ex officio non-voting members may also be appointed but shall not be counted or otherwise included in determining a quorum. One such non-voting member may be selected from the City Council by the Mayor Pro-Tem and one may be selected from the Planning Commission by its Chair.
- C. Terms. Member appointments shall be for terms of four years. A member may serve consecutive terms. Ex officio members shall serve at the discretion of the Mayor Pro Tem and Planning Commission Chair, respectively.
- D. Qualifications. Members shall be residents of the City, or business or property owners within the City and must continue to reside or be business or property owners in the City so long as they serve on the Preservation Commission. All members should have demonstrated an interest and knowledge of local history, architecture or preservation. No more than two members of the Preservation Commission shall be nonresidents. In addition, every effort should be made to appoint members with the following additional qualifications:
 1. Architect with professional experience in historic preservation, and building rehabilitation, restoration and stabilization.
 2. Archeologist.

- 3. Licensed building contractor with historic building experience.
 - 4. Licensed real estate development professional.
 - 5. Historian or history instructor.
 - 6. Lee's Summit Historical Society member.
 - 7. Homeowner residing in an eligible or existing landmark or local historic district or National Register District.
 - 8. Business owner or merchant leasing a commercial property located in an eligible or existing Landmark or local Historic District or National Register District.
- E. Vacancies. Vacancies on the Preservation Commission shall be filled within 60 days in the same manner as provided in paragraph above.

Sec. 14.190. Preservation—Commission Officers.

The Commission shall elect its chairperson and vice chairperson from among the seven members. The terms shall be for one year with eligibility for reelection.

Sec. 14.200. Preservation Commission—Meetings.

The Preservation Commission shall hold regular meetings and special meetings as provided in their adopted bylaws, and shall adopt rules for the transaction of business in accord therewith. The Preservation Commission shall keep a record of its proceedings. This record shall be a public record.

Sec. 14.210. Preservation Commission—Authority and organization.

The authority of the Preservation Commission shall be those authorized by RSMo 253.415, as amended.

- A. The Preservation Commission may review amendments, modifications, or revisions of this article, or other parts of the Code of Ordinances as they relate to historic preservation, and make recommendations for changes therein to the City Council.
- B. The Preservation Commission shall keep minutes and records of all meetings and

proceedings including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be public record.

Sec. 14.220. Preservation Commission—Power and duties.

The Preservation Commission shall act in an advisory capacity to the City Council and Planning Commission in carrying out activities required by City ordinances relating to the administration of this chapter and shall have the following powers and duties:

- A. To increase public awareness of the value of historic, architectural and cultural preservation by developing and participating in public information programs and by updating the preservation program;
- B. To recommend a single property for proposed designation as a landmark and two or more properties as a historic district and to review and comment on proposed designations;
- C. To review applications for construction, alteration, or reconstruction for a landmark and/or properties located within a historic district;
- D. To review proposed changes to buildings, structures, street furniture, city parks, civic areas, public facilities or environmental features of a landmark or properties located within an historic district;
- E. To review applications for demolition permits to demolish buildings or structures within an historic district;
- F. To review applications for special use permits, proposed zoning amendments, or applications for zoning variances for properties designated as a landmark or a historic district, and to make recommendations concerning such requests to the Planning Commission or Board of Zoning Adjustments;
- G. May initiate, from time to time, a comprehensive review of the provisions of this article or any part thereof;

- H. To disseminate information concerning the preservation of landmarks or properties located within historic districts to the general public;
- I. The Preservation Commission may support the nomination to the National Register of Historic Places of local historic landmarks and local historic districts that the Preservation Commission members believe meet the standards set forth by the National Park Service and have contributed to the history, architecture and culture of the City; and
- J. The Preservation Commission, upon establishment of a not for profit organization or 501.c.3, may acquire by purchase, gift, or bequest, fee title or lesser interest, including preservation restriction or easements, in designated properties and adjacent or associated lands which are important for the preservation and use of the designated properties.

PROOFS

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ARTICLE 15.

RULES OF INTERPRETATION AND DEFINITIONS

Division I. Rules of Interpretation

- Sec. 15.010. Rules of interpretation.
- Sec. 15.020. Quantitative performance standards.

Division II. Definitions

- Sec. 15.030. Abut.
- Sec. 15.040. Access.
- Sec. 15.050. Accessory building or use.
- Sec. 15.060. Accessory structure setback line.
- Sec. 15.070. Addition.
- Sec. 15.080. Adequate public facilities.
- Sec. 15.090. Adjacent.
- Sec. 15.100. Adult.
- Sec. 15.110. Adult business.
- Sec. 15.120. Adult entertainment.
- Sec. 15.130. Adult media.
- Sec. 15.140. Adult video viewing booth.
- Sec. 15.150. Agricultural operation.
- Sec. 15.160. Agriculture-related feeding or disposal.
- Sec. 15.170. Agricultural sales and services.
- Sec. 15.180. Aircraft.
- Sec. 15.190. Alley.
- Sec. 15.200. Alteration.
- Sec. 15.210. Alternative communication tower structure.
- Sec. 15.220. Animal services.
- Sec. 15.230. Antenna.
- Sec. 15.240. Antenna support system.
- Sec. 15.250. Antenna system.
- Sec. 15.260. Antenna system height.
- Sec. 15.270. Antenna tower.
- Sec. 15.280. Apartment.
- Sec. 15.290. Apartment building.
- Sec. 15.300. Appeal.
- Sec. 15.310. Applicant.
- Sec. 15.320. Art and craft studio (general).
- Sec. 15.330. Art and craft studio (limited).
- Sec. 15.340. Arterial.
- Sec. 15.350. Automobile wrecking yard.
- Sec. 15.360. Automotive convenience station (C-store).
- Sec. 15.370. Automotive parking garage or lot.
- Sec. 15.380. Automotive parts and supply store.
- Sec. 15.390. Automotive rental agency.
- Sec. 15.400. Automotive repair services—Major repairs.
- Sec. 15.410. Automotive repair shop—Minor repairs.
- Sec. 15.420. Automotive sales, lease and rentals.
- Sec. 15.430. Reserved.
- Sec. 15.440. Automotive service.
- Sec. 15.450. Automotive service station.
- Sec. 15.460. Automotive tire store.
- Sec. 15.470. Automotive upholstery shop.
- Sec. 15.480. Automotive washing.
- Sec. 15.490. Aviation field, airport and heliport.
- Sec. 15.500. Bar or tavern.

LEE'S SUMMIT UNIFIED DEVELOPMENT ORDINANCE

- Sec. 15.510. Basement.
- Sec. 15.520. Bed-and-breakfast homestay.
- Sec. 15.530. Bed-and-breakfast inn.
- Sec. 15.540. Block.
- Sec. 15.550. Board.
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DIVISION I. RULES OF INTERPRETATION

Sec. 15.010. Rules of interpretation.

A. Definitions and usage. For the purposes of this chapter, all words and terms used in this chapter are limited to the meanings given to them by this article or as specifically provided in another article of this chapter. Words and terms that are defined in another article of this chapter relate specifically to that article. Unless the context clearly indicates to the contrary, the following interpretations apply:

1. Words used in the present tense shall include the future tense;
2. Words used in the singular shall include the plural and words used in the plural shall include the singular;
3. The word "shall" is mandatory;
4. The words "used" or "occupied" shall include the phrases "intended," "designed" or "arranged to be used or occupied."

B. Definitions in other chapters. If a word or term is not defined in this article but is defined elsewhere in this chapter or in the Lee's Summit Municipal Code, that definition shall be applicable unless the context indicates that a standard dictionary definition is more appropriate. Where a word or term is defined in this article and also defined elsewhere in this chapter, the definition contained in this article shall be generally applicable except in the article or section to which the other definition applies.

C. Computation of time. Unless specifically provided, in computing any period of time stated in or allowed by this chapter, the day of the act, event, or default from which the stated period of time begins to run shall not be included. The last day of the period shall be included in the computation, unless it is a Saturday, Sunday or a legal holiday, and if it is, the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. When the period of time proscribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall not be counted in the computation. A half-holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any

day designated as a holiday by the Congress of the United States, Missouri legislature or the Governing Body. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate City official or in the appropriate City office not later than 5:00 p.m. on the last day of the period as computed above.

D. Joint ownership. Where this chapter permits or requires an act on the part of an "owner" or "landowner," and a particular lot or tract of land is owned by several persons, whether in joint tenancy, tenancy in common, partnership, joint venture or other form of joint ownership, the act shall be taken on behalf of, and with the express written consent of, all such persons, which written consent shall be provided to the City.

Sec. 15.020. Quantitative performance standards.

In some districts, performance or other standards capable of quantitative measurement are established. Except to the extent modified in the specific zoning district regulations, the following general provisions shall apply to measure compliance with these standards.

A. Noise. A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low), an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter used to take required measurements. Accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter. Impact noises are sound that occur intermittently rather than continuously. Impact noises shall be measured using the fast response of the sound level meter. Unless specifically indicated to the contrary in the zoning district regulations, noise resulting from temporary construction

activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the indicated standard.

- B. **Smoke.** For the purpose of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines, shall be used. The Ringlemann number indicated as the performance standard in certain zoning districts refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed.
- C. **Vibration.** Vibrations are measured in particle velocity and are to be measured at the property line or other designated location as specified by this chapter. The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions. The vibration maximums indicated as the standard in certain zoning districts may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:
- $$PV = 6.28 F \times D$$
- Where:
- PV = Particle velocity, inches-per-second.
 F = Vibration frequency, cycles-per-second.
 D = Single amplitude displacement of the vibration, inches.
- The maximum velocity shall be the vector sum of the three components recorded. Unless specifically indicated to the contrary in the zoning district regulations, vibration resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the indicated standard.
- D. **Glare.** Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination.

DIVISION II. DEFINITIONS

Sec. 15.030. Abut.

Abut shall mean to physically touch or border upon; to share a common property or lot line.

Sec. 15.040. Access.

Access shall mean a way or means of approach to provide physical entrance to a property.

Sec. 15.050. Accessory building or use.

Accessory building or use shall mean a subordinate use of a building or land which is incidental to and customary in connection with the main building or use which is located on the same lot as the main building or use. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

Sec. 15.060. Accessory structure setback line.

Accessory structure setback line shall mean a line delineating the minimum allowable distance between a property line or the right-of-way line of an abutting street and an accessory structure.

Sec. 15.070. Addition.

Addition shall mean an extension or increase in floor area or height of a structure.

Sec. 15.080. Adequate public facilities.

Adequate public facilities means sufficient quantities of water, adequate water pressure, adequate infrastructure to provide the service, including proper distribution pipe size, adequate reserve capacity present, traffic capacity to handle existing and proposed need and adequate police and fire protection, etc. as deemed adequate according to the city standards.

Sec. 15.090. Adjacent.

Adjacent shall mean having a common border or end point, or across a road, street, sidewalk, right-of-way or thoroughfare.

Sec. 15.100. Adult.

Adult shall mean any person who has reached 18 years of age.

Sec. 15.110. Adult business.

Adult business shall mean any business:

- A. That has as a substantial or significant purpose the sale or rental of merchandise that is intended for use in connection with specified sexual activities, or that emphasizes matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or
- B. That has as one of its regular and substantial business purposes:
 - 1. The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or
 - 2. The providing of services that are intended to provide sexual arousal or excitement or that allow observation of specified sexual activities or specified anatomical areas ancillary to other pursuits, or allow participation in specified sexual activities ancillary to other pursuits.
- C. The definition of "adult business" also includes but is not limited to any and all of the following specific adult businesses, as defined herein:
 - 1. Businesses that offer merchandise for sale or rent.
 - a. "Adult media outlet" means a business engaging in the sale or rental of merchandise where a substantial or significant portion of the business is devoted to the sale or rental of "adult media." For purposes of this subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the sale

or rental of "adult media" if any one or more of the following criteria are satisfied:

- (1) Forty percent or more of the sales (including rentals), measured in dollars over any consecutive 90-day period is derived from "adult media";
- (2) Forty percent or more of the number of transactions, measured over any consecutive 90-day period, relate to "adult media";
- (3) Forty percent or more of the dollar value of all merchandise displayed at any time is attributable to "adult media";
- (4) Forty percent or more of all inventory consists of "adult media" at any time;
- (5) Forty percent or more of the merchandise displayed for sale or rental consists of "adult median at any time; or
- (6) Forty percent or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) is devoted to "adult media" at any time.

The presumption that a "substantial or significant" portion of a business is devoted to the sale or rental of "adult media," based upon the above guidelines, shall be rebuttable.

- b. "Adult newsrack" means any coin- or card-operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- c. "Adult retail establishment" means a business that displays or offers goods for sale or rent and that meets any of the following tests:
 - (1) It displays or offers for sale or rent items from any two of the

- following categories: "sexually-oriented toys or novelties"; lingerie; clothing that graphically depicts "specified anatomical areas"; leather goods designed or marketed for use for sexual bondage or sadomasochistic practices; and the combination of such items constitutes:
- (a) Ten percent or more of the sales (including rentals), measured in dollars over any consecutive 90-day period;
 - (b) Ten percent or more of the number of sales transactions, measured over any consecutive 90-day period;
 - (c) Ten percent or more of the dollar value of all merchandise displayed at any time;
 - (d) Ten percent or more of all inventory at any time; or
 - (e) Ten percent or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) at any time;
- (2) Five percent or more of the sales (including rentals), measured in dollars over any consecutive 90-day period is derived from "sexually-oriented toys or novelties";
 - (3) Five percent or more of the number of sales transactions, measured over any consecutive 90-day period, relate to "sexually-oriented toys or novelties";
 - (4) Five percent or more of the dollar value of all merchandise displayed at any time is attributable to "sexually-oriented toys or novelties";
 - (5) Five percent or more of all inventory consists of "sexually-oriented toys or novelties" at any time;
 - (6) Five percent or more of merchandise displayed for sale consists of "sexually-oriented toys or novelties" at any time; or
 - (7) Five percent or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) is devoted to "sexually-oriented toys or novelties" at any time.
2. Businesses that provide entertainment.
 - a. "Adult entertainment business" means any business to which the public, patrons or members are invited or admitted, and where providing "adult entertainment," as defined herein, as a regular and substantial portion of its business.
 - b. The definition of "adult entertainment business" also includes, but is not limited to, any and all of the following specific adult entertainment businesses, as defined herein:
 - (1) "Adult motion picture theater" means an establishment with a screen or projection areas, where a regular and substantial portion of its business is the exhibition to patrons of films, videotapes or motion pictures which are intended to provide sexual arousal or sexual excitement to the patrons and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - (2) "Adult theater" means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by patrons.

- (3) "Adult entertainment cabaret" means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, or live performances, or material which depict, portray, exhibit or display specified anatomical areas or specified sexual activities or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or patron.
 - (4) "Adult entertainment studio" (includes the terms "rap studio," "exotic dance studio," "sensitivity studio" or "encounter studio") means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.
 - (5) "Adult encounter parlor" means an establishment where a regular and substantial portion of its business is the provision of premises where patrons congregate, associate, or consort with employees, performers, and/or other patrons or private contractors who display specified anatomical areas in the presence of such patrons, with the intent of providing sexual arousal or excitement to such patrons.
 - (6) "Body painting studio" means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique or process when the subject's body displays for the patron's view specified anatomical areas.
- 3. Businesses that provide services.
 - a. "Bath house" means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.
 - b. "Adult motel" means an enterprise where a regular and substantial portion of its business is offering public accommodations, containing more than 150 square feet of gross floor area, for the purpose of viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical area" by any photographic, electronic, magnetic tape, digital or other medium (including but not limited to film, video, magnetic tape, laser disc, CD-ROM, books, magazines or periodicals) for observation by patrons therein and which rents room accommodations for less than six hours at a time.

Sec. 15.120. Adult entertainment.

Adult entertainment shall mean any exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered on a premises where such exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment depicts, portrays, exhibits or displays specified anatomical areas or specified sexual activities.

Sec. 15.130. Adult media.

Adult media shall mean books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films, CD-ROMS or other devices used to record computer images, or other media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Sec. 15.140. Adult video viewing booth.

Adult video viewing booth shall mean any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons and is used for presenting or viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to, film, video, magnetic tape, laser disc, CD-ROM, books magazines or periodicals) for observation by patrons therein. "Adult video viewing booths" are sometimes referred to as "peep shows," "adult video arcades," "panoramas" and "adult mini-motion picture theaters." An "adult video viewing booth" shall not mean a theater, movie house, playhouse, or a room or enclosure or a portion thereof which contains more than 150 square feet of gross floor area. Note: As of the date of the adoption of this definition, there are no known "adult video viewing booths" within the City and the Zoning Ordinance specifically does not list this as a permitted use in any existing zoning district.

Sec. 15.150. Agricultural operation.

Agricultural operation shall mean use of land where such land is devoted to the production of plants, animals or horticultural products, including forests and forest products; harvest and management; dairy farming; grazing and pasturage; truck gardening; bee keeping; the raising of crops, fruit and nursery stock; fish farms; fur bearing animal farms; and the harvesting, processing, packaging, packing, shipping, marketing and selling of products produced on the premises; incidental farm occupations; and such uses as machinery, farm equipment, and domestic repair and construction. Agricultural operation shall

not include commercial feed lots, slaughter houses, or the removal of trees for the purpose of development or redevelopment or the removal of trees without replanting.

Sec. 15.160. Agriculture-related feeding or disposal.

Agriculture-related feeding or disposal shall mean commercial feed lots for the raising and selling of farm animals.

Sec. 15.170. Agricultural sales and services.

Agricultural sales and services shall mean establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include hay, feed and grain stores, and tree service firms.

Sec. 15.180. Aircraft.

Aircraft shall mean any contrivance now known or hereafter invented for flight in air.

Sec. 15.190. Alley.

See "Street."

Sec. 15.200. Alteration.

Alteration shall mean any addition, removal, extension or change in the location of any exterior surface of a main structure or accessory structure.

Sec. 15.210. Alternative communication tower structure.

Alternative communication tower structure shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Sec. 15.220. Animal services.

See "Veterinarian."

Sec. 15.230. Antenna.

See "Tower."

Sec. 15.240. Antenna support system.

See "Tower."

Sec. 15.250. Antenna system.

See "Tower."

Sec. 15.260. Antenna system height.

See "Tower."

Sec. 15.270. Antenna tower.

See "Tower."

Sec. 15.280. Apartment.

See "Dwelling."

Sec. 15.290. Apartment building.

See "Dwelling."

Sec. 15.300. Appeal.

Appeal for variance from any provision of the Comprehensive Zoning Ordinance shall be to the Board of Adjustments.

Sec. 15.310. Applicant.

Applicant shall mean the owner of land, or the owner's authorized agent, or any person authorized by this chapter for which an approval in relation to this chapter is sought.

Sec. 15.320. Art and craft studio (general).

Art and craft studio (general) shall mean a use involving the production of works of art which require mechanical equipment exceeding two horsepower or a single kiln that is eight kilowatts or greater. This use shall include the incidental sale to consumers of those works produced on site.

Sec. 15.330. Art and craft studio (limited).

Art and craft studio (limited) shall mean a use involving the production of works of art by individuals and assistants and the incidental sale to consumers of those works produced, limited to the use of hand tools or domestic mechanical equipment not exceeding two horsepower or a single kiln not exceeding eight kilowatts.

Sec. 15.340. Arterial.

See "Street."

Sec. 15.350. Automobile wrecking yard.

See "Junkyard."

Sec. 15.360. Automotive convenience station (C-store).

See "Automotive service."

Sec. 15.370. Automotive parking garage or lot.

See "Automotive service."

Sec. 15.380. Automotive parts and supply store.

See "Automotive service."

Sec. 15.390. Automotive rental agency.

See "Automotive service."

Sec. 15.400. Automotive repair services—Major repairs.

See "Automotive service."

Sec. 15.410. Automotive repair shop—Minor repairs.

See "Automotive service."

Sec. 15.420. Automotive sales, lease and rentals.

See "Automotive service."

Sec. 15.430. Reserved.

Sec. 15.440. Automotive service.

Automotive service shall mean an establishment or place of business primarily engaged in the sale of products related to automobiles and the provision of services related to automobile maintenance, repair and reconstruction. The following automotive use types shall be defined as follows:

- A. Automotive parking garage or lot. A garage or area, available to the public for the temporary parking of motor vehicles.

- B. Automotive sales, lease and rentals. An establishment or place of business primarily engaged in the sale, lease or rental of automobiles, vans and trucks less than two tons, including incidental parking and servicing of vehicles available for sale, lease or rent or lease.
- C. Automotive convenience station (C-Store). A building or premises where gasoline, diesel fuel and oil may be dispensed at retail with no automobile repair facilities. Uses permissible also include the sale of cold drinks, packaged foods, tobacco and similar household convenience goods for station customers.
- D. Automotive parts and supply store. An establishment or place of business primarily engaged in the sale of merchandise that is associated with the use, repair or upkeep of automobiles.
- E. Automotive rental agency. An establishment or place of business primarily engaged in renting automobiles for a temporary period of time.
- F. Automotive service station. Buildings and premises where gasoline or diesel fuel is dispensed at retail for automobiles, recreation vehicles and motorcycles, and where in addition at least one of the following services is rendered: sale, replacement, or servicing of spark plugs, oil, water hoses, brake fluids, batteries, distributors, tires, carburetors, brakes, fuel pumps, or other automotive parts or accessories. See "Automotive repair services, major repairs" for major mechanical activities.
- G. Automotive repair services, major repairs. The use of a building or premises for the repair of automotive bodies and/or major mechanical works, straightening of body parts, painting, welding, including storage of automobiles not in operable condition waiting to be repaired.
- H. Automotive repair shop, minor repairs. The use of a building for the replacement or repair of any automobile part that does not require removal of the engine head or pan,

engine transmission, or differential but may include incidental body and fender work i.e., dent repair and minor painting and upholstery service. Muffler replacement, brake service, lube and oil service and glass installation/replacement are considered minor repairs.

- I. Automotive tire store. An establishment or place of business primarily engaged in the sale of tires and services relating to the repair or purchase of tires for automobiles.
- J. Automotive washing. Washing and cleaning of automobiles and related light equipment. Typical uses include auto laundries or car washes.

Sec. 15.450. Automotive service station.

See "Automotive service."

Sec. 15.460. Automotive tire store.

See "Automotive service."

Sec. 15.470. Automotive upholstery shop.

See Repair services in Article 15.

Sec. 15.480. Automotive washing.

See "Automotive service."

Sec. 15.490. Aviation field, airport and heliport.

An area of land or water that is used or designed for the landing and takeoff of aircraft of any type, and includes its buildings and facilities for the shelter, servicing or repair of aircraft.

Sec. 15.500. Bar or tavern.

Bar or tavern shall mean an establishment or place of business primarily engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, from which at least 50 percent or more of the gross income is derived from the sale of alcoholic beverages, including taverns, bars, cocktail lounges, and similar uses other than a "restaurant," as that term is defined in this article.

Sec. 15.510. Basement.

Basement shall mean that portion of a building that is partly or completely below grade.

Sec. 15.520. Bed-and-breakfast homestay.

Bed-and-breakfast homestay shall mean an establishment or place of business that is a private, owner-occupied residence with one (1) to three (3) guest rooms, occupied or used as a transient abiding place of individuals or groups of individuals who are lodged for compensation, with or without food service.

Sec. 15.530. Bed-and-breakfast inn.

Bed-and-breakfast inn shall mean an establishment or place of business consisting of between three and 12 guest rooms, occupied or used as a transient abiding place of individuals or groups of individuals who are lodged for compensation, and making available services normally provided by hotels.

Sec. 15.540. Block.

Block shall mean a platted tract of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, or parks, or a combination thereof. In places where the platting is incomplete or disconnected, the Director shall determine the outline of a block.

Sec. 15.550. Board.

Board shall mean the Lee's Summit Board of Zoning Adjustments.

Sec. 15.560. Boarding house or lodging house.

A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

Sec. 15.570. Boat dealer.

See "Recreational vehicle sales."

Sec. 15.580. Broadcast.

Broadcast shall mean to transmit information over the airwaves to two or more receiving devices simul-

taneously, including transmission over local television or radio stations, satellite systems or wireless data communications networks.

Sec. 15.590. Buffer zone.

Buffer zone shall mean an open and unpaved ground area around the perimeter of a tract of land that is landscaped or planted so as to provide green space.

Sec. 15.600. Builder.

Builder shall mean a person undertaking the construction of a residential, commercial or industrial improvement.

Sec. 15.610. Building.

Building shall mean a structure for the purpose of housing or enclosing persons, animals or chattels.

Sec. 15.620. Building and grounds maintenance service.

Building and grounds maintenance service shall mean an establishment or place of business primarily engaged in the provision of maintenance and custodial services to firms, business or individuals. Typical uses include janitorial, mowing, landscape maintenance, or window cleaning services.

Sec. 15.630. Building coverage.

Building coverage shall mean the floor area of the building at grade, also known as the building's footprint.

Sec. 15.640. Building elevation.

Building elevation shall mean an exterior wall of a building exposed to public view.

Sec. 15.650. Building height.

Building height shall mean the vertical distance measured from the highest of the following three levels:

- A. From the street curb level;
- B. From the established or mean street grade in case the curb has not been constructed; or

- C. From the average finished ground level adjoining the building where it sits back from the street line;

To the highest point of:

- A. The coping of a flat roof or to the deck line of a mansard roof;
- B. To the average height of the highest gable of a pitched roof or hipped roof or hipped roof; or
- C. The maximum height of any segment of a stepped or terraced building.

Sec. 15.660. Building line.

See "Setback line."

Sec. 15.670. Building Official.

Building Official shall mean the Director of Codes Administration or Code Official of the City of Lee's Summit, Missouri, or his/her designee.

Sec. 15.680. Building, existing.

Building, existing shall mean a building erected prior to, or for which a valid building permit has been issued prior to, and is valid on, the effective date of this chapter.

Sec. 15.690. Carport.

Carport shall mean a roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

Sec. 15.700. Chapter.

Chapter shall mean the Unified Development Ordinance (UDO), Chapter 21 of the Lee's Summit Municipal Code.

Sec. 15.710. Check cashing business.

See "Unsecured loan business."

Sec. 15.720. Child care center.

See "Day care facility."

Sec. 15.730. Child care home, family.

See "Day care facility."

Sec. 15.740. Child care home, group.

See "Day care facility."

Sec. 15.750. Church, temple or synagogue.

Church, temple or synagogue shall mean a building or group of buildings that are used to conduct organized religious services.

Sec. 15.760. City.

City shall mean the City of Lee's Summit, Missouri.

Sec. 15.770. City Code.

City Code shall mean the Code of Ordinances of the City of Lee's Summit, Missouri, as amended.

Sec. 15.780. City Engineer.

City Engineer shall mean the City Engineer of the City of Lee's Summit, Missouri, or his/her designee.

Sec. 15.790. Club, civic or fraternal organization.

Club, civic or fraternal organization shall mean a membership association composed of persons who are bona fide dues paying members and to whom (and their guests) use of facilities owned or leased by the association is generally restricted. Such definition shall include buildings owned or operated by a person, for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service that is customarily carried on as a business. This definition shall include organizations such as the American Legion, Masonic Lodge and Veterans of Foreign War. Also see fraternal organizations.

Sec. 15.800. Commission.

Commission shall mean the Planning Commission of Lee's Summit, Missouri.

Sec. 15.810. Common open space.

See "Open space."

Sec. 15.820. Common property.

Common property shall mean all improved and unimproved lands which are not a part of individual lots

and are designated for the mutual benefit of the owners of property within a development, where such lands are not dedicated to or conveyed for public use, whether or not such lands are required by the provisions of this chapter.

Sec. 15.830. Communication tower.

See "Tower."

Sec. 15.840. Condominium.

Condominium shall mean a system of separate ownership of individual units or a multiple unit building.

Sec. 15.850. Construction contractor.

Construction contractor shall mean a person engaged in the construction of buildings, engaged in heavy construction (such as streets, bridges or utilities), or specialized in such construction trades as plumbing, heating and air-conditioning, electrical wiring, masonry, roofing or gutters, well drilling, or house painting.

Sec. 15.860. Construction equipment.

Construction equipment shall mean a self-propelled or non-propelled equipment designed for off-road use in grading or construction; including trailers, attachments, and component parts for such equipment.

Sec. 15.870. Construction materials sales and services.

Construction materials sales and services shall mean establishments or places of business primarily engaged in the retail or wholesale sale of materials used in the construction of buildings or other structures, as well as construction activities and the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses may include lumber yards, building materials stores, tool and equipment rental or sales, and building contractors.

Sec. 15.880. Convalescent, nursing or retirement home.

Convalescent, nursing or retirement home shall mean an intermediate care facility primarily engaged in providing inpatient nursing and rehabilitative ser-

vices to residents who require watchful care and medical attention or treatment, but not on a continuous basis, although staff is on duty 24-hours per day.

Sec. 15.890. Council.

Council shall mean the Governing Body of the City of Lee's Summit, Missouri.

Sec. 15.900. Court.

Court shall mean an unoccupied open space other than a yard on the same lot with a building which is bounded on two or more sides by the walls of such building.

Sec. 15.910. Covenants.

Covenants shall mean any contract or deed, or portion thereof, restricting the manner in which land may be used.

Sec. 15.920. Cul-de-sac.

Cul-de-sac shall mean a street having one end open to traffic and being terminated by a vehicular turnaround.

Sec. 15.930. Curb level.

Curb level shall mean the top of the curb at its highest point in front of the lot, or in the case of a corner lot, the point along the abutting streets where the curb level is the highest.

Sec. 15.940. Custom order shop.

Customer order shop shall mean a business establishment that offers handmade or special order merchandise, one of a kind original art work, home furnishings or similar merchandise, but which maintains no inventory on site other than display items.

Sec. 15.950. Dance club.

Any commercial establishment or other gathering place, whether or not admission is charged, wherein dancing is allowed by one or more persons, whether or not they are compensated. This shall not include dance academies, schools, or studios where dancing is permitted only by students and instructors engaged in dancing instruction.

Sec. 15.960. Dance studios or schools.

Establishments wherein dancing is only allowed by students and instructors engaged in dancing instruction.

Sec. 15.970. Day care center.

See "Day care facility."

Sec. 15.980. Day care facility.

Terms associated with day care facilities shall be defined as follows:

- A. Day care home. A family home in which an unlicensed day care provider resides and provides family-like care for up to four persons not related to the day care provider, for any part of the 24-hour day, without overnight stays.
- B. Day care, group. A residential structure, occupied by a licensed day care provider who cares for five to ten persons not related to the day care provider for any part of a 24-hour day.
- C. Day care center. A building operated by a licensed day care provider that receives more than ten persons for care for any part of a 24-hour day, without overnight stays.

Sec. 15.990. Day care home.

See "Day care facility."

Sec. 15.1000. Day care, group.

See "Day care facility."

Sec. 15.1010. Deck.

Deck shall mean a platform greater than 18 inches in height and located in the side or rear yard serving as a floor and located above the finished grade that is usually directly adjacent or attached to a building.

Sec. 15.1020. Dedication.

Dedication shall mean the intentional transfer by the developer with the consent of the City Council to the public ownership of or an interest in land for a public purpose.

Sec. 15.1030. Design and Construction Manual.

Design and Construction Manual shall mean the Design and Construction Manual of the City of Lee's Summit, Missouri, as amended.

Sec. 15.1040. Developer.

Developer shall mean a person who engages in development of land, whether or not that person is the landowner.

Sec. 15.1050. Development.

Development shall mean any man-made change to improved or unimproved land, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Sec. 15.1060. Director.

Director shall mean the Director of the Department of Planning and Development of Lee's Summit, Missouri, or his/her designee.

Sec. 15.1070. Divided arterial.

See "Street."

Sec. 15.1080. Dog run.

Dog run shall mean a fenced-in area that is used to restrain dogs or other small animals.

Sec. 15.1090. Drive-in motion picture theater.

See "Theater."

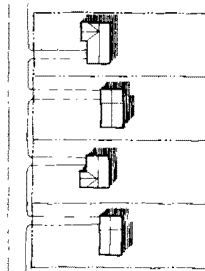
Sec. 15.1100. Drive-up establishment.

Drive-up establishment shall mean a place of business that encourages customers to receive services or obtain goods, usually through a window or automated device, while remaining in their motor vehicle such as dry cleaners, banks, pharmacies grocery stores, etc. This definition does not apply to restaurants or package liquor establishments.

Sec. 15.1110. Dwelling.

Dwelling shall mean a room or suite of rooms within an apartment building arranged, intended or de-

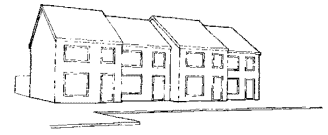
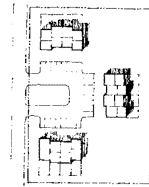
signed as a place of residence; or any building, or portion thereof, which is designed, built, leased, rented, let, or hired to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the said building; or a building or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, but not hotels, motels, rooming houses, nursing homes, travel trailers, recreational vehicles, manufactured or mobile homes. The following words or terms associated with dwelling shall have the following meanings:



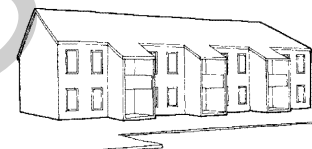
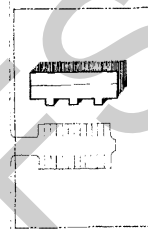
DWELLING, SINGLE-FAMILY DETACHED



- A. Four-family dwelling (fourplex). A dwelling situated on one lot occupied exclusively by four families, respectively, in separate dwelling units living independently of each other.
- B. Garden apartment building. A multi-family dwelling in which a dwelling unit may be located above another.
- C. Loft dwelling. A dwelling located above the first floor of a non-residential use such as a store or office.
- D. Multi-family dwelling. A dwelling situated on one lot occupied by three or more families in separate dwelling units living independently of each other.
- E. Single-family attached dwelling (twin home or townhome). Single family dwellings sharing a common wall but situated on separate lots designed to be occupied exclusively by separate families.



DWELLING, TOWNHOUSE



DWELLING, GARDEN APARTMENT

- F. Single-family detached dwelling. A dwelling situated on one lot designed to be occupied exclusively by one family.
- G. Three-family dwelling (triplex). A dwelling situated on one lot occupied exclusively by three families, respectively, in separate dwelling units living independently of each other.
- H. Two-family dwelling (duplex). A dwelling situated on one lot occupied exclusively by two families, respectively, in separate dwelling units living independently of each other.
- I. Manufactured home. (See section 15.1730.)

Sec. 15.1120. Easement.

Easement shall mean a grant to the public or a person by the owner of land of the use of a described area of the land for specified purposes, where fee simple title to the land remains with the property owner.

Sec. 15.1130. Effective date.

Effective date shall mean the date the ordinance adopting this chapter takes effect.

Sec. 15.1140. Employee.

Employee shall mean any and all persons, including managers and entertainers who work in or at or render any services directly related to the operation of a business.

Sec. 15.1150. Existing use.

Existing use shall mean the use of a lot or structure at the time of the effective date of this chapter.

Sec. 15.1160. Family.

Family shall mean two or more persons related by blood or marriage, including not more than two lodgers or boarders, living together and occupying a single housekeeping unit with common kitchen facilities, or a group of not more than four persons (excluding servants), who need not be related by blood or marriage living together by joint agreement and occupying a single housekeeping unit with common kitchen facilities.

Sec. 15.1170. Fascia.

Fascia shall mean a vertical plane that represents the transition from the eave height at the load-bearing walls to the roofline.

Sec. 15.1180. Fee simple.

Fee simple shall mean a type of ownership of real property, also referred to as fee simple absolute, whereby the owner unconditionally owns a specified piece of land.

Sec. 15.1190. Fence.

Fence shall mean a freestanding structure resting on or partially buried in the ground that forms a barrier which is not otherwise part of any building or other structure and is used to delineate a boundary or as a means of confinement or privacy.

Sec. 15.1200. Flood insurance rate map (FIRM).

Flood insurance rate map shall mean the official map of the City on which the flood hazard boundaries and the zones have been delineated, pursuant to the flood insurance study, establishing insurance rates applicable to the City.

Sec. 15.1210. Flood insurance study (FIS).

Flood insurance study shall mean the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Sec. 15.1220. Floodplain.

Floodplain shall mean the area subject to flooding as identified by the current flood insurance rate map (FIRM) in accordance with all federal, state and City Code requirements.

Sec. 15.1230. Floor area ratio (FAR).

Floor area ratio shall mean the numerical value obtained through dividing the gross floor area of a building or buildings by the area of the lot on which the building or buildings are located.

Sec. 15.1240. Floor area, gross (GFA).

Floor area, gross shall mean the sum of the gross horizontal areas of the several floors, measured in square feet, including the basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The total floor area of a building shall also include elevator shafts and stairways at each floor; floor space used for mechanical equipment, penthouses, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses. The total floor area shall not include: Areas or space devoted to off-street parking or loading; and uncovered porches, terraces and loading docks.

Sec. 15.1250. Floor area, net (NFA).

Floor area, net shall mean the sum of the net horizontal floor area of the several floors of a building measured from the exterior faces of the exterior walls or from the interior faces of walls separating two buildings.

- A. The net floor area of a building shall include:
1. Basements, when used for other than storage;
 2. Penthouse, excluding mechanical penthouses;

3. Attic space having a headroom of seven and one-half feet or more;
 4. Enclosed porches;
 5. Interior balconies and mezzanines, excluding those designed and used as pedestrian common space;
 6. Floor area devoted exclusively to storage;
 7. Entrance lobbies;
 8. Interior covered common areas designed primarily for pedestrian circulation; and
 9. Public restrooms.
- B. The net floor area of a building does not include:
1. Floor space occupied by mechanical, telephone and electrical equipment, and mechanical penthouses;
 2. Stairwells, escalators and elevator shafts;
 3. Attic space having a headroom of less than seven and one-half feet;
 4. Interior off-street parking and loading areas; and
 5. Basements, or portions thereof used for storage.

Sec. 15.1260. Four-family dwelling (fourplex).

See "Dwelling."

Sec. 15.1270. Fraternal organization.

See "Club, civic or fraternal organization."

Sec. 15.1280. Freight agency or shipping coordinator.

Freight agency or shipping coordinator shall mean an establishment primarily engaged in the remote arrangement of freight or cargo transportation, and not located where the freight or cargo is handled, stored or transported.

Sec. 15.1290. Freight terminal.

Freight terminal shall mean a building or premises where trucks load and unload cargo and freight and

where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

Sec. 15.1300. Frontage.

Frontage shall mean that side of a lot abutting a public right-of-way line.

Sec. 15.1310. Frontage road.

See "Street."

Sec. 15.1320. Garage.

Garage shall mean an accessory building of a main building primarily used for storage of a motor vehicle.

Sec. 15.1330. Garden apartment building.

See "Dwelling."

Sec. 15.1340. Garden center.

Garden center shall mean a business that sells garden equipment, seeds, plants and fertilizers.

Sec. 15.1350. Governing Body.

Governing Body means mayor and the city council of the city.

Sec. 15.1360. Grade.

Grade shall mean the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

Sec. 15.1370. Grade, street.

Grade, street shall mean the slope of a road, street or other public way, specified in percentage of vertical to horizontal measurements.

Sec. 15.1380. Greenhouse.

Greenhouse shall mean a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature

and humidity can be regulated for the cultivation of plants for subsequent sale or for personal enjoyment.

Sec. 15.1390. Greenhouse (commercial).

See Section 15.2230.

Sec. 15.1400. Grocery store, general.

Grocery store, general shall mean establishments with 10,000 square feet of gross floor area or more primarily engaged in the retail sale of food or household products for home consumption. Typical uses include large grocery stores (including the sale of beer and wine in unopened containers for off-premise consumption where revenue from the sale of groceries comprises at least 51 percent of the gross income of the establishment during a calendar year, and where at least 51 percent of the total display or shelf space is devoted to groceries other than beer and wine), delicatessens, meat markets, retail bakeries, and candy shops.

Sec. 15.1410. Grocery store, limited.

Grocery store, limited shall mean establishments less than 10,000 square feet of gross floor area primarily engaged in the retail sale of food or household products for home consumption. Typical uses include those uses specified for grocery store, general.

Sec. 15.1420. Group home for persons with disabilities, hospice, or special care.

Group home for persons with disabilities, including hospice and/or other special care needs shall mean a residential facility where meals, lodging, supervision and training are provided. Halfway houses and detention facilities are not included in this definition.

Sec. 15.1430. Group home for the disabled.

See Section 6.890.

Sec. 15.1440. Guest house.

Guest house shall mean an accessory use to a dwelling designed and intended for the housing of

visitors to a property at the invitation of the property residents and meeting or exceeding the standards for single-family dwellings.

Sec. 15.1450. Halfway house.

Halfway house shall mean an establishment primarily engaged in the provision of personal care and services related to parolees, prisoners, or juveniles who have been released from prison, jail, or assigned to a residential care facility by a court of law.

Sec. 15.1460. Health club or fitness center.

Health club or fitness center shall mean a business that provides facilities for aerobic exercises, such as running and jogging tracks, exercise equipment, game courts, gymnasium, or swimming facilities.

Sec. 15.1470. Heliport.

Heliport shall mean an area of land or water or a structural surface that is used for the landing and taking off of helicopters, and any appurtenant areas that are used for helicopter buildings and other heliport facilities. This definition shall also include heli-stops.

Sec. 15.1480. Helistop.

An area designed to be used for the landing or takeoff of one helicopter, the temporary parking of one helicopter, and other facilities as may be required by federal and state regulations, but not including operation facilities such as maintenance, storage, fueling, or terminal facilities.

Sec. 15.1490. Helistop, limited use.

Any landing area used for the taking off or landing of private helicopters for the purpose of picking up and discharging of possession or cargo. This facility is not open to use by any helicopter without prior permission having been obtained.

Sec. 15.1500. Helistop, unlimited use.

Any landing area used for the taking off or landing of private helicopters for the purpose of picking up and discharging of possession or cargo. No fueling, refueling, or service facilities.

Sec. 15.1510. Home occupation.

Home occupation shall mean an activity conducted in a dwelling unit as an economic enterprise or for financial gain by members of the household residing therein that is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Sec. 15.1520. Hospital.

Hospital shall mean an institution providing primary health service and medical and surgical care to persons suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions. This shall include, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

Sec. 15.1530. Hotel.

Hotel shall mean a building, or portion thereof, offering lodging accommodations to the general public for compensation and that may provide additional services such as restaurants, meeting rooms, and recreational facilities.

Sec. 15.1540. Impervious coverage.

Impervious coverage shall mean the total ground area covered by all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, excluding inground and above ground swimming pool, and any other site improvements or structures contributing to run-off greater than would occur on the site in its natural state.

Sec. 15.1550. Improvement.

Improvement shall mean any man-made item that becomes part-of, is placed upon, or is affixed to land.

Sec. 15.1560. Industrial use.

Industrial use shall mean an economic activity involving construction, manufacturing, warehousing, wholesale trade, and associated service uses as defined by this chapter.

Sec. 15.1570. Inoperative vehicle.

See "Vehicle, inoperative."

Sec. 15.1580. Interference.

Interference shall mean disturbances in reception caused by intruding signals or electrical current.

Sec. 15.1590. Junkyard, wrecking yard, salvage yard or scrap yard.

Junkyard, wrecking yard, salvage yard or scrap yard shall mean a place where waste, discarded or salvaged metals, inoperative vehicles, used plumbing fixtures, and other materials are bought, sold, exchanged, stored, baled, cleaned; or a place for the storage of salvaged materials and equipment from house wrecking and salvaged structural steel; but excluding retail/commercial pawnshops and establishments for the sale, purchase, or storage of used cars in operable, drivable condition, salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations. For the purposes of this definition, any lot containing more than two inoperative vehicles shall be considered a junkyard.

Sec. 15.1600. Kennel.

Kennel shall mean any lot or premises, or portion thereof, on which animals are boarded or bred. A commercial kennel shall mean any lot or premises, or portion thereof, on which animals are boarded or bred for the purpose compensation or kept for sale.

Sec. 15.1610. Laboratory.

Laboratory shall mean a building, or portion thereof, in which scientific, medical or dental research, investigation, testing or experimentation is conducted.

Sec. 15.1620. Landowner.

Landowner shall mean any person having a legal or equitable interest in a property.

Sec. 15.1630. Laundry, dry cleaning or garment service.

Laundry, dry cleaning or garment service shall mean establishments primarily engaged in the provision of laundering, dry cleaning, clothing alterations or dyeing services.

Sec. 15.1640. Liquor store.

Liquor store shall mean an establishment or place of business primarily engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

Sec. 15.1650. Livestock.

Livestock shall mean animals used for the production of food or products, such as cattle, sheep, goats, hogs or poultry.

Sec. 15.1660. Loading area.

Loading area shall mean an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which a loading space is located.

Sec. 15.1670. Loft dwelling.

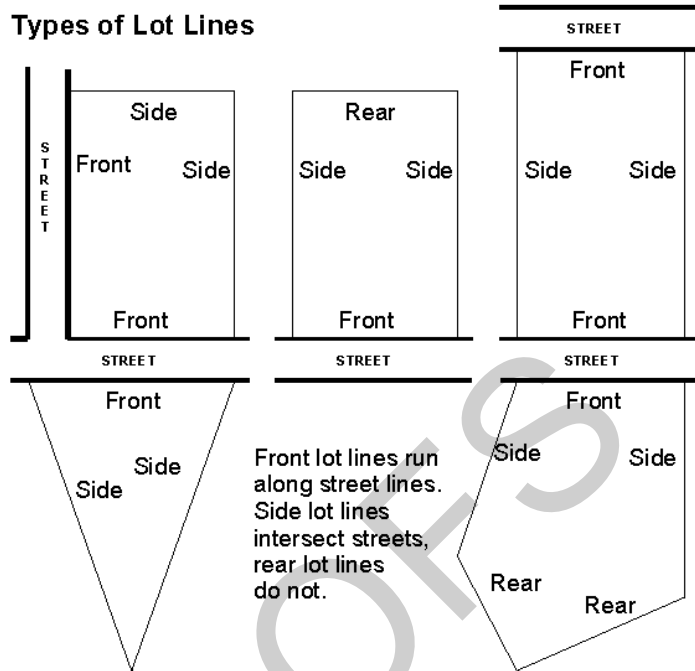
See "Dwelling."

Sec. 15.1680. Lot.

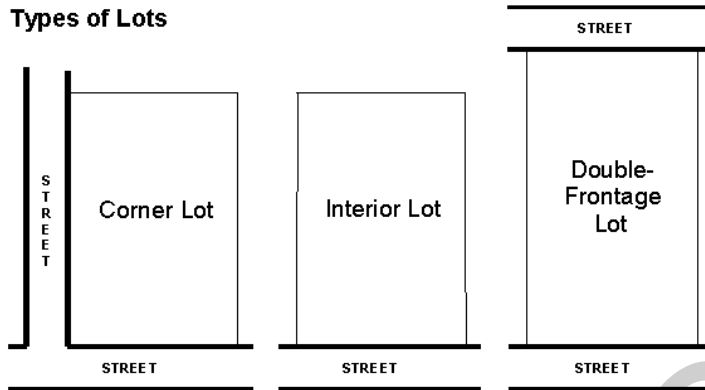
Lot shall mean a parcel of land occupied by or intended for a use allowed in this chapter, including one main building together with its accessory buildings, open spaces, and parking spaces required by this chapter, and having its principal frontage upon a public street or road as established by this chapter. The word "lot" shall include the word "plot," "tract," or "parcel." The derivations of lot shall maintain the following definitions:

- A. Lot area. The area of a horizontal plane bounded by the vertical planes through front, rear and side lot lines.
- B. Lot, corner. A lot abutting upon two or more streets at their intersection.
- C. Lot depth. The mean horizontal distance between the front and rear lot lines.
- D. Lot, double frontage. A lot having frontage on two non-intersecting roads; as distinguished from a corner lot. This definition shall include through lots.
- E. Lot, interior. A lot other than a corner lot whose sides do not abut upon any street.
- F. Lot line. The property boundary line of any lot. The derivations or modifications of lot line shall maintain the following definitions.

Types of Lot Lines



1. Lot line, front. The lot line abutting a street or private drive. In the case of a corner lot, the front lot line shall normally be the lot line with the shortest length. In the case of a double frontage lot, the front lot line shall be the lot line adjacent to the street that provides primary access to the lot or towards which the main building on the lot is oriented.
2. Lot line, rear. Any lot line that is not a front lot line or a side lot line.
3. Lot line, side. Any lot line that intersects the front lot line. A side lot line shall include any linked line segments or arcs that have a bearing which is within 45 degrees of a line drawn perpendicular to the front lot line. Where the application of the rules is ambiguous or where the property owner requests an alternative designation, the Director may specifically designate the various lot lines for a particular lot.



G. Lot width. The horizontal distance between the side lot lines, measured at the front building line.

Sec. 15.1690. Lot of record.

Lot of record shall mean a lot with respect to which the plat or deed has been properly recorded prior to the effective date of this chapter.

Sec. 15.1700. Main building.

Main building shall mean the primary building on a lot or a building that houses a main use.

Sec. 15.1710. Main use.

Main use shall mean the primary or predominant use of land, a building or structure.

Sec. 15.1720. Major street plan.

Major street plan shall mean the current plan adopted by the City, pursuant to RSMo ch. 89, showing the location of streets, highways, parks and drainage systems and specifying the general alignment, functional classification, acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for, sale or lease of streets within the jurisdiction of the City.

Sec. 15.1730. Manufactured home.

Manufactured home shall mean a structure that is governed by the federal manufactured home con-

struction and safety standards established pursuant to The National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. Section 5403.

Sec. 15.1740. Manufactured home park.

Manufactured home park shall mean any lot or parcel under single ownership on which two or more manufactured homes are to be located or intended to be located for purposes of residential occupancy.

Sec. 15.1750. Manufactured home sales.

Manufactured home sales shall mean a premises on which manufactured homes are displayed for sale.

Sec. 15.1760. Manufacturing.

Manufacturing shall mean an economic activity involving the mechanical or chemical transformation of materials or substances into new products including the assembly of component parts, the manufacturing of products and the blending of materials such as lubricating oils, plastics, resins, or liquors.

Sec. 15.1770. Manufacturing, heavy.

Manufacturing, heavy shall mean the extraction of natural resources or the transformation of raw materials through mechanical or chemical means into basic products for subsequent assembly, fabrication or use in the production of finished goods.

Sec. 15.1780. Manufacturing, light.

Manufacturing, light shall mean a use engaged in the manufacture of finished products or parts, predomi-

nantly from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products. The manufacture of industrial solvents and cleaners shall be included.

Sec. 15.1790. Martial arts.

Martial arts shall mean the instruction in any form of self-defense that utilizes some combination of striking, kicking, punching, grappling, or pinning either through the practice of forms and/or sparring techniques.

Sec. 15.1800. Massage.

Massage shall mean any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice. The term "massage" is synonymous with the term "therapeutic massage."

Sec. 15.1810. Massage facility.

Massage facility shall mean an establishment where any person performs massage or permits massage to be performed for compensation. The operator of a massage facility must obtain a massage business license pursuant to Chapter 28, Division 2 of the Code of Ordinances City of Lee's Summit.

Sec. 15.1820. Massage therapist.

Massage therapist shall mean a person who has completed all the requirements pursuant to the Code of Ordinances for the City of Lee's Summit for a massage therapist business license in order to practice massage within the City. Upon receipt of a massage therapist business license from the City of Lee's Summit, a massage therapist may perform massage for compensation, but only at a licensed massage facility, or as in-office massage pursuant to Chapter 28, Division 2 of the Code of Ordinances City of Lee's Summit.

Sec. 15.1830. Mast.

See "Tower."

Sec. 15.1840. Master Development Plan.

Master Development Plan shall mean the Lee's Summit Comprehensive Land Use Plan, as amended.

Sec. 15.1850. Medical or dental office.

See "Office."

Sec. 15.1860. Microwave.

Microwave shall mean electromagnetic radiation with frequencies higher than 1,000 MHz; highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.

Sec. 15.1870. Mini-warehouse.

Mini-warehouse shall mean a structure containing separate storage areas of varying sizes leased or rented on an individual basis.

Sec. 15.1880. Mobile home.

Mobile home shall mean a transportable, factory-built structure, designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. Section 5403, which became effective June 15, 1976.

Sec. 15.1890. Modular unit.

Modular unit shall mean a factory fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes. Modular units do not include structures defined as manufactured or mobile homes or constructed with an integral chassis and attached wheels.

Sec. 15.1900. Motel.

Motel shall mean a building primarily offering transient lodging accommodations to the general public for compensation with access from each room to a readily accessible off-street parking area for use by the patrons of the building. This definition shall also include motor lodges.

Sec. 15.1910. Motion picture theater.

See "Theater."

Sec. 15.1920. Motor vehicle.

See "Vehicle, motor."

Sec. 15.1930. Motorcycle sales or service.

Motorcycle sales or service shall mean the use of any building or premises for the display and sale of new or used motorcycles, scooters or mopeds, and which may include any repair service conducted as an accessory use.

Sec. 15.1940. Multi-family dwelling.

See "Dwelling."

Sec. 15.1950. Municipality.

Municipality shall mean the City and any other body politic whether it be a city, town, village or political subdivision of this state, organized under the Constitution of the State of Missouri or under laws of the State of Missouri or by decision of the highest court of this state determined to be a municipal corporation.

Sec. 15.1960. Nonconforming lot.

Nonconforming lot shall mean a lot existing on the effective date of this chapter that does not meet the minimum area requirements of the zoning district in which the lot is located.

Sec. 15.1970. Nonconforming sign.

Nonconforming sign shall mean a sign that, on the effective date of this chapter, does not conform to any one or more of the regulations set forth in this chapter.

Sec. 15.1980. Nonconforming situation.

Nonconforming situation shall mean a situation that occurs when, on the effective date of this chapter, an existing lot, structure or improvement, or the use of an existing lot, structure or improvement no longer conforms to one or more of the regulations applicable to the zoning district in which the lot, structure or improvement is located.

Sec. 15.1990. Nonconforming use.

Nonconforming use shall mean a nonconforming situation that occurs when property is used for a purpose or in any manner made unlawful by the use regulations or development and performance standards applicable to the zoning district in which the property is located. The term also refers to the activity that constitutes the use made of the property.

Sec. 15.2000. Nursery.

Nursery shall mean land or structures used to raise flowers, shrubs, trees and other plant material for retail or wholesale sale.

Sec. 15.2010. Nursery school.

Nursery school shall mean a program operated by a person or organization with the primary function of providing an educational program for preschool-age children for no more than four hours per child per day.

Sec. 15.2020. Nursing home.

See "Convalescent, nursing or retirement home."

Sec. 15.2030. Office.

Office shall mean the use of any building or premises primarily for conducting the affairs of a business, profession, service, industry, or government, and generally furnished with desks, tables, files, and communication equipment.

- A. Building contractor or construction firm office. An office primarily engaged in the provision of services relating to a building contractor or construction firm business.
- B. Business office, general. An office used primarily for the administrative or legal affairs of a company.
- C. Medical or dental office. An office occupied and maintained for the provision of services by a person licensed by the State of Missouri to practice in the healing arts for humans, such as a physician, surgeon, dentist, or optometrist.
- D. Professional office. An office occupied by a member of a recognized profession and maintained for the provision of professional ser-

vices, such as but not limited to, a lawyer, architect, city planner, landscape architect, interior designer, accountant, financial planner, auditor, bookkeeper, real estate, brokerage for securities or commodities, secretarial services, or engineer.

Sec. 15.2040. Office park.

Office park shall mean a development on a single parcel of property that may contain a mix of office, retail and service uses as regulated by Section 6.1470 and authorized as a use subject to conditions.

Sec. 15.2050. Off-street parking space.

Off-street parking space shall mean an area that is not within the paved area of a street that is used for the temporary storage of one (1) automobile or other motor vehicle, with direct or indirect access to a dedicated street or right-of-way.

Sec. 15.2060. Open space.

Open space shall mean any parcel of land or water essentially unimproved or otherwise devoid of structures and paved areas set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

- A. Common open space. Useable land area of a site that is available to all occupants of a development on a continuing and permanent basis and is not covered by buildings (except recreational structures) or public rights-of-way.
- B. Public open space. Land reserved for leisure and/or recreational use but dedicated in fee simple to a governing body or agency to be responsible for operation and maintenance; therefore, such land is not for the exclusive use of the residents of a specific development.

Sec. 15.2070. Outdoor display area.

Outdoor display area shall mean a portion of a property outside of any building where merchandise, goods or other items are placed in public view for the purpose of direct sale or lease to customers.

Sec. 15.2080. Outdoor storage.

Outdoor storage shall mean the keeping in an unroofed, open area of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

Sec. 15.2090. Outparcel.

Outparcel shall mean a lot deeded separately from a larger tract for individual development, but generally sharing access with the larger tract. Outparcels are most generally associated with shopping centers.

Sec. 15.2100. Overlay zone.

Overlay zone shall mean a geographical area that encompasses one or more underlying zoning districts and that imposes additional requirements above those required by the underlying zone.

Sec. 15.2110. Owner.

Owner shall mean any person or group of persons having legal and equitable title in the land sought to be subdivided or developed pursuant to this chapter.

Sec. 15.2120. Owner occupied.

Owner occupied shall mean the owner(s) of the principal dwelling in whom legal or equitable title rests or any person(s) who have acquired interest in the property by contract to purchase, which occupy the principal dwelling as their permanent residence.

Sec. 15.2130. Parapet wall.

Parapet wall shall mean any wall that extends above the roof line.

Sec. 15.2140. Patio.

Patio shall mean a level, unenclosed surfaced area located at the finished grade that is usually directly adjacent to an attached building. Patio does not include a deck.

Sec. 15.2150. Pawn shop.

Pawn shop shall mean a type of used merchandise store in which merchandise is offered as collateral for obtaining loans and wherein such merchandise is offered for sale in recompense for default of loan repayment.

Sec. 15.2160. Payday loan business.

See "Unsecured loan business."

Sec. 15.2170. Pedestrian way.

Pedestrian way shall mean a right-of-way dedicated or otherwise assigned to public use that cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Sec. 15.2180. Performance standard.

Performance standard shall mean a criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, heat, glare or other effects generated by or inherent in the uses of land or buildings. Such standards may also establish other various criteria for land use.

Sec. 15.2190. Performing arts theater.

See "Theater."

Sec. 15.2200. Permitted use.

Permitted use shall mean any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Sec. 15.2210. Person.

Person shall mean any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

Sec. 15.2220. Personal wireless facility or service.

Personal wireless facility or service shall mean an establishment or service providing wireless telecommunication services as described by the Telecommunications Act of 1996, including:

- A. Antennas and transmitting and receiving equipment for personal wireless services;
- B. Commercial mobile radio services (including cellular, PCS, enhanced specialized mobile radio, specialized mobile radio, and paging);
- C. Unlicensed wireless services; and
- D. Common carrier wireless exchange.

Sec. 15.2230. Plant nursery, garden center, greenhouse (commercial).

Plant nursery, garden center, greenhouse (commercial) shall mean any business engaging in the commercial sale of bedding plants, trees, bushes, landscaping materials, garden tools, garden fertilizers, soil and other kindred products.

Sec. 15.2240. Plat, final.

Plat, final shall mean a complete and exact subdivision plat, prepared for official recording as required by state statute and this chapter, to define property boundaries and proposed streets and other improvements.

Sec. 15.2250. Plat, minor.

Subdivision, minor shall mean any subdivision containing not more than three lots fronting on an existing street; not involving any new street, the extension of municipal facilities, or the creation of any public improvements; not adversely affecting the remainder of the parcel or adjoining property; and not in conflict with any provision of the UDO.

Sec. 15.2260. Plat, preliminary.

Plat, preliminary shall mean a formal proposed plan for a subdivision prepared in accordance with the provisions of this chapter.

Sec. 15.2270. Platted.

Platted shall mean real property that is included within in the area of land covered by a final plat recorded with the Register of Deeds.

Sec. 15.2280. Play area.

Play area shall mean an improved and equipped area for the play of children.

Sec. 15.2290. Porch.

Porch shall mean a platform that may be screened, projecting from the wall of a building and with direct access to or from a building. Porch does not include a deck.

Sec. 15.2300. Premises.

Premises shall mean an area of land with its appurtenances and buildings that, because of its unity of use, is one unit of real estate.

Sec. 15.2310. Principal use.

Principal use shall mean the primary or predominant use of any lot or parcel.

Sec. 15.2320. Professional office.

See "Office."

Sec. 15.2330. Professional or trade association.

Professional or trade association shall mean a private organization that promotes the interests of business groups, such as the Chamber of Commerce; professions, such as the Bar Association; or members of a trade, such as a labor union.

Sec. 15.2340. Prohibited use.

Prohibited use shall mean a use that is not permitted in a zoning district by right, as an accessory use, as a permitted use with conditions, or with a special use permit.

Sec. 15.2350. Public hearing.

Public hearing shall mean a meeting announced and advertised in advance that is open to the public, and at which the public is given an opportunity to speak and participate.

Sec. 15.2360. Public improvements.

Public improvements shall mean street pavements, curb and gutters, sanitary and storm sewers, permanent street monuments, water mains and other related items that are owned by a political subdivision or public utility.

Sec. 15.2370. Radio transmitting and receiving antenna.

See "Tower."

Sec. 15.2380. Recreation facility or area, commercial indoor and/or outdoor.

Recreation facility, commercial shall mean indoor and/or outdoor commercial establishments or places of business primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. Recreation as defined here does not include "adult entertainment."

Sec. 15.2390. Recreation facility or area, non-commercial.

Recreation facility, non-commercial shall mean private non-commercial outdoor playgrounds and recreational facilities that are listed as accessory uses to a subdivision, apartment development, church, or other non-commercial principal use.

Sec. 15.2400. Recreation vehicle sales, lease and rental.

Recreation vehicle sales, lease and rental shall mean the sale, lease or rental of recreation vehicles, such as travel trailers, campers, boats, and personal watercraft, including incidental storage, maintenance, and servicing.

Sec. 15.2410. Recreational vehicle.

Recreational vehicle shall mean a portable vehicular structure without a permanent foundation that can be towed, hauled or driven and is primarily designed as a temporary living accommodation for recreational, camping and travel use and includes, but is not limited to, travel trailers, truck campers, camping trailers, tent trailers, fifth-wheel trailers, and self-propelled motor homes.

Sec. 15.2420. Recreational vehicle dealer.

Recreational vehicle dealer shall mean an establishment or place of business primarily engaged in the sale of new or used recreational vehicles, and which may include any repair service conducted as an accessory use.

Sec. 15.2430. Recyclable material.

See "Recycling facilities."

Sec. 15.2440. Recycling collection facility.

See "Recycling facilities."

Sec. 15.2450. Recycling facilities.

Recycling facilities shall mean an establishment, place of business or use of land for the collection of materials for the purpose of crushing, melting, rendering or reconstitution and reuse of the same materials. Recyclable materials include but are not limited to paper, newspaper, plastic, aluminum cans, metal, cardboard and magazines. Terms associated with recycling are defined as follows:

Facilities that accept recyclable materials.

- A. Reverse vending machine. Reverse vending machines are mechanical devices that accept one or more types of empty beverage containers and issue a cash refund or redeemable coupon.
- B. Recycling collection facility. A recycling collection facility is a facility for the deposit or drop-off of recyclable materials. A recycling collection facility is not a salvage yard. Such a facility does not do processing except limited baling, batching, and sorting of materials. It is designed to allow for a combination of bins, boxes, trailers, reverse vending machines, and other containers for the collection of recyclable materials.
- C. Recycling processing facility. A processing facility receives material from the public and/or other recycling facilities and uses power-driven machinery to prepare materials for efficient shipment by such means as flattening, sorting, compacting, baling, shredding, grinding and crushing.
- D. Recyclable material. Recyclable material is "feedstock" used for direct conversion to manufactured products. It includes, but is not limited to: Cans, bottles, plastic, and paper. Items composed of more than one material, such as salvaged vehicular parts, are generally not considered a recyclable material.

Sec. 15.2460. Recycling processing facility.

See "Recycling facilities."

Sec. 15.2470. Repair.

Repair shall mean the reconstruction or renewal of any part of an existing structure, improvement or fixture for the purpose of maintenance.

Sec. 15.2480. Repair shop, miscellaneous.

Repair shop, miscellaneous shall mean a business establishment primarily engaged in specialized repair services such as bicycle repair, leather goods repair, lock and gun repair, musical instrument repair, cleaning, furnace cleaning and taxidermists.

Sec. 15.2490. Research services.

Research services shall mean establishments primarily engaged in research of an industrial or scientific nature but excludes final product testing. Typical uses include electronics research laboratories, space research and development firms, medical laboratories, or pharmaceutical research labs.

Sec. 15.2500. Residence.

Residence shall mean a dwelling unit.

Sec. 15.2510. Resource extraction.

Resource extraction shall mean a use involving the on-site extraction of surface or sub-surface mineral products or natural resources. Typical extractive uses are quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

Sec. 15.2520. Restaurant, carry-out.

Restaurant, carry-out shall mean a restaurant where food orders are either called in or placed on site inside of the premises with the intention of the customer picking up or waiting for the order to be carried and consumed off the premises.

Sec. 15.2530. Restaurant, delivery.

Restaurant, delivery shall mean a restaurant where food orders are called in and delivery of the order is made off premise to the customer.

Sec. 15.2540. Restaurant, drive-in.

Restaurant, drive-in shall mean a restaurant where food is ordered by the customer through a speaker box system from a vehicle at individual stations out-

side the restaurant and where food is delivered by employees of the restaurant to the customer for consumption on the premises within their private vehicle.

Sec. 15.2550. Restaurant, drive-up.

Restaurant, drive-up shall mean a restaurant where food is ordered by the customer through a window from a vehicle without the use of a speaker box system and where food delivery is provided from a window to the customer with the intention that the food will be consumed off-premise.

Sec. 15.2560. Restaurant, drive-through.

Restaurant, drive-through shall mean a restaurant where food is ordered by the customer through a speaker box system and then delivered through a window to the customer with the intention that the food will be consumed off-premise.

Sec. 15.2570. Restaurant, general.

Restaurant, general shall mean an establishment primarily engaged in preparation of full course meals served on premise, with complete kitchen facilities for preparation of the food sold, and where alcoholic beverages may be sold in conjunction with meals, or at a bar within the restaurant, provided that at least 50 percent or more of the gross income generated at the restaurant is related to food sales.

Sec. 15.2580. Restaurant, limited.

Restaurant, limited shall mean a use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages. Typical uses include soda fountains, ice cream parlors, and coffee shops. This term does not include restaurants that would be included under the definition of "fast food" or "drive-in."

Sec. 15.2590. Reverse vending machine.

See "Recycling facilities."

Sec. 15.2600. Rezoning.

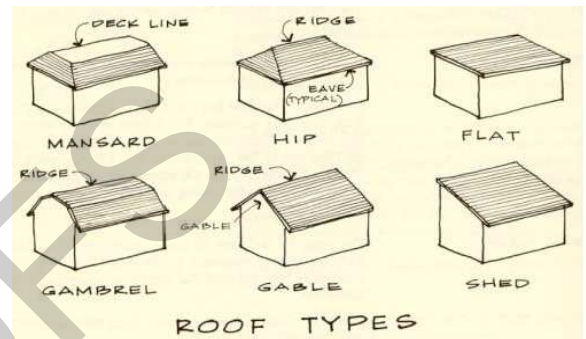
Rezoning shall mean amendment of the zoning district classification applicable to one or more specific parcels of property.

Sec. 15.2610. Right-of-way.

Right-of-way shall mean the land opened, reserved or dedicated for a street, walk or other public purpose.

Sec. 15.2620. Roof.

Roof shall mean the outside top covering of a building or structure.



Sec. 15.2630. Roof, mansard.

Roof, mansard shall mean a roof having two slopes on all four sides, with the lower slope almost vertical and the upper slope almost horizontal; or, from the ground, having the appearance of such a roof.

Sec. 15.2640. RSMo.

RSMo shall mean the Revised Statutes of Missouri.

Sec. 15.2650. Salvage yard.

See "Junkyard."

Sec. 15.2660. Satellite parabolic or dish receiving antenna.

See "Tower."

Sec. 15.2670. School.

- A. Personal enrichment school or tutoring. An establishment or place of business primarily engaged in the provision of services to individuals in a small classroom or one individual setting relating to the education or training of the individual for a specialized skill.
- B. School, private. A facility established for the purposes of education not associated with any pub-

lic or governmental body. This definition shall include academies, colleges, day schools, and schools associated with religious institutions.

- C. School, public. A facility established by the State of Missouri, the Lee's Summit School District, or other governmental agency for the purposes of education.

Sec. 15.2680. Scrap yard.

See "Junkyard."

Sec. 15.2690. Semi-public use.

Semi-public use shall mean a use owned or operated by a nonprofit, religious, or eleemosynary institution for the purpose of providing educational, cultural, recreational, religious, or social services to the general public.

Sec. 15.2700. Setback line or building line.

Setback line or building line shall mean a line parallel to the respective lot line and internal to the lot that defines the required building setback as specified in the zoning district regulations. The derivations of setback line shall maintain the following definitions:

- A. Setback line, front shall be parallel to the front lot line and shall extend from side lot line to side lot line;
- B. Setback line, rear shall be parallel to all rear lot lines and shall extend from side lot line to side lot line. If there is no rear lot line, a semicircular rear setback line shall be drawn with a radius equal to the rear setback requirement and a center at the intersection of the side lines; and
- C. Setback lines, side are parallel to any side lot line and extend from the front setback line to the rear setback line or another side setback line.

Sec. 15.2710. Sexually-oriented toys or novelties.

Sexually-oriented toys or novelties shall mean instruments, devices or paraphernalia which either depict "specified anatomical areas" or are designed or marketed for use in connection with "specified sexual

activities." In determining whether an item is "designed or marketed for use" in connection with "specified sexual activities," the following guidelines may be considered:

- A. Expert testimony as to the principal use of the item;
- B. Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
- C. National and local advertising concerning the use of the item;
- D. Evidence of advertising concerning the nature of the business establishment;
- E. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
- F. The physical or structural characteristics of the item; or
- G. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.
- H. Any person may request an interpretive ruling from the Chief of Police, or his or her designee, as to whether a particular item is considered by the City to be "designed or marketed for use" in connection with "specified sexual activities." An application for an interpretative ruling shall be made in writing on a form provided by the Chief of Police, and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within ten business days following submission of a completed application. The decision of the Chief of Police may be appealed to the City Council within 15 days following the date of the interpretive ruling by submitting a written notice of appeal to the City Clerk.

Sec. 15.2720. Shopping center.

Shopping center shall mean a commercial development containing at least three retail sales or services establishments located in one building, the total gross floor area of which is 25,000 square feet or greater.

Sec. 15.2730. Sidewalk.

Sidewalk shall mean a permanently surfaced area for the exclusive use of pedestrians located and designed in accordance with the Design and Construction Manual.

Sec. 15.2740. Sign.

See Article 2.

Sec. 15.2750. Single-family attached dwelling (twin home or townhome).

See "Dwelling."

Sec. 15.2760. Single-family detached dwelling.

See "Dwelling."

Sec. 15.2770. Solar array.

Solar array shall mean a free-standing, ground-mounted solar collection system consisting of a linked series of photovoltaic modules, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.

Sec. 15.2780. Solar collection system.

Solar Collection System shall mean a roof-mounted or wall-mounted panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.

Sec. 15.2790. Solar electric system.

Solar electric system shall mean a solar photovoltaic system that converts solar energy to electricity and consists of solar energy collection equipment (typically roof- or ground-mounted panels) and an in-

verter that changes DC to AC current or storage batteries. Such systems usually have a capacity of two kW to five kW.

Sec. 15.2800. Solar hot water system.

Solar hot water system shall mean a domestic hot water heating system consisting of solar energy collection equipment (typically roof-mounted panels), heat transfer through a heat exchanger, and hot water storage.

Sec. 15.2810. Solar oriented lot.

A. Solar oriented lot shall mean:

1. A lot with a front line oriented to within 30 degrees of a true east-west line. When the lot line abutting a street is curved, the "front lot line" shall mean the straight line connecting ends of the curve. For a flag lot, the "front lot line" shall mean the lot line that is most parallel to the closest street, excluding the pole portion of the flag lot,
2. A lot, when a straight line is drawn from a point midway between the side lot lines at the required front yard setback to a point midway between the side lot lines at the required rear yard setback, is oriented to within 30 degrees of true north along such line, or
3. A corner lot with a south lot line oriented to within 30 degrees of a true east-west line, where the south lot line adjoins a public street or permanently reserved open space and the abutting street right-of-way or open space has a minimum north-south dimension of at least 50 feet.

Sec. 15.2820. Solar oriented street.

A. Solar Oriented Street shall mean a street oriented to within 15 degrees of a true east-west line.

Sec. 15.2830. Solar ready home.

Solar ready home means a residential dwelling that is designed, oriented, and equipped with upgraded electric, roofing, and other systems to accommodate

future installation and use of a solar energy system that provides either solar hot water heating or solar electric power.

Sec. 15.2840. Solid waste transfer station.

Solid waste transfer station shall mean a facility where refuse and garbage (but no hazardous waste) is delivered for compaction or aggregation and loaded on trucks for shipment to a remote landfill or other disposal facility.

Sec. 15.2850. Special event.

See Article 6, Division 5, Special Events.

Sec. 15.2860. Specified anatomical areas.

Specified anatomical areas shall mean uncovered or exposed human genitals, pubic region or pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or human male genitals in a discernibly erect state, even if completely and opaquely covered.

Sec. 15.2870. Specified sexual activities.

Specified sexual activities shall mean any of the following acts of intended sexual arousal or excitement:

- A. Sexual conduct including, but not limited to, actual or simulated acts of sexual intercourse, masturbation, oral copulation or sodomy;
- B. Fondling or other intentional touching of a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female;
- C. Sadomasochistic acts; or
- D. Acts involving animals or latent objects.

Sec. 15.2880. Stable, track or polo field.

Stable, track or polo field shall mean any structure or area located on a lot designed, arranged, or used for the care, exercise, running, feeding and storage of horses and other such animals, including, but not limited to, ponies, donkeys and mules.

Sec. 15.2890. Standard residential receiving antenna.

See "Tower."

Sec. 15.2900. Stockyard.

Stockyard shall mean an establishment or place of business primarily used for the temporary keeping of livestock for slaughter, market, auction or shipping.

Sec. 15.2910. Storage.

Storage shall mean the placement, keeping, or retention of vehicles, equipment, materials, goods, or products for intermittent use or subsequent distribution or transfer.

Sec. 15.2920. Story.

Story shall mean that part of a building including between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the next highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four feet above the curb level, established or mean street grade, or average ground level.

Sec. 15.2930. Street.

Street shall mean an improved way for the conveyance of motor driven, rubber-tired vehicles, such as automobiles and trucks. Terms related to street shall mean as follows:

- A. Alley. A narrow street used principally as a secondary means of access and usually located along the rear lines of abutting properties.
- B. Arterial. A street providing for through traffic movement with intersections at grade, but no direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.
- C. Collector street. A street providing for the collection and distribution of traffic from arterial streets directly to traffic destinations.

Limited access collector is a collector street with no homes or businesses fronting the street and with no driveway access.

- D. Commercial street. A street providing for the collection and distribution of traffic through commercial areas. Width depending upon feasibility of use, characteristics, and right-of-way available.
- E. Divided arterial. A street providing rapid and efficient movement of large volumes of through traffic between sections of the City. It is not primarily intended to provide direct access to abutting property.
- F. Frontage road. The frontage road, parallel to state highways, provides traffic circulation within commercial and industrial districts from the state highway system.
- G. Industrial. A street providing for direct access to abutting land and for local traffic movement for industrial use.
- H. Residential. A street providing for direct access to abutting land and for local traffic movement.

Sec. 15.2940. Structural alteration.

Structural alteration shall mean any change, other than incidental repairs, to any structure.

Sec. 15.2950. Structure.

Structure shall mean a combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

Sec. 15.2960. Subdivider.

Subdivider shall mean any person, who having an interest in land: (1) causes it directly or indirectly to be divided into a subdivision; or (2) directly or indirectly sells, leases or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plot in a subdivision; or (3) engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plot in a

subdivision; or (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

Sec. 15.2970. Subdivision.

Subdivision shall mean a horizontal or vertical division of a lot, tract or parcel of land into more than two lots or other divisions of land, for the purpose of transfers of ownership or development, whether immediate or future, including all changes in street or lot lines. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, map plat or other recorded instrument and further includes the creation of a condominium or townhome or any other division of property into units. Where no new street or easement of access involved, the division of land into parcels of more than ten acres for agricultural purposes shall not be included within this definition.

Sec. 15.2980. Swimming pool.

Swimming pool shall mean a structure, whether indoors or outdoors, above or below the surface of the ground or both, intended to contain water for swimming or wading, having an inside wall depth at any point of more than two feet or a surface area exceeding 250 square feet.

- A. Swimming pool, commercial. An outdoor for-profit swimming pool intended for use by only those persons who pay a membership or similar fee that entitles such persons to use the swimming pool for a predetermined period of time. Examples of such outdoor swimming pools include, but are not limited to, swimming pools associated with motels/hotels, multi-family dwellings, garden apartment buildings/complexes, clubs and organizations such as a YMCA, private instruction for swimming, scuba diving, etc. For commercial indoor pools see recreation facility or area (indoor).
- B. Swimming pool, private. An indoor or outdoor swimming pool located at a private residence, used or intended to be operated for the exclusive use of the residents of the lot upon which it is located and their invited guests.

- C. Swimming pool, public. A swimming pool intended for use by the general public usually owned and operated by the municipality and including water parks.
- D. Swimming pool, subdivision. A swimming pool located on a lot or tract within a subdivision and intended for use by the property owners within said subdivision and usually owned, operated and maintained by the subdivision HOA, home owners association.

Sec. 15.2990. Swimming pool, commercial.

See "Swimming pool."

Sec. 15.3000. Swimming pool, private.

See "Swimming pool."

Sec. 15.3010. Swimming pool, public.

See "Swimming pool."

Sec. 15.3020. Swimming pool, subdivision.

See "Swimming pool."

Sec. 15.3030. Synagogue.

See "Church, temple or synagogue."

Sec. 15.3040. Tavern or bar.

Tavern or bar shall mean a place of business that serves alcoholic beverages with a legally approved City liquor license at which less than 50 percent of the total revenue is generated by food sales.

Sec. 15.3050. Temple.

See "Church, temple or synagogue."

Sec. 15.3060. Temporary use.

Temporary use shall mean a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Sec. 15.3070. Theater.

Theater shall mean a building or premises devoted to showing motion pictures, or for live dramatic or musical performances. Terms associated with theater shall be defined as follows:

- A. Drive-in motion picture theater. An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or other prerecorded productions to patrons seated in automobiles.
- B. Motion picture theater. A building primarily used for the exhibition of movies or other prerecorded productions to the general public in an indoor setting.
- C. Performing arts theater. A building primarily used for the presentation of live performances of plays or music.

Sec. 15.3080. Three-family dwelling (triplex).

See "Dwelling."

Sec. 15.3090. Tire retreading or repair shop.

See "Automotive repair shop."

Sec. 15.3100. Title loan business.

Title loan business shall mean the business of lending money with the pledge of personal property as collateral, evidenced by a certificate of title issued by the State of Missouri, and regulated under RSMo 367.500 through 367.533, as amended from time to time.

Sec. 15.3110. Tow lot.

Tow lot shall mean a storage lot for the keeping of towed vehicles on a temporary basis.

Sec. 15.3120. Tower.

Tower shall mean a structure that is intended to send and/or receive radio and television communications. Terms associated with tower shall mean as follows:

- A. Antenna. An arrangement of wires, metal rods, or other materials used for the transmission and/or reception of electromagnetic

- waves. The derivations of, modifications of, or words directly associated with antenna shall maintain the following definitions.
- B. Antenna for non-commercial use. Any antenna external to a building, including any supporting structure such as a tower, which is not hand-carried while in use and is used for: Reception or electromagnetic signals, such as radio or television broadcasts or direct satellite television; or for transmission of electromagnetic signals by a licensed amateur radio operator or by means of an Earth-orbiting satellite communications device.
 - C. Antenna support structure. Any mast, pole, tripod, tower or similar structure used to support an antenna.
 - D. Antenna system. The combination of an antenna and antenna support structure.
 - E. Antenna system height. The overall vertical length of the antenna system above grade. If such system is located on a building, the overall height shall include the height of the building.
 - F. Antenna tower. Any structure designed for the purpose of mounting an antenna.
 - G. Communication tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like.
 - H. Mast. Any structure or part of an antenna that has vertical dimensions greater than five times its horizontal dimension that supports or lends support to any part of an antenna.
 - I. Radio transmitting and receiving antenna. An array or system of wires, tubing and supporting members mounted on a mast, tower or building, used for transmitting and/or receiving radio signals that include, but are not limited to, citizen band and other special frequencies.
 - J. Satellite parabolic or dish receiving antenna. A conical, circular or similar shape element of any material, and all of its supporting structures and devices, used for the reception of signals of any frequency from an earth satellite.
 - K. Standard residential receiving antenna. An array made up of small metal tubing and supporting members that are commonly installed on or near residential buildings for the purpose of receiving television or radio signals.
 - L. Tower, guyed. "Tower, guyed" shall mean a communication tower that is supported, in whole or in part, by guy wires and ground anchors.
 - M. Tower, lattice. "Tower, lattice" shall mean a guyed or self-supporting, three- or four-sided, open, steel frame structure used to support antennas.
 - N. Tower, monopole. "Tower, monopole" shall mean a communication tower consisting of a single pole, constructed without guy wires and ground anchors.
 - O. Tower, self-supporting. "Tower, self-supporting" shall mean a lattice communication tower that is constructed without guy wires and ground anchors.
- Sec. 15.3130. Tower, guyed.**
See "Tower."
- Sec. 15.3140. Tower, lattice.**
See "Tower."
- Sec. 15.3150. Tower, monopole.**
See "Tower."
- Sec. 15.3160. Tower, self-supporting.**
See "Tower."
- Sec. 15.3170. Townhouse.**
See "Dwelling."

Sec. 15.3180. Tract.

Tract shall mean a single unit of real property under one ownership, which may be platted or unplatted.

Sec. 15.3190. Trailer.

Trailer shall mean a portable structure supported by wheels, jacks, horses, skids or blocks without permanent foundation that is towed or hauled by another vehicle used for temporary human occupancy, to carry materials, goods or objects; or use as a temporary office.

Sec. 15.3200. Transient merchant.

Transient merchant shall mean a person who does not maintain a permanent place of business and sells any good or service for profit for himself or his principal with a validly issued business license from the City.

Sec. 15.3210. Transition area.

Transition area shall mean one or more lots in a residential subdivision, non-residential subdivision or development, or mixed-use subdivision or development, that is adjacent to a separate subdivision or development.

Sec. 15.3220. Travel trailer camps.

Travel trailer camps shall mean a tract or parcel of land where temporary accommodations are provided for two or more travel trailers open to the public either free or for a fee.

Sec. 15.3230. Truck sales, lease and rentals.

Truck sales, lease and rentals shall mean the sale, lease or rental of trucks, tractors, construction equipment, trailers, agricultural implements, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships and construction equipment dealerships.

Sec. 15.3240. Two-family dwelling (duplex).

See "Dwelling."

Sec. 15.3250. UDO.

UDO shall mean the Unified Development Ordinance of the City of Lee's Summit, Missouri.

Sec. 15.3260. Unrelated.

Unrelated," when referring to persons, shall mean two or more people not related by blood, marriage or adoption.

Sec. 15.3270. Unsecured loan business.

Unsecured loan business shall mean any business which loans money on a short term basis to members of the general public as an element of its operation, including businesses offering payday loans, signature loans and check cashing loans under RSMo ch. 367 or 408.500, and other similar businesses, but not to include banks, savings and loan associations or credit unions which are licensed under RSMo ch. 364 or 365, or pawn brokers governed by RSMo ch. 367, or retail merchants covered by RSMo ch. 400.2.

Sec. 15.3280. Use.

Use shall mean the purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

Sec. 15.3290. Used car lot.

Used car lot shall mean a lot or parcel of land on which pre-owned or used motor vehicles, including, automobiles, trailers and trucks, are displayed for sale or trade.

Sec. 15.3300. Used merchandise store.

Used merchandise store shall mean the use of a building or premises primarily for the retail sale of used merchandise or secondhand goods, such as used clothes, antiques, secondhand books or rare manuscripts, or items of architectural salvage, but not including used cars or other motorized vehicles or pawn shops.

Sec. 15.3310. Uses subject to conditions.

Uses subject to conditions shall mean a use allowed in the particular zoning district upon a finding by the appropriate person that all of the special conditions

delineated in the particular zoning district regulations are met in accordance with the provisions of this chapter.

Sec. 15.3320. Utility.

Utility shall mean any agency that, under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, communication, water, sewage collection, rail transportation, or other such service. This definition shall also include a closely regulated private enterprise with exclusive franchise for providing a public service.

Sec. 15.3330. Utility company.

Utility company shall mean a private business providing electricity, natural gas, telephone, wireless communications or other services under the regulation of the Missouri Public Services Commission or license of the federal government.

Sec. 15.3340. Vacation.

Vacation shall mean the official abandonment of public right-of-way or easement by the City in accordance with state law.

Sec. 15.3350. Variance.

Variance shall mean a modification of the application of certain regulations or provisions of this chapter by the Board, in accordance with the procedure established by Article 2 of this chapter.

Sec. 15.3360. Vehicle, inoperative.

Vehicle, inoperative shall mean any wrecked, disabled or damaged vehicle. Any one of the following conditions shall be deemed prima facie evidence that a vehicle is inoperable:

- A. Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports;
- B. Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways;
- C. Storage of a vehicle with one or more deflated tires.

Sec. 15.3370. Vehicle, motor.

Vehicle, motor shall mean any passenger vehicle, motorcycle, recreational vehicle, truck, trailer truck, or semi-trailer that is propelled or drawn by mechanical power.

Sec. 15.3380. Veterinarian.

Veterinarian shall mean a veterinary hospital or clinic providing medical care and treatment for animals.

Sec. 15.3390. Warehousing and distribution.

Warehousing and distribution shall mean establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants.

Sec. 15.3400. Wholesale establishment.

Wholesale establishment shall mean a business establishment primarily engaged in selling merchandise to other than the general public.

Sec. 15.3410. Wireless telecommunication.

Wireless telecommunication shall mean the transmission through the air of information in the form of electromagnetic or optical signals; including television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic or optical wireless communication.

Sec. 15.3420. Wireless telecommunication facility.

Wireless telecommunication facility shall mean a facility including antennas and transmitting and receiving equipment for wireless telecommunication, including personal wireless services facilities.

Sec. 15.3430. Yard.

Yard shall mean an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this chapter. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between a lot line and the build-

ing, or any protrusions therefrom, shall be used. Where lots abut a street that is designated a thoroughfare street on the major street plan, all yards abutting the street shall be measured from a line one-half the proposed right-of-way width from the center line or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line 25 feet from the center line, or from the lot line, whichever provides the greater setback. The derivations of yard shall maintain the following definitions:

- A. Yard, front. A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.
- B. Yard, rear. A yard between the rear lot line and the rear of the main building and the side lot lines.
- C. Yard, side. A yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard thereof.
- D. Yard, required. The minimum open space between a lot line and the buildable area of a lot within which no structure, parking area, or other obstruction shall be located except as provided by this chapter.
- E. Yard, required front. That yard established by the front setback requirement of this chapter and the established front lot line.
- F. Yard, required rear. That yard established by the rear setback requirement of this chapter and the established rear lot line.
- G. Yard, required side. That yard established by the side setback requirement of this chapter and the established side lot line.

Sec. 15.3440. Yoga.

Yoga shall mean a discipline with the intention of improving flexibility and promoting relaxation that utilizes either one or a combination of the following: (1) postures or poses, (2) meditation, or (3) breathing techniques.

Sec. 15.3450. Zoning map.

Zoning map shall mean the Zoning District Maps of the City of Lee's Summit, Missouri.

TABLE OF ORDINANCES

Contained here is a chronological list of ordinances establishing and amending the Unified Development Ordinance of the City of Lee's Summit.

<i>Ord. No.</i>	<i>Amendment No.</i>	<i>Date Adopted</i>	<i>Appl. No.</i>	<i>Articles Affected</i>	<i>Summary of Changes</i>
5209		09-06-01 (effective 11-01-01)	2001-097	Established entire ordinance	First Unified Development Ordinance, replaces Comprehensive Zoning Ordinance No. 715 and Subdivision Ordinance No. 850, as amended.
5268	1	01-17-02	2001-198	3, 4, 5, 7, 8, 9, 10, 12, 14, 16	Miscellaneous.
5276	2	02-21-02	2001-227	4, 5, 7, 11, 12, 13, 14, 16	Miscellaneous.
5419	3	11-07-02	2002-205	2, 3, 4, 5, 7, 8, 9, 10, 12, 13, 14, 16, 17	Miscellaneous.
5501	4	03-13-03	2003-020	5, 10	Allows indoor/commercial recreational facility or use in industrial districts with special use permit.
5520	5	04-17-03	2003-069	4, 5, 12, 13	No PDP required in AG, RDR or R-1; RDR should have sewers; prohibits storage on driveways; regulates signs on state ROWs.
5676	6	01-08-04	2003-237	3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16	Miscellaneous; materials requirements for industrial buildings; moves various permits from Article 3 to their respective sections (special event, airport, floodplain, or parking lot permits, and historic preservation certificates).
5738	7	05-06-04	2004-041	4, 7, 8, 13	Requires proof of notification; regulates airport hangar materials; prohibits roof signs.
5802	8	09-02-04	2004-161	3, 5, 9, 13	Moves all sign regulations from Sec. 3 to Sec. 13; adds regulations on drive-up businesses.
5828	9	10-21-04	2004-191	5, 8, 17	Removes 20 acre min. for PI-2; allows chiropractors and photo studios as home occupations; allows 10% admin. variance.
5915	10	03-17-05	2004-307	2, 3, 4, 5, 10, 12	Adds nursery school definition; clarifies appeals for various permits; moves SUP regulations from Article 4 to Article 10; clarifies legal protest requirements; changes garage setbacks in RP-1; adds regulations on downtown parking.
5907	11	03-03-05	2004-308	5	Creates NFO and TNZ zoning districts.
5952	12	05-19-05	2005-142	2, 5, 8, 9, 15	Amends and adds several definitions; adds fabricated metal products as a permitted use in PI-1; adds swimming pool definitions and regulations, including subdivision pools; amends nonconforming use section.
6006	13	07-28-05	2005-182	8, 10, 13	Amends vehicle capacity for home occupations; adds and amends provisions relating to special use permits; and amends lighting provisions of signs.
6024	14	08-14-05	2005-245	5, 9	Changes liquor stores to permitted instead of conditional use in CP-2.
6061	15	10-13-05	2005-246	2, 4, 5, 16	Adds regulations for common property.

LEE'S SUMMIT UNIFIED DEVELOPMENT ORDINANCE

<i>Ord. No.</i>	<i>Amendment No.</i>	<i>Date Adopted</i>	<i>Appl. No.</i>	<i>Articles Affected</i>	<i>Summary of Changes</i>
6099	16	01-05-06	2005-321	2, 4, 5, 8, 10, 16	Definitions for day care facilities; limits size of plans; removes retail uses in PRO; allows vertical mixed uses and parking structures in CBD; adds laundromat in CP-1; requires SUP for in-home massage therapist; amends standards for approval, revocation and vesting of rights for SUPs; reduces density threshold for sidewalks in residential subdivisions.
6123	17	01-19-06	2005-384	4, 8, 16	Adds regulations related to stormwater management; permits pet grooming as a home occupation.
6282	18	09-21-06	2006-182	6	Amends floodplain overlay district to reference new FIRM maps dated 3/16/06 and 9/29/06, as approved by FEMA.
6371	19	04-05-07	2006-244	2, 5, 8, 16	Article 2 — Adds 2 definitions; Article 5 — Restricts uses in AG; adds RLL (residential large lot) with min. lot size of ½ acre, replaces BP with CS (commercial services); Article 8 — Adds language relative to loft units above detached garages; Article 16 — Adds minor plat regulations to ensure compatibility.
6324	20	12-21-06	2006-268	13, 15, 16	Amends regulations for billboards, and easements.
Withdrawn	21	—	2006-269	8	Accessory uses — Combined with Amendment 19.
6355	22	03-01-07	2006-299	1, 3, 4	Cleans up numbering and cross-referencing, and codifies current procedures — No substantive changes.
6451	23	07-19-07	2007-094	10	Amends telecommunication tower section of the SUP article.
6449	24	07-19-07	2007-122	6, 8, 10	Establishes Neighborhood Stabilization Overlay (NSO) District as an overlay within R-1; requires SUP for loft dwellings in R-1 in Old Lee's Summit Area (as defined).
6465	25	08-09-07	2007-141	2, 4, 5, 9, 16	Adds martial arts and yoga studios as conditional uses in CBD; adds final plat extensions and amends street sign language in Article 16.
6555	26	12-20-07	2007-251	13	Adds directional banners and other temporary signs for businesses affected by major street construction.
6590	27	03-06-08	2007-290	4, 16	Complete revision of Subdivision article; limits cul-de-sacs to 10% or 20% of total lots; provides for cul-de-sac length up to 1,000 feet.
6633	28	06-05-08	2008-037	16	Requires security to be posted prior to approval of a final plat, if plat is approved prior to construction of public improvements.
6668	29	08-21-08	2008-118	2, 5, 9, 10, 13	Adds definitions and regulations for unsecured and title loan businesses; allows concrete batch plants with SUP in PI-1.
6748	30	01-08-09	2008-184	7	Amends and expands lighting standards.
6733	31	12-04-08	2008-145	1, 4, 6, 17	Adds and clarifies regulations for public facilities (incl. public schools and CIP projects); amends Historic Overlay District and HPC section of Admin. article.

TABLE OF ORDINANCES

<i>Ord. No.</i>	<i>Amendment No.</i>	<i>Date Adopted</i>	<i>Appl. No.</i>	<i>Articles Affected</i>	<i>Summary of Changes</i>
6809	32	07-23-09	2008-194	17, 18	Adds new Article 17 "Renewable Energy and Green Development Standards" specifically adding regulations for wind turbines; rennumbers Article 17 to Article 18 (Administration).
6796	33	06-04-09	2009-024	1, 4, 5, 7, 9	Adds CPTED regulations; amends fines for violations of UDO.
6823	34	09-03-09	2009-049	4, 5, 8, 13, 14	Combines PI-1 and PI-2 into PI, Planned Industrial District, requires SUP for heavy industrial uses, and changes references to PI throughout UDO.
6912	35	04-08-10	2009-055	12	Complete revision of Parking Article; increases parking ratio for restaurants to 14 per 1,000 sq. ft.
6959	36	07-22-10	2010-009	11	Complete revision of Special Events article.
6925	37	05-06-10	2010-010	4, 5, 8, 10, 16	Article 4 — Require certified mail for notices, simplify street name change process, revise conceptual plan requirements; Article 5 — Allow office uses in industrial; Article 8 — Allow greenhouses up to 250 sq. ft.; Article 10 — Update cross-references; Article 16 — Plat size 24 x 36, delete Affidavit of Minimum Improvements.
6991	38-A	11-04-10	2010-057	4, 8, 13, 15	Article 4 — Protest petitions to be filed with City Clerk; Article 8 — Add impervious coverage of 60% in res.; Article 13 — Allow neighborhood garage sale signs; Article 15 — Allow detached accessory structures for nonconforming single family uses.
7011	38-C	01-20-11	2010-057	8	Increase size of detached garages to 2,000 sq. ft. with 4 acres or more.
7104	39	11-03-11	2011-072	8	Subdivision sales trailers and temporary relocatable classrooms.
7119	40	12-15-11	2011-112	10	Regulating and restricting SUPs for vehicle sales as accessory uses to auto-related businesses.
7155	41	03-15-12	2012-004	10	Revised restrictions for in-home massage therapy businesses.
7219	42	08-16-12	2012-007	2, 5, 6	M-150 Corridor Overlay — Created 4 new districts — CDO Residential Mixed Density (RMD), CDO Mixed Use Residential (MR), CDO Mixed Use Commercial (MC), and CDO Mixed Use Employment (ME), and development standards including sustainability point system in the overlay area; added solar definitions.
7161	43	03-22-12	2012-020	11	Added mobile food vending regulations to Special Events article.
7274	44	12-20-12	2012-133	15	Amend regulations for nonconforming billboards to be upgraded to digital.
7305	45	03-14-13	2012-146	7	Added Downtown Design Standards.
7295	46	02-07-13	2012-157	6	Amend M-150 Sustainable Point System.
7349, 7350	47	08-01-13	2013-078	9, 13	Delete distance requirement between bar/tavern and residential use in CBD and loft dwellings in CP-2; amend entire sign ordinance (Article 13).

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<i>Ord. No.</i>	<i>Amendment No.</i>	<i>Date Adopted</i>	<i>Appl. No.</i>	<i>Articles Affected</i>	<i>Summary of Changes</i>
7477	48	06-19-14	PL2014-039	1, 3, 4, 6, 7	Miscellaneous; allows mailing of public hearing notices as regular mail v. certified mail; allows roof-top mechanical equipment to be screened with individual screens on existing buildings and building additions.
7518	49	09-4-14	PL2014-060	8	Miscellaneous; accessory dwelling units allowed in agricultural; increases fence height in front yard to 4'; allows detached garage or storage shed for churches and schools in residential districts; baseball/softball fields as accessory use with conditions in agricultural and residential districts; reduce side and rear setback for sheds from 10' to 3'.
7551	50	Vetoed by Mayor on 12-24-14	PL2014-117	9	Amended the setback requirements for restaurants from residential districts or uses.
7596	51	03-05-15	PL2015-010	9	Amended the setback requirements for restaurants from residential districts or uses.
7597	52	03-05-15	PL2015-011	8	Established outdoor patios/decks are accessory uses in commercial and industrial zoning districts.
Withdrawn	53	—	PL2015-063	13	Murals—Moved from UDO to Code of Ordinances.
7733	54	10-15-15	PL2015-072	5, 10, 12	Amended Indoor Recreation uses for the PI district to allow as a conditional use. Amended paving details in Article 12 — Parking.
7831	55	03-10-16	PL2015-209	5, 12, 13	Amended Article 5, Zoning Districts to create the "AZ" (Airport Zone) zoning district; Article 12 Parking, regarding recreational vehicle (RV) and trailer parking regulations; and Article 13 Signs, amending sign ordinance language to comply with Supreme Court's decision on content neutrality for sign regulations.
7832	56	03-10-16	PL2016-008	5, 8	Amended Article 5 Zoning District to add civil and fraternal organization as a permitted use in CS and PI and conditional use in PO, CP-1, CP-2 and CBD. Amended Article 8, Accessory Uses and Structures regarding encroachment into easements and right-of-way. Setback requirement for play houses and play equipment in AG, RDR and RLL is also amended.
7972	57	09-15-16	PL2016-094	10, 13	Telecommunication towers.
8014	58	11-03-16	PL2016-171	5, 8, 9, 13	Pet motels with outdoor training areas.
8039	59	12-08-16	PL2016-200	6	Floodplain Ordinance.
8104	60	03-02-17	PL2017-002	8	Tattoo and body piercing as accessory use in PO District.
8159	61	05-18-17	PL2017-070	10	Telecommunication towers.
8223	62	08-10-17	PL2017-121	8	Photo studios as home occupations.

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PROOFS

Packet Information

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UDO Amendment for Reasonable Accomodation

Issue/Request:

The proposed amendment allows for relief from standards of the zoning ordinance to accomodate the needs of residents with disabilities.

Proposed Committee Motion:

I move to recommend to City Council adoption of the UDO amendment.

Background:

The current UDO requires applicants needing relief from standards such as setbacks to appear before the Board of Zoning Adjustment. If adopted, the proposed amendment would allow a staff committe to grant relief without the need for a public hearing.

Joshua Johnson, AICP, Asst. Dir. of Plan Services

Recommendation: Staff reccomends the CEDC forward the ordinance to the Planning Commission and City Council for adoption.

Committee Recommendation: [Enter Committee Recommendation text Here]

ARTICLE 1. GENERAL PROVISIONS

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Section 1.010. Short title; introduction to Chapter

- A. This Chapter shall be known and may be cited as the Unified Development Ordinance of the City of Lee's Summit, Missouri and may be abbreviated as "UDO".
- B. This Chapter repeals, replaces, augments and revises Unified Development Ordinance No.5209 of the Lee's Summit Municipal Code in existence on the effective date of this Chapter. (Amend. #22)

Section 1.020. Authority

This Chapter is adopted pursuant to the authority granted to the City by the Lee's Summit, Missouri Charter and by Chapters 89 and 445 of the Revised Statutes of the State of Missouri; pursuant to the City's nuisance powers, including, but not limited to those granted by Sections 71.780 and 305.575 of the Revised Statutes of the State of Missouri (as amended); and pursuant to the City's police powers.

Section 1.030. Jurisdiction

This Chapter shall be effective throughout the corporate limits of the City and on property owned by the City outside the corporate limits of the City. Except where otherwise indicated, the provisions of this Chapter shall apply to the City and all of its agencies. Nothing herein shall be construed to preclude the City from adopting and enforcing extraterritorial zoning, planning, subdivision and building regulations pursuant to RSMo. 89.144, and amendments thereto.

Section 1.040. Purpose (Amend. #33)

The purpose of this Chapter is to regulate and control the development of land and matters relating thereto within the City to promote the public safety, health, and general welfare of the community and to implement the Comprehensive Plan as now in effect and as it may be amended from time to time. The provisions of this Chapter are designed to promote:

- A. A strong and positive civic image and identity, based on a high quality living and working environment, an attractive physical setting, safety from fire, flood, crime and other dangers and responsive City services and programs; (Amend. #33)
- B. A living environment that supports the local population, is adaptable to market demands for diverse types and styles of residential living, accommodates future growth, is affordable for all segments of the population, and maintains and improves the overall quality and character of the City;
- C. A system of quality retail and commercial development that provides local residents with needed goods and services and enhances the City's tax base;
- D. Quality employment opportunities for all segments of the population;
- E. A physical relationship between employment opportunities, residential living and goods and services that allow for reduced dependence on the automobile;
- F. A balanced transportation system that provides for safe and efficient movement of vehicles and pedestrians while re-enforcing surrounding land development patterns and that enhances and complements regional transportation facilities;
- G. A park and open space system that satisfies the recreational and leisure needs of local residents, preserves the natural environment and enhances the quality and character of the City;

- H. A balance between the natural and man-made environments that preserves and protects natural features while promoting development and redevelopment;
- I. The protection and preservation of existing properties and values from adverse or non-harmonious adjacent property uses;
- J. Public facilities and services adequate to meet the needs generated for such facilities and services by development; and
- K. The protection and preservation of historic properties, structures, landmarks and districts.

Section 1.050. Relationship to other provisions of the Code

- A. Cross-references. The use of buildings and land within the City is subject to all other applicable provisions of the City Code as well as this Chapter, whether or not the other provisions of the City Code are specifically cross-referenced in this Chapter. Cross-references to other provisions of the City Code in this Chapter are for the convenience of the reader, and the lack of a cross-reference should not be construed as an indication that other provisions of the City Code do not apply.
- B. Chapter provides minimum requirements. In interpreting and applying the provisions of this Chapter, each provision shall be construed to be the minimum requirements necessary for the promotion of public health, safety or the general welfare. Whenever this Chapter requires a lower height of a building or lesser number of stories, or requires a greater percentage of the lot to be left unoccupied, or imposes more restrictive standards than are required pursuant to any other statute or local regulation, this Chapter shall govern.

Section 1.060. Relationship to comprehensive plan and other policies

It is the intention of the City that this Chapter implement the planning policies adopted for the City as reflected in the Comprehensive Plan, as amended, and other planning documents. While the City reaffirms its commitment that this Chapter and any amendment thereto be in conformity with adopted planning policies, the City hereby expresses its intent that neither this Chapter nor any amendment thereto may be challenged merely on the basis of an alleged nonconformity with the Comprehensive Plan or other planning policy.

Section 1.070. Administrative delay of development applications

- A. Authority. The Governing Body, by resolution, may direct the Director, or other appropriate City staff, not to initiate or not to continue the processing of any development application authorized by this Chapter; provided that, the Governing Body has previously directed City staff to prepare, or obtain consultant assistance in the preparation of, Chapter text amendments contemplated by Section 4.250 of this Chapter, or planning policies.
- B. Procedure. The Governing Body, in the resolution, shall establish the types and nature of development applications with respect to which processing shall be delayed. This decision shall be based upon the likelihood that the proposed Chapter text amendment or planning policy may have an impact on the content and submission requirements and/or consideration of a certain type and/or nature of development applications. The resolution may delay the processing of certain types or nature of, or all, development applications within the entire City or a defined geographic area of the City, if it determines that development applications related to property within the defined geographic area covered by the resolution will be impacted by the proposed Chapter text amendment or planning policy.

- C. Effective period. The resolution shall establish the period of time within which processing of development applications shall be delayed or discontinued. The period of time set shall not exceed one (1) year from the date of adoption of the resolution; provided that, in no event shall the period set extend beyond the date upon which the Governing Body makes a final decision in its consideration of the Chapter text amendment or planning policy that it has directed City staff to prepare. If the Governing Body determines that a good faith effort is being made to prepare and make a final decision on the Chapter text amendment or planning policy, but that no final decision has been made, it may extend the period of time set in the initial resolution for an additional period, not to exceed one (1) year.
- D. Purpose. This section is designed to preserve the status quo while consideration is given to a Chapter text amendment or planning policy, and to prevent the establishment of a new nonconforming situation that will undermine the effect of the Chapter text amendment before it is adopted.

Section 1.080. Relationship to private restrictions

The provisions of this Chapter are not intended to affect any deed restriction, covenant, easement or any other private agreement relating to, or restricting, the use of land. Where the provisions of this Chapter are more restriction than any private restriction, the requirements of this Chapter shall control. Where the provisions of any private restriction are more restrictive than the provisions of this Chapter, the private restrictions shall control, if properly enforced by a person having the legal right to enforce the restrictions. Private restrictions shall not be enforced by the City.

Section 1.090. Prohibitions

- A. No building or structure shall be erected, constructed, reconstructed, moved or altered, nor shall any building, structure or land be used for any purpose except in accordance with the provision of this Chapter and other relevant provisions of the City Code.
- B. No person may use, occupy, or sell any land or building or authorize or permit the use, occupancy, or sale of land or buildings except in accordance with all of the applicable provisions of this UDO.
- C. The density and yard requirements of this Chapter are the minimum regulation for each and every building or structure constructed after the effective date of this Chapter and for any building or structure hereafter constructed or structurally altered. No land required for yards or other open spaces around an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.
- D. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 1.100. Adequate public facilities and services

In order to prevent the premature development of land which might pose a threat to the health, safety or general welfare of the community at large, or the occupants of land in the particular area of the City, it shall be the policy of the City that no application for special use permit, preliminary or final development plan or preliminary or final plat shall be approved unless public facilities and services, which are adequate to serve the development, are either:

1. Presently available, or
2. Are to be provided as a condition of approval of the application, or
3. Are planned to be available reasonably concurrent with the anticipated impacts of the proposed development as determined by the affected utility, agency or department.

Section 1.110. Zoning of annexed lands

Unless land is rezoned at the time of its annexation into the City, the land shall retain its zoning classification under county or township zoning until the property is rezoned pursuant to the provisions of this Chapter. The City shall have the authority to pursue remedies for violations of such county or township regulations to the same extent that it may pursue remedies for violation of this Chapter pursuant to Section 1.160.

Section 1.120. Effective date

The provisions of this Chapter are hereby adopted and become effective on the 1st day of November 2001.

Section 1.130. Development under prior regulations

- A. Previously Existing Regulations. Those regulations in effect immediately prior to the effective date of this Chapter shall be referred to in this Chapter as the "previously existing regulations." This Chapter shall be referred to either as "these regulations" or the UDO.
- B. Administrative Permits. All permits issued by an administrative official or body, or a legislative body acting in an administrative capacity, prior to the effective date of this Chapter shall be valid until their expiration under the previously existing regulations. Applications for administrative permits submitted after the effective date of these regulations shall be reviewed and evaluated pursuant to the requirements of this Chapter, except as further specified in Article 15.
- C. Subdivision. Complete applications for preliminary plat(s) submitted prior to the effective date of these regulations shall be processed under the previously existing regulations. Incomplete applications for preliminary plats submitted prior to the effective date of this Chapter, and that are not submitted in a complete form until after the effective date of this Chapter, shall be processed under this Chapter. All applications for subdivision approvals submitted after the effective date of these regulations shall be reviewed pursuant to these regulations. Preliminary or final plat applications, approved under the previously existing regulations, that are allowed to lapse or expire will be subject to reapplication under these regulations.
- D. Zoning.
 1. Existing uses may continue either in compliance with these regulations or as legal non-conforming uses subject to the requirements of Article 15.
 2. Existing lots that do not comply with the requirements of these regulations may be developed pursuant to the requirements of Article 15.
 3. Applications for proposed new uses submitted after the effective date of this Chapter shall be considered pursuant to these regulations.
- E. Special use permits. The Director shall monitor all outstanding special use permits issued under the previously existing regulations and prior to expiration of an existing

special use permit, the permit holder may, if required under this UDO, apply for a special use permit as set forth in Article 10 of this Chapter. (Amend. #22)

- F. Nonconforming situations. All nonconforming situations and uses shall be governed by Article 15 of this Chapter.

Section 1.140. Violations of prior regulations

All violations under the previously existing regulations that exist within the City as of the effective date of this Chapter, shall continue to be violations and shall not be considered to be legal, nonconforming situations under this Chapter. The City shall have the authority to secure remedies for violations of those regulations to the same extent that it may secure similar remedies for violations of this Chapter pursuant to Section 1.160.

Section 1.150. Violations

If any building or structure is erected, constructed, reconstructed, altered, converted, moved or maintained, or any building, structure, or land is used in violation of this Chapter or regulations made under its authority, a Code Enforcement Officer may institute any proper action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use; to restrain, correct or abate the violation; to prevent the occupancy or use of the building, structure, or land; or to prevent any illegal act, conduct, business or use in and to the premises.

Section 1.160. Penalty for violations and civil remedies (Amend. #33)

- A. Civil citations. If the Code Enforcement Officer determines that a violation of this Chapter or regulations made under its authority has occurred, the Code Enforcement Officer may issue the violator a civil citation, which shall be proceeded upon in accordance with the provisions herein. The civil citation shall be issued to the violator by the Code Enforcement Officer upon a uniform municipal infraction form provided by the clerk of the municipal court, which shall include a notice or summons to answer the charges against him within the time specified on the form for hearing before the municipal court. Upon issuance of a civil citation, the Code Enforcement Officer shall provide a copy of the notice or summons to the clerk of the municipal court.
- B. Plea and fines. Any person issued a civil citation for a violation of this Chapter or regulations made under its authority, for which payment of a fine may be made to the municipal court, shall have the option of paying the fine in the sum and within the time specified in the civil citation upon entering a plea of guilty and upon waiving an appearance in court. It shall be the duty of the municipal court to accept payment of a fine. The payment of a fine to the municipal court shall be deemed an acknowledgment of conviction of the alleged offense and the court, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment. Any person issued a civil citation may, in the alternative, enter a plea of not guilty, and upon the entry of a plea of not guilty, shall be entitled to a trial as authorized by law.
- C. Fines for violations. Violations of any provision of this Chapter are hereby declared to be public offenses and, pursuant to the authority of RSMo. 89.120, misdemeanors. The owner or general agent of a building or premises where a violation of any provision of the regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where a violation has been committed or exists, or the owner, general agent, lessee or tenant of any part of the building or premises in which a violation has been committed or exists, or the general agent, architect, builder,

contractor or any other person who commits, takes part in or assists in any violation or who maintains any building or premises in which any violation exists shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (\$250.00) for each and every day that such violation continues, or by imprisonment for ten (10) days for each and every day the violation continues, or by both fine and imprisonment, in the discretion of the court. For the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each and every day that the violation shall continue, or by imprisonment for ten (10) days for each and every day that the violation shall continue, or by both fine and imprisonment in the discretion of the court. (Amend. #33)

- D. Penalty after notice of violation. Any person who, having been served with an order to remove a violation, shall fail to comply with the order within ten (10) days after the service or shall continue to violate any provision of this Chapter in the same manner as stated in the order shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).
- E. Civil lawsuits. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Chapter and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected, constructed, altered, converted, moved or maintained in violation of this Chapter, or any building, structure or land is proposed to be used in violation of this Chapter, the City Attorney, or other appropriate authority of the City may, in addition to any other remedies, institute injunction, mandamus or any other appropriate actions or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

Section 1.170. Severability

It is the City's intention that the sections, subsections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any section, subsection, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the unconstitutionality or invalidity shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses or phrases of this Chapter since the same would have been enacted without the incorporation into this Chapter of the unconstitutional or invalid section, subsection, paragraph, sentence, clause or phrase. The Council hereby declares that it would have passed the ordinance that adopted this Chapter and each section, subsection, paragraph, sentence, clause and phrase hereof irrespective of the fact that any one or more section, subsection, paragraph, sentence, clause or phrase be declared unconstitutional. (Amend. #48)

Section 1.180. Fees

- A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, subdivision plat approval, zoning amendments, variances and all other applications covered by this Chapter. The amount of the administrative

fees charged shall be established by the City of Lee's Summit Schedule of Fees and Charges, as amended.

- B. Fees established in accordance with this Section shall be paid upon submission of a signed application or notice of appeal.

Section 1.190. Applicability to Public Facilities

- A. The zoning regulations contained in this Chapter are not applicable to the State of Missouri, its lawfully designated subdivisions or agencies, or property of the state or its subdivisions or agencies. Public property is subject to the provisions and procedures of this Chapter with regard to police power regulations regulating health, safety and welfare. Review of the location, extent and character of the proposed development of public property is permissible to the extent provided in Article 4 of this Chapter.
- B. The zoning regulations contained in this Chapter are applicable to the City and all of its agencies, except where otherwise indicated. From and after the date that the City has adopted a comprehensive plan of the municipality or any part thereof, no street or other public facility, or no public utility, whether publicly or privately owned, and, the location, extent and character thereof having been included in the recommendations and proposals of the plan or portions thereof, shall be constructed or authorized in the municipality until the location, extent and character thereof has been submitted to and approved by the Commission.

Section 1.200. Reasonable Accommodation

- A. Purpose. This Section implements the policy of the City of Lee's Summit on requests for reasonable accommodation in its rules, policies and procedures for persons with disabilities as required by the Fair Housing Act, as amended, 42 U.S.C. Section 3604(f)(3)(B) and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132. The policy of the City is to comply fully with the provisions of the Fair Housing Act and Title II of the Americans with Disabilities Act.

Any person with disabilities and eligible under the Fair Housing Act or Title II of the Americans with Disabilities Act may request a reasonable accommodation with respect to the various provisions of the UDO including land use or zoning laws, rules, policies, practices and/or procedures of the City as provided by the Fair Housing Act and Title II of the Americans with Disabilities Act pursuant to the procedures set out in this Section.

Nothing in this Section requires persons with disabilities or operators of group homes for persons with disabilities acting or operating in accordance with applicable zoning, licensing or land use laws or practices to seek reasonable accommodation under this Section.

- B. Definitions. For the purposes of this Section, certain terms and words are hereby defined as follows:

ACTS. Collectively, the FHA and the ADA.

ADA. Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*, and its implementing regulations, 28 C.F.R. Part 35.

APPLICANT. An individual, group or entity making a request for reasonable accommodation pursuant to this Section.

FHA. The Fair Housing Act, Title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.*, as may be amended.

DISABLED PERSON. Any person who is “handicapped” within the meaning of 42 U.S.C. § 3602(h) or a “qualified individual with a disability” within the meaning of 42 U.S.C. § 12131(2).

DWELLING. A “dwelling” as defined in 42 U.S.C. § 3602(b).

UNIFIED DEVELOPMENT ORDINANCE. The City of Lee’s Summit Unified Development Ordinance consisting of Title IV of the City’s Codes of Ordinances .

Unless specifically defined in this section all terms have the same meaning as contained in Chapter 411 of the City Code.

C. Requesting Reasonable Accommodations:

In order to make specific housing available to one or more individuals with disabilities, a disabled person or a person acting on his or her behalf at his or her request (collectively, the “Applicant”) may request a reasonable accommodation relating to the various land use or zoning rules, policies, practices and/or procedure of the City applicable to such housing.

1. A request by an Applicant for reasonable accommodation relating to the UDO, rules, policies, practices and/or procedures shall be made orally or in writing on a reasonable accommodation request form provided by Development Services. The form shall contain:
 - a. The current zoning for the property;
 - b. The name, phone number and address of the owner of the fee interest of the property (if other than the Applicant);
 - c. The nature of the disability that requires the reasonable accommodation. In the event that the specific individuals who are expected to reside at the property are not known to the Applicant in advance of making the application, the Applicant shall not be precluded from filing the application, but shall submit details describing the range of disabilities that prospective residents are expected to have to qualify for the housing. The Applicant shall notify Development Services, in the event the residents at the location are not within the range described.

Development Services shall then determine if an amended application and subsequent determination of reasonable accommodation is appropriate;

- d. The specific type of accommodation requested by the Applicant. To the extent practicable, this portion should include information concerning the impact of the reasonable accommodation on the adjoining properties and area, the number of people who are expected to be availing themselves of the reasonable accommodation, the estimated number of people in an average week who will be necessary to provide services to the person(s) with disabilities at the property on an on-going basis, whether or not this type of reasonable accommodation is required to obtain a license from any state or county authority to operate, and any other information the Applicant thinks would assist in determining the reasonableness of the accommodation;
 - e. The Applicant should also note, if known, whether this accommodation requires any additional permits or licensure (e.g. business license); and
 - f. Whether the accommodation requested may be necessary to afford one or more disabled persons equal opportunity to use and enjoy a specific dwelling.
2. Development Services will provide the assistance necessary to an Applicant in making a request for reasonable accommodation, including information which the Development Services deems necessary to complete a reasonable accommodation request form. Upon the City's receipt of the necessary information to process the Applicant's request for reasonable accommodation, the Development Services shall use the information to complete a reasonable accommodation request form.
 3. Development Services will provide the assistance necessary to any Applicant wishing to appeal a denial of a request for reasonable accommodation to ensure the process is accessible to the Applicant. The Applicant is entitled to be represented at all stages of the proceedings identified in this Section by a person designated by the Applicant.
 4. Should the information provided by the Applicant to Development Services include medical information or records of the Applicant, including records indicating the medical condition, diagnosis or medical history of the Applicant, the Applicant may, at the time of submitting such medical information, request that Development Services to the extent allowed by law, treat such medical information as confidential information of the Applicant.
 5. Development Services shall provide written notice to the Applicant, and any person designated by the Applicant to represent the Applicant in the application proceeding, of any request received by the Development Services for disclosure of the medical information or documentation which the Applicant has previously requested be treated as confidential by Development Services. Development Services will cooperate with the Applicant, to the extent allowed by law, in actions initiated by the Applicant to oppose the disclosure of such medical information or documentation.

D. Jurisdiction.

1. **Directors Consideration (Staff Committee).** A Staff Committee comprised of Development Services, Public Works and the Fire Department Directors or their designees (Staff Committee) is hereby created and charged with the responsibilities and duties set out herein. The Staff Committee shall have the authority to consider and act on requests for reasonable accommodation. When a request for reasonable accommodation is filed with Development Services, it will be referred to the Staff

Committee for review and consideration. The Staff Committee shall issue a written determination within thirty (30) days of the date of receipt of a completed application and may: (1) grant the accommodation request, or (2) deny the request, in accordance with federal or state law. Any such denial shall be in writing and shall state the grounds therefore. All written determinations shall give notice of the right to appeal and the right to request reasonable accommodation in the appeals process. The notice of determination shall be sent to the Applicant by certified mail, return receipt requested and by regular mail.

2. If reasonably necessary to reach a determination on the request for reasonable accommodation, the Staff Committee may, prior to the end of said thirty (30) day period, request additional information from the Applicant, specifying in detail what information is required. The Applicant shall have fifteen (15) days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the thirty (30) day period to issue a written determination shall be stayed. The Staff Committee shall issue a written determination within thirty (30) days after receipt of the additional information. If the Applicant fails to provide the requested additional information within said fifteen (15) day period, the Staff Committee shall issue a written determination within thirty (30) days after expiration of said fifteen (15) day period.

E. Findings for Reasonable Accommodation.

The following findings, while not exhaustive of all considerations and findings that may be relevant, must be made before any action is taken to approve or deny a request for reasonable accommodation and must be incorporated into the record relating to such approval or denial:

1. Whether the accommodation requested may be necessary to afford one or more persons with disabilities equal opportunity to use and enjoy a specific dwelling;
2. Whether the requested accommodation would require a fundamental alteration to the City's zoning scheme; and
3. Whether the requested accommodation would impose undue financial or administrative burdens on the City.

A request for a reasonable accommodation shall not be denied for reasons which violate the provisions of the Acts. This order does not obligate the City to grant any accommodation request unless required by the provisions of the Acts or applicable Missouri State law.

F. Appeals.

1. Within thirty (30) days after the date the Staff Committee mails a written adverse determination to the Applicant, the Applicant requesting reasonable accommodation may appeal the adverse determination.
2. All appeals shall contain a statement of the grounds for the appeal.

3. If an individual Applicant needs assistance in appealing a determination, Development Services will provide the assistance necessary to ensure that the appeal process is accessible to the Applicant. All Applicants are entitled to be represented at all stages of the appeal proceeding by a person designated by the Applicant.
4. Appeals shall be to the Board of Zoning Adjustment pursuant to Section . All determinations on appeal shall address and be based upon the finding that the accommodation requested is necessary to afford one or more disabled persons equal opportunity to use and enjoy a specific dwelling and shall be consistent with the Acts.
5. An Applicant may request reasonable accommodation in the procedure by which an appeal will be conducted.

- G. **Fees.** The City shall not impose any additional fees or costs in connection with a request for reasonable accommodation under the provisions of this Section or an appeal of a denial of such request by the Staff Committee. Nothing in this ordinance obligates the City to pay an Applicant's attorney fees or costs.
- H. **Stay of Enforcement.** While an application for reasonable accommodation or appeal of a denial of said application is pending before the City, the City will not enforce the subject zoning ordinance against the Applicant.
- I. **Record-keeping.** The City shall maintain records of all oral and written requests submitted under the provisions of this Section, and the City's responses thereto, as required by state law.

Packet Information

File #: 2018-2145, **Version:** 1

Update and Discussion on Quality Housing Program

Issue/Request:

Discussion over progress developing the Quality Housing Program.

Key Issues:

To preserve the integrity and safety of housing options within the City, protect the rights of owners, landlords, tenants, and preserve the standards of the surrounding neighborhoods, it is desired to have a discussion on updates to the Property Maintenance Code.

At the February 2018 CEDC meeting, a proposed alternative approach and framework for the Quality Housing Program was discussed. Based upon feedback from various stakeholder groups, a program that applies to all housing is more desirable than a market specific program. The current Property Maintenance Code (Chapter 16 of the Lee's Summit Code of Ordinances) is based upon the International Property Maintenance Code (IPMC) published by the International Code Council (ICC), however the IPMC is not currently adopted in a similar fashion as the rest of the Building Codes. The IPMC provides an internationally recognized basis for the code, while also allowing for local amendments. All of the safety provisions previously discussed are also located in the IPMC, and would apply to all housing within Lee's Summit. Review and adoption of the IPMC will also place the Property Maintenance Code on a more regular review schedule for continual updates.

An opportunity for stakeholder feedback on the IPMC was provided. An interest form was sent out over social media platforms and available at the Development Center counter. A total of 22 stakeholders representing landlords, tenants, homeowners, and property managers participated in the code review process. Over the course of 8 meetings, each chapter of the IPMC was reviewed and discussed. Currently, the collected feedback is being organized and proposed amendments are being prepared for review.

The next phase of the overall program is proposed to be dedicated towards educating the public and creating community awareness about safety standards for all housing. Additional program components that are to be worked on include a voluntary certification program, and increased participation in Business Licensing for landlords.

Proposed Committee Motion:

N/A

Background:

In December of 2011, Mr. Mark Dunning presented information to the CEDC regarding potential Rental Inspection programs for discussion.

In August of 2017, a discussion with CEDC occurred, and staff was directed to prepare an ordinance for review

and discussion within 6 months. As part of the program development process, we are updating CEDC on the progress made each month and having a public discussion.

In September of 2017, a review of existing programs located throughout the metro was presented along with a proposed framework for a Lee's Summit program. The discussion also included the proposed next steps in the program development process.

In October of 2017, an estimate of program staffing requirements and associated costs were discussed.

In December of 2017 and January of 2018 various stakeholder meetings were held and feedback was incorporated into the overall program development process.

Ryan Elam, Director of Development Services
Josh Johnson, Assistant Director of Plan Services

Packet Information

File #: 2018-2146, **Version:** 1

Update and Discussion over 2018 Building Code Adoption process.

Issue/Request:

Update and Discussion over 2018 Building Code Adoption process.

Key Issues:

The 2018 International Code Council family of model building codes has been released. Committees have been formed to review the code provisions to determine their impact and applicability for our community.

Background:

The City of Lee's Summit has currently adopted the 2012 International Code Council family of model building codes. It has been past practice to review the new version of the buildings codes on a six (6) year cycle. The review process includes a chapter by chapter discussion with members of the building and design community. These discussions allow multiple considerations to be taken into account when adopting new codes.

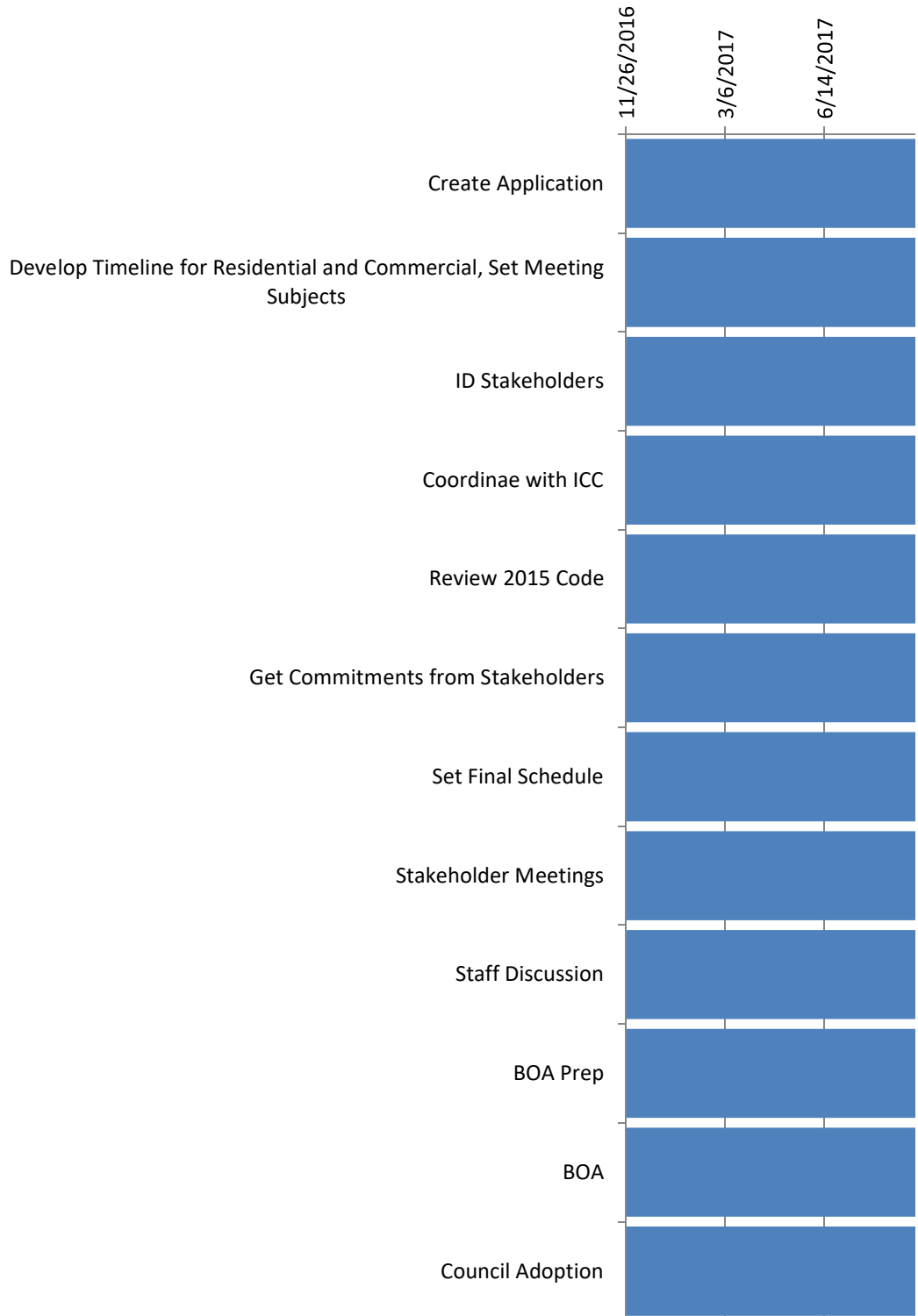
Timeline:

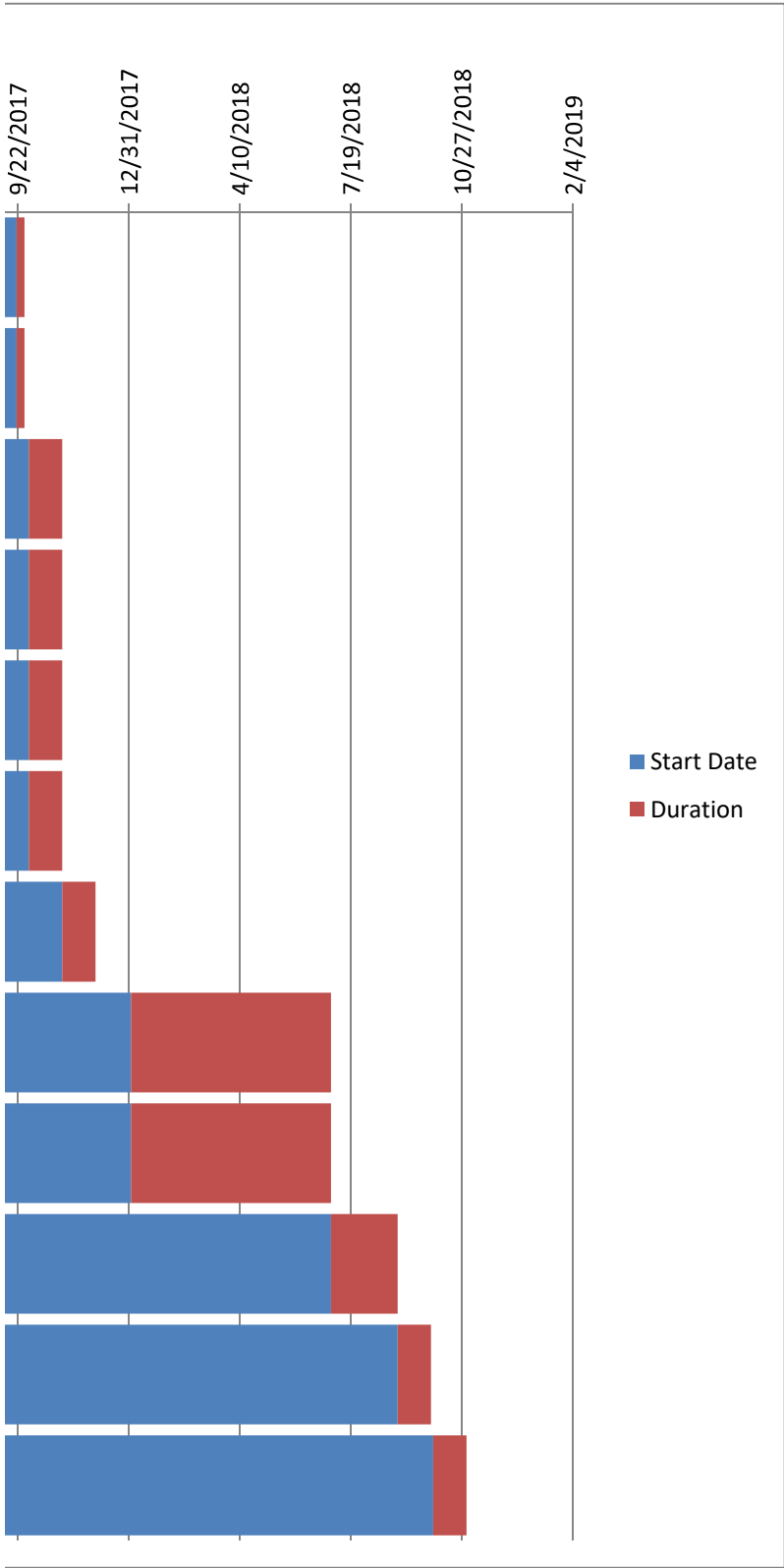
A timeline of the process is attached to this packet.

Ryan Elam, Director of Development Services

2018 Building Code Adoption Target Dates

Task	Start Date	Duration	End Date
Create Application	9/21/2017	7	9/28/2017
Develop Timeline for Residential and Commercial, Set Meeting Subjects	9/21/2017	7	9/28/2017
ID Stakeholders	10/2/2017	30	11/1/2017
Coordinate with ICC	10/2/2017	30	11/1/2017
Review 2015 Code	10/2/2017	30	11/1/2017
Get Commitments from Stakeholders	10/2/2017	30	11/1/2017
Set Final Schedule	11/1/2017	30	12/1/2017
Stakeholder Meetings	1/2/2018	180	7/1/2018
Staff Discussion	1/2/2018	180	7/1/2018
BOA Prep	7/1/2018	60	8/30/2018
BOA	8/30/2018	30	9/29/2018
Council Adoption	10/1/2018	30	10/31/2018





Packet Information

File #: 2018-2149, **Version:** 1

Status update of The Grove at Lee's Summit development

Issue/Request:

At the June 13, 2018 CEDC meeting, a status update was requested regarding The Grove project.

On 8/14/2017, a land disturbance permit was issued to begin clearing the land

The Final Plat was recommended for approval by Planning Commission on 6/13/17 and is currently on hold for City Council approval, pending the surety agreement.

The following plans are approvable and have been paid for:

Final Development Plan (FDP) for 1st 200,000 square feet - The scope of the FDP includes the private infrastructure and site related construction items for the 1st building.

Engineering plans for Street, storm and master drainage plan for the 1st plat - These plans are for the necessary public infrastructure

Public sanitary - onsite and offsite
public waterline

* The development permits associated with these plans cannot be released until the mass grading and stormwater for the entire site has been completed

The following plans are not approved:

Mass grading and stormwater for entire site (these have been resubmitted and are currently under review)

16th street widening (these have been resubmitted and are currently under review)

Building Permit (Cannot be released until the Final Plat has been recorded and the site has water and hard surface for fire protection)

A graphical depiction of the permit issuance process is attached to the packet.

Background:

On June 13, 2016, The City entered into an Agreement with Westcott Investment Group, LLC. Per the agreement (attached to this packet), the following milestones must be met:

Prior to recording the 1st plat - Surety must be provided for the minimum phase I requirements, along with a surety for all of the infrastructure associated with the project.

8/15/2019 - Phase I - minimum 200,00 s.f. of gross leasable area completed

12/01/2022 - Phase II - additional 300,000 s.f. gross leasable area, in one or more buildings

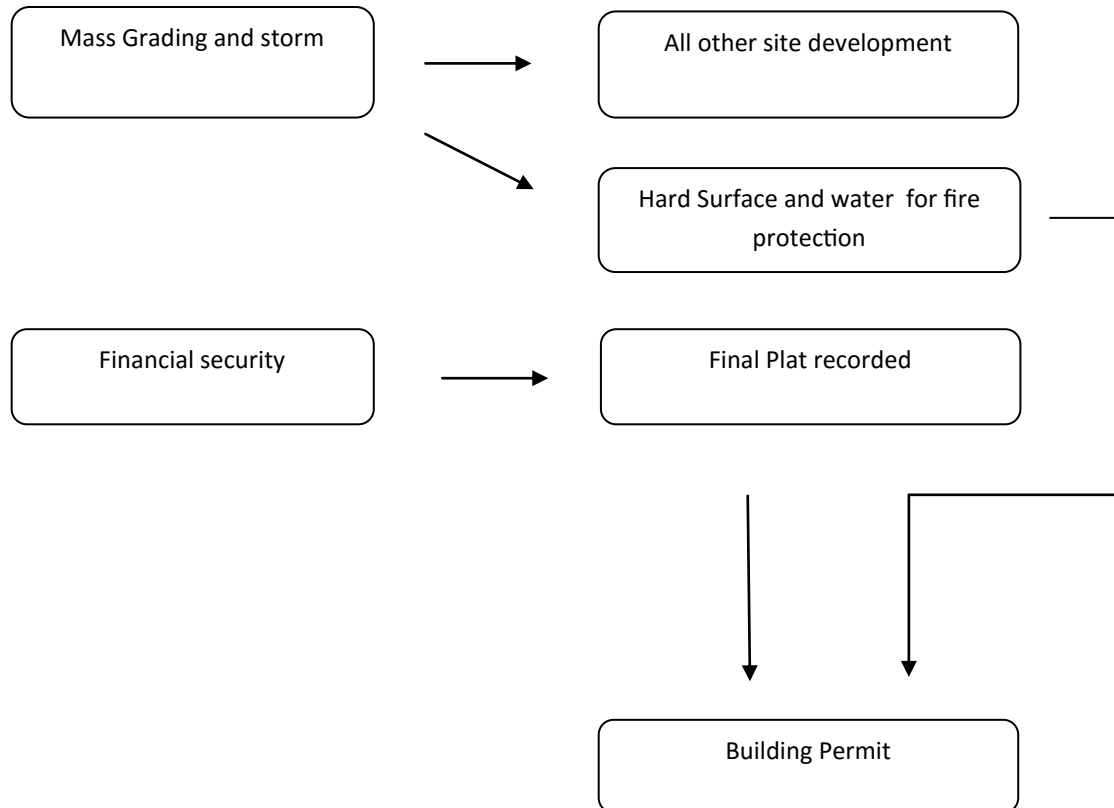
12/01/2022 - All public infrastructure must be complete

Ryan Elam, Director of Development Services

Recommendation: [Enter Recommendation Here]

Committee Recommendation: [Enter Committee Recommendation text Here]

The Grove



AN ORDINANCE APPROVING THE ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES AND THE SECOND AMENDED TO OPTION AGREEMENT, BOTH BEING BY AND BETWEEN EXERGONIX, INC., WESTCOTT INVESTMENT GROUP, LLC., AND THE CITY OF LEE'S SUMMIT AND PERTAINING TO THE SAME SUBJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, on September 2, 2011 the Council of the City of Lee's Summit authorized the execution of a Development Agreement to Promote Economic Activities with Exergonix, Inc.; and,

WHEREAS, as a part of that agreement, the City agreed to transfer certain property to Exergonix, Inc., and was granted a right and option to purchase the property in the event of non-occurrence of events or non-performance; and,

WHEREAS, the time for performance by Exergonix will expire in September 2016 and the City may exercise its option; and,

WHEREAS, Westcott Investment Group, LLC., wishes to acquire the rights of Exergonix; and,

WHEREAS, pursuant to the terms of the agreement, in order for the rights to be transferred to Exergonix, the City must consent to the transfer; and,

WHEREAS, the City Council of the City of Lee's Summit wishes to authorize the assignment of said rights from Exergonix, Inc., to Westcott Investment Group, LLC., and make certain other changes to the development agreement.

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

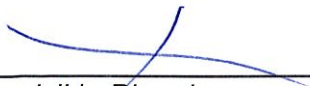
SECTION 1. That the ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES by and between Exergonix, Inc., Westcott Investment Group, LLC., and the City of Lee's Summit, Missouri, a true and accurate copy being attached hereto as exhibit "A" be and the same is hereby approved.

SECTION 2. That the SECOND AMENDMENT TO OPTION AGREEMENT by and between Exergonix, Inc., Westcott Investment Group, LLC., and the City of Lee's Summit, Missouri, a true and accurate copy being attached hereto as exhibit "B" be and the same is hereby approved.

SECTION 3. That the City Manager is hereby authorized and directed to execute said agreement referenced herein above by and on behalf of the City of Lee's Summit, Missouri.

SECTION 4. 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 19th day of May, 2016.




Mayor *Randall L. Rhoads*

ATTEST:

Deputy City Clerk *Trisha Fowler*

APPROVED by the Mayor of said city this _____ day of _____, 2016.



Mayor *Randall L. Rhoads*

ATTEST:

Deputy City Clerk *Trisha Fowler*

APPROVED AS TO FORM:



City Attorney *Brian W. Head*

*VETO
Randall L. Rhoads
5/25/2016*



Memorandum

Office of the Mayor

TO: City Council
FROM: Randall L. Rhoads, Mayor
SUBJECT: Veto of Bill 16-113
DATE: May 25, 2016

This is to advise that per the provisions in the City Charter, Section 4.4 (c) I have vetoed proposed Bill 16-113 with the following written statement of disapproval.

I am vetoing proposed Bill 16-113 for the following reasons:

- a) The City procured the 83 acres for investment of \$1,400,000. A recurring question has been what is the current value of property. An appraisal has not been done; however, the applicant has offered to give the City 2+/- acres for a fire station at their stated value of \$200,000. This equates to a value of \$100,000 per acre. Applying that rate to the 83 acres would result in a value of \$8,300,000 which is far in excess of what the City paid. The question is how realistic is that value of \$100,000 for an acre of land?
- b) As mentioned, the applicant has offered land for a new fire station. However, the cost to design, build, equip with fire protection equipment, ambulance, hire fire fighters, hire paramedics and/or EMTs and train those individuals are all additional costs that would be incurred by the City.
- c) It was agreed in the current agreement to have 150 quality jobs. This applicant has not agreed to meet this term.
- d) The City Council prides itself on being highly transparent. The challenges encountered in responding to numerous City requests for financial information did not enable the Council to make a transparent decision.
- e) It has been repeated numerous times that this project is extremely important and desirable to this applicant. Of the three presentations that the City Council has heard on this project, the applicant has never addressed the Council. This is a complex project. It is imperative that the City have a comfort level with the people we are dealing with. The absence of the applicant at our meetings leads me to wonder who the City will actually be dealing with.
- f) The applicant has attempted to create a sense of urgency regarding their desire to move forward. I do not share that sense of urgency. The only reason that I am aware of that seems to drive that urgency is a pending deadline of September 2016 where sole ownership of the property reverts to City. I contend that concern does not impose a sense of urgency on the City's part.
- g) All of members of the City Council want what is best for our City. However to present a project located in Hollywood to the City Council as a comparative project is very suspect. I submit that the demographic of Lee's Summit is markedly different than Hollywood.
- h) Granted the applicant has not requested any incentives at this time; however, I contend the difference between the current value of the land and what the City actually paid is a significant incentive. Further, I suspect that land value will further increase after the construction of the Highway 50/M291 South interchange is completed.
- i) This area is a main gateway to Lee's Summit from the south. Subsequently, the City Council recently imposed an administrative delay on this area (including the Adessa property and area northeast of the new interchange). The rationale for the administrative delay was to give

the City an opportunity to study this area and conceptualize what we would like to have developed in that area. This is a great opportunity for the new Council to give some direction on what would conceptually be desirable development in that area.

In conclusion, I contend that there are simply too many questions, concerns, and opportunities for me to get a comfort level on this project. This has led me to conclude that I must Veto Bill 16-113.

In accordance with City Charter paragraph 4.4 (c), "Ordinances or resolutions vetoed by the Mayor shall be considered at the next regular meeting of the Council, and the council may pass the ordinance or resolution over the veto by an affirmative vote of two-thirds of the entire Council." Vetoed Bill 16-113 will be placed on the June 2, 2016 City Council meeting agenda for your consideration.

I request that the City Council uphold my veto of Bill 16-113. I am confident that other developers will be interested in this choice piece of property at a future date, especially after the interchange of Highway 50 and M291 south is completed and the Council completes their analysis of the area.

C: City Manager
City Attorney
City Clerk

Development Agreement Comparison

Exergonix Agreement 2011	Westcott Agreement 4/14/16	Westcott Agreement 5/19/16
PMIX zoning & land uses 150 Quality Jobs (County Avg. Wage & 50% Health Care premium covered by employer)	PMIX zoning & land uses 500,000 square feet of leasable space (200K s.f. on or before 8/15/19 and additional 300K s.f. on or before 12/1/22)	PMIX zoning & land uses 500,000 square feet of leasable space (200K s.f. on or before 8/15/19 and additional 300K s.f. on or before 12/1/22). Completion bond in favor of City for 200,000 s.f. building(s) - minimum amount of \$5M with actual bond amount TBD based upon PMIX process. Completion bond in favor of City for all on-site and off-site public infrastructure (estimate \$2-3M).
\$50 Million Qualified Investment (improvements)	Design standards for development	Design standards for development
60% of total square footage = Green Technology Use / UCM Facility	Reasonable efforts to develop in a way to attract Quality Jobs	Reasonable efforts to develop in a way to attract Quality Jobs
40% may be permitted uses as defined in agreement	Right of way contribution for interchange	Right of way contribution for interchange
5 year timeframe (9/1/2016)		Financially backed guarantee for the construction of all on-site and off-site infrastructure necessary to support development of the property
City Investment in Corridor Area \$1.4 M "Pfizer Property" purchase \$8M for M-291 / US 50 Hwy Interchange \$8.389M - Bailey Road Bridge \$17.789 M Total investment in area		Participation in a confidential independent financial review of Westcott to confirm fiscal strength and capability to successfully develop property Dedication of 2 acre +/- site for a Fire/EMS station at no cost to City

Westcott Financial Commitment (data provided by Westcott)

Predevelopment costs: \$750,000
Local Office & Employees: \$250,000 (annual)
Building Completion Bond: \$5M minimum
Public Infrastructure Bond: \$2 - 3M
MoDOT ROW donation: \$500,000
Fire Station property donation: \$200,000
\$9,700,000 (does not include value of 1M s.f. of development)

RECORDER'S CERTIFICATION
JACKSON COUNTY, MISSOURI
03/25/2015 02:53:42 PM
INSTRUMENT TYPE: ORDI FEE: \$162.00 49 PGS
NON-STANDARD FEE: EXEMPT



INSTRUMENT NUMBER / BOOK & PAGE

2015E0024736

Robert T. Kelly, Director, Recorder Of Deeds

**Jackson County
Recorder of Deeds
Exempt Document**

This document has been recorded under exempt status
pursuant to RSMo 59.310.4.

This certificate has been added to your document
in compliance with the laws of the
State of Missouri.



Robert T. Kelly, Recorder of Deeds

415 E. 12th Street, Room 104
Kansas City, MO 64106

112 W. Lexington, Suite 30
Independence, MO 64050

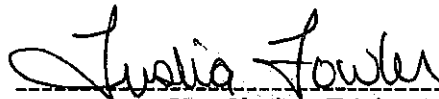
This page has been recorded as a permanent part of your document. Please do not remove.

STATE OF MISSOURI}
COUNTY OF JACKSON}

{SS.

This is to certify that the attached ORDINANCE NO. 7086- AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND EXERGONIX, INC., is a full, true and complete copy of same as recorded in the office of the City Clerk for the City of Lee's Summit, Missouri.

IN WITNESS WHEREOF, I hereunto set my hand, and affix the seal of said City of Lee's Summit, Missouri, this 25th day of March, 2015.



Deputy City Clerk - *Trisha Fowler*

AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES BETWEEN THE CITY OF LEE'S SUMMIT, MISSOURI AND EXERGOX, INC.

WHEREAS, the City Council of the City of Lee's Summit has determined that assisting in the acquisition and redevelopment of certain real property located within the City at the intersection of U.S. Highway 50 and Missouri Highway 291 (the "Property") will serve public purposes because the acquisition and redevelopment of the Property will, without limitation, (i) result in the creation of new jobs (including desirable new green technology jobs within the City), (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth, and therefore the City desires to encourage Exergonix, Inc. to carry out the acquisition and redevelopment of the Property; and,

WHEREAS, the City and Exergonix, Inc. desire to enter into a DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES to facilitate the redevelopment of the Property and advance the public purposes set forth herein.

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

SECTION 1. That the City Council of the City hereby finds that entering into the DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES ("Agreement") will assist in the redevelopment of the Property and will serve public purposes because the redevelopment of the Property will, without limitation, (i) result in the creation of new jobs (including desirable new green technology jobs within the City), (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth.

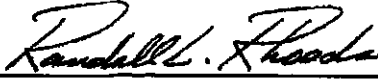
SECTION 2. That the Agreement, in substantially the form attached hereto, is approved, and the Mayor is authorized to execute the Agreement on behalf of the City.

SECTION 3. 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.

BILL NO. 11-81


ORDINANCE NO. 7086

PASSED by the City Council for the City of Lee's Summit, Missouri, this 4th day of August, 2011.



Mayor Randall L. Rhoads

ATTEST:

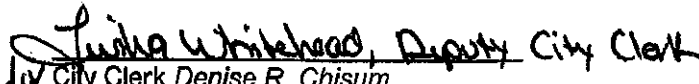

for City Clerk Denise R. Chisum

APPROVED by the Mayor of said city this 8th day of August, 2011.

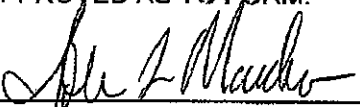


Mayor Randall L. Rhoads

ATTEST:


for City Clerk Denise R. Chisum

APPROVED AS TO FORM:



Deputy City Attorney John L. Mautino

PRESENTED TO THE MAYOR ON THE 5th DAY OF August, 2011.
SIGNATURE REQUIRED BY THE 15th DAY OF August, 2011.

Development Agreement

Dated September 2, 2011

By and Between:

**City of Lee's Summit, Missouri (Grantee)
And
Exergonix, Inc. (Grantor)**

**Mailing Address of Grantee:
The City of Lee's Summit
City Hall
220 SW Green Street
Lee's Summit, MO 64063**

**Mailing Address of Grantor:
Exergonix, Inc.
Attention: Don Nissanka, President/CEO
4201 NE Lakewood Way
Lee's Summit, Missouri 64064**

**Legal Descriptions of Property on pages 21-22
of the Development Agreement**

**DEVELOPMENT AGREEMENT
TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES**

THIS DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC ACTIVITIES (this "Agreement") is made and entered into on September 2, 2011 (the "Effective Date"), by and between the **CITY OF LEE'S SUMMIT, MISSOURI**, a Missouri constitutional charter city and political subdivision (the "City"), and **EXERGONIX, INC.**, a Missouri corporation ("Exergonix").

Recitals.

A. The City Council of the City has determined that assisting in the acquisition and redevelopment of certain real property located within the City at the intersection of U.S. Highway 50 and Missouri Highway 291, and described on **Exhibit A** attached hereto and by this reference made a part hereof (the "Property") will serve public purposes because the acquisition and redevelopment of the Property will, without limitation, (i) result in the creation of new jobs (including desirable new green technology jobs within the City), (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth, and therefore the City desires to encourage Exergonix to carry out the acquisition and redevelopment of the Property.

B. The City and Exergonix previously entered into an Option Agreement, dated June 15, 2011 (the "Original Option Agreement"), pursuant to authorization given by the City Council of the City on June 2, 2011. Pursuant to the Original Option Agreement, Exergonix granted to the City a right and option to purchase the Property (the "Original Option").

C. Exergonix acquired the Property on June 15, 2011, subject to the City's right to purchase the Property as set forth in the Original Option Agreement. The Original Option Agreement contemplated the execution of this Agreement.

D. In accordance with the terms and conditions set forth herein, Exergonix proposes to construct and develop a campus on the Property consisting in major part of: (i) innovative, green, high tech manufacturing, sales, and distribution facilities, (ii) facilities for the University of Central Missouri's Lee's Summit Campus, (iii) compatible commercial and office users; and (iv) limited retail to support the campus activities (the "Project"), as more fully set forth herein.

E. In order to further the public purposes of economic development, job creation and blight clearance, and the other public purposes considered by the City Council in determining to proceed as provided herein, the City desires to enter into this Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

{32210 / 65771; 357755.5}

ARTICLE I - DEFINITIONS

1.1 Definitions. All capitalized words shall have the meanings ascribed to them in this Section unless the context in which such words and terms are used clearly requires otherwise or unless defined elsewhere in this Agreement.

(a) "Affiliate", any person, entity or group of persons or entities in which any owner or member of Exergonix owns or controls five percent (5%) or more of the ownership interests. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise.

(b) "Amended Option," the Original Option, as amended as provided herein. The Amended Option is also sometime referred to as the "Option".

(c) "City," the City of Lee's Summit, Missouri.

(d) "City Manager," the city manager of the City.

(e) "City Council," the governing body of the City.

(f) "Finance Director," the finance director of the City.

(g) "Green Technology Use(s)," permanent uses including but not limited to: (i) uses connected or related to the design, development, manufacturing, sales or distribution of green or renewable energy products or technologies; (ii) uses connected or related to the theoretical or practical application of environmental science and green chemistry; (iii) uses connected or related to conservation of the natural environment and resources to curb the negative impacts of human involvement. Certain uses have been pre-approved by the City Council as qualifying Green Technology Uses and are set forth on Exhibit C hereto and incorporated by reference herein.

(h) "Hard Costs," the costs paid or incurred by Exergonix: (i) to a contractor or material supplier for labor, material and equipment, excluding all soft costs (soft costs include but are not limited to, architectural and engineering costs, legal fees, permitting costs and fees, financing fees, construction interest and operating expenses, leasing and real estate commissions, advertising and promotion, and supervision) used for the construction of Green Technology Uses; (ii) to acquire furniture, fixtures and equipment utilized in Green Technology Uses; and (iii) for construction of infrastructure improvements within and adjacent to the Property necessary for the operation of the Project. No amounts paid to an Affiliate shall be considered Hard Costs.

(i) "Land Use Approvals," those approvals required pursuant to the City's zoning and subdivision regulations which are required for the construction of the Project.

(j) "Legal Requirements," any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or

decision of or agreement with or by any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence and specifically including but not limited to all ordinances, rules and regulations of the City of Lee's Summit, Missouri, such as zoning ordinances, subdivision ordinances, building codes, property maintenance codes, and City's Design and Construction Manual (Ordinance No. 3719).

(k) "Net New Job," a job created by an employer that represents an increase in the number of jobs of such employer within the State of Missouri over the number of jobs of such employer prior to the creation of such job. For purposes of this Agreement, no job transferred from another location in the State of Missouri to a location on the Property shall constitute a Net New Job.

(l) "Qualified Appraiser," an appraiser who is independent, licensed and a member of the American Institute of Real Estate Appraisers or its successor, with at least ten (10) years experience appraising commercial properties in the Kansas City metropolitan area.

(m) "Qualified Investment," the direct costs actually paid to a contractor, architect, engineer or material supplier for the design, development of or for labor, material and equipment used in the construction of the Green Technology Use component of the Project, including costs for fixtures, furniture and equipment utilized in Green Technology Uses. No soft costs, other than architectural and engineering costs, including but not limited to legal fees, permitting costs and fees, financing fees, construction interest and operating expenses, leasing and real estate commissions, advertising and promotion, and supervision, shall be included in determining Qualified Investment. All Hard Costs are considered as Qualified Investment.

(n) "Qualifying Job," with respect to each employer that creates any Net New Jobs on the Property during the period commencing on the Effective Date and ending on the Completion Date, each Net New Job created by such employer that meets the following requirements:

(i) The average wages (exclusive of benefits and deferred compensation) paid by such employer for such Net New Jobs must be equal to the lesser of (1) the Jackson County average annual wage then in effect under the Missouri Quality Jobs program as of the date an employee begins receiving wages, or (2) the average Missouri statewide annual wage then in effect under the Missouri Quality Jobs program as of the date an employee begins receiving wages;

(ii) The terms of such Net New Jobs shall include an offer of health insurance from the employer and payment by the employer of at least fifty percent (50%) of the health insurance premium for such employee;

(iii) Such Net New Jobs shall be offered by an employer that is in an industry that has an NAICS code that is eligible for participation in the Missouri Quality Jobs program;

(iv) Such Net New Jobs shall otherwise meet all requirements for each Net New Job to be eligible for benefits under the Missouri Quality Jobs program; and

(v) Such Net New Jobs shall exist for a minimum of six (6) months.

No jobs created for the construction of any portion of the Project (even if for the construction of facilities for Green Technology Use) shall be considered a Qualifying Job.

(o) "Sales Proceeds," the net sales proceeds due and owing to Exergonix from the sale of any portion of the Property to an Approved Transferee derived from subtracting reasonable and standard closing costs actually paid by Exergonix from the gross sales price.

1.2 Other Defined Terms. The following terms are defined in the Sections of this Agreement indicated below:

<u>Term</u>	<u>Article/Recital/Section</u>
"60% Green Requirement"	Article VIII, ¶ 8.2
"Action"	Article VII, ¶ 7.3(b)
"Amended Option Agreement"	Article III, ¶ 3.1
"Approved Transferee"	Article VI, ¶ 6.1
"Chapter 100"	Article II, ¶ 2.4
"City Notice"	Article II, ¶ 2.6(c)
"Completion Date"	Article II, ¶ 2.1(a)(i)
"Escrow Rights"	Article IV, ¶ 4.1
"Escrowed Sales Funds"	Article IV, ¶ 4.1
"Exergonix Parcel"	Article II, ¶ 2.4
"Indemnified Parties/Party"	Article IX, ¶ 9.3(a)
"Interest Rate"	Article V, ¶ 5.4
"Investment Report"	Article II, ¶ 2.6
"Jobs Report"	Article II, ¶ 2.6
"Minimum Investment"	Article II, ¶ 2.1(a)(i)
"Minimum Jobs"	Article II, ¶ 2.1(a)(ii)

"MMD"	Article V, ¶ 5.4
"Option"	Article I, ¶ 1.1(b) and Article III, ¶3.1
"Option Agreement"	Article III, ¶ 3.1
"Option Termination"	Article III, ¶ 3.2(a)
"Percentage Payment"	Article V, ¶ 5.3
"PILOT Agreement"	Article II, ¶ 2.5(b)
"PILOT Notice"	Article II, ¶ 2.5(a)
"PILOT Payment Lien"	Article II, ¶ 2.5
"PILOT Payment Term"	Article II, ¶ 2.5
"PILOT Payment"	Article II, ¶ 2.5
"Project"	Recital D
"Property Permitted Uses"	Article VIII, ¶ 8.1
"Property"	Recital A
"Retail Use Area"	Article VIII, ¶ 8.2
"Retail User"	Article VIII, ¶ 8.2
"Original Option Agreement"	Recital B
"Original Option"	Recital B
"Term"	Article II, ¶ 2.2
"Termination Notice"	Article II, ¶ 2.6
"UCM Facility"	Article IV, ¶ 4.2(a)(iii)
"UCM"	Article IV, ¶ 4.2(a)(iii)

ARTICLE II - DEVELOPMENT OF PROJECT

2.1 The Project. Exergonix hereby agrees to develop and construct or cause the development and construction of the Project subject to the terms and conditions hereinafter provided. The performance of all activities by Exergonix hereunder shall be as an independent contractor and not as an agent of the City, except as otherwise specifically provided herein.

(a) Required Components of the Project. In order to satisfy its obligations to construct the Project, Exergonix must, at a minimum, achieve the following minimum investment and job creation objectives on the Property:

(i) Minimum Development and Investment. Exergonix agrees to invest or cause to be invested, a minimum Qualified Investment of \$50 million (the "Minimum Investment") on or before September 1, 2016 (the "Completion Date").

(ii) Minimum Job Creation. Exergonix agrees to create, or to cause to be created, 150 Qualifying Jobs to be performed at the Property for Green Technology Uses (the "Minimum Jobs") on or before the Completion Date.

2.2 Term. This Agreement is effective as of the Effective Date and shall continue until the earlier to occur of (i) the date the Amended Option is exercised by the City, or (ii) the date of the issuance by the City of the Termination Notice, as described in Section 2.6 (the "Term").

2.3 Restrictions on Encumbrances. Prior to the release of the Option, Exergonix shall not create or incur or permit to be created or incurred or to exist any mortgage, lien, security interest, charge or encumbrance upon the Property, or any part thereof, except as otherwise set forth herein. Notice is hereby given that any lien granted during the Term upon any portion of the Property that has not been released from the Option shall be subject and subordinate to all rights, titles and interests created pursuant to the Option, and no such lien shall encumber or affect the interest of any purchaser of the Property or any part thereof pursuant to the Option or any successor or assign of any purchaser of the Property or any part thereof pursuant to the Option. This restriction will terminate upon release of the Option by the City.

2.4 Chapter 100 Application. It is anticipated that Exergonix will submit, solely with respect to the portion of the Property to be developed by Exergonix for its use as a facility for research activities related to, and the development and manufacturing of advanced technology batteries (the "Exergonix Parcel"), an application for a Chapter 100 Industrial Development Plan as set forth in Chapter 100, Missouri Revised Statutes ("Chapter 100"). Unless the Chapter 100 is approved by the City Council in its sole legislative discretion, with respect to the Exergonix Parcel, the Exergonix Parcel will remain subject to ad valorem real property taxes.

2.5 Payment of Property Taxes and PILOTS. Except as provided in Section 2.4 above for the Exergonix Parcel, Exergonix agrees, for itself and its successors and assigns, that all of the Property will remain subject to ad valorem real property taxes during the Term and for a period of ten (10) years following the end of the Term (the "PILOT Payment Term"). Exergonix, and any Approved Transferee, whether or not such Approved Transferee is exempt from the payment of ad valorem real property tax shall, during the PILOT Payment Term pay or cause to be paid, as they become due and payable, all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the Property or any part thereof. If, because any Approved Transferee is an entity that is not obligated to pay ad valorem real estate taxes upon real property it owns by reason of any exemption or abatement provided by statute or constitutional provision (federal or state), (i) ad valorem property taxes (A) are not levied, assessed or imposed upon the Property or any part thereof, or (B) are levied or imposed at any rate less than the full levy rate applicable to real property not classified as "Agricultural and Horticultural property" or "Residential property" under Missouri law; or (ii) after the Project or portions thereof are built, the developed portions of the Property are assessed in any manner that results in the ad valorem real property taxes being less than the taxes that would otherwise be paid if the Property was subject to full assessment as real property not classified as "Agricultural and Horticultural property" or "Residential property" under Missouri law, Exergonix will make, or will cause any Approved Transferee to make, payments in lieu of taxes during the PILOT Payment Term in amounts equal to the taxes, assessments and other governmental charges that

{32210 / 63771; 357755.5}

would be lawfully levied or assessed or imposed upon the Property or any part thereof in the absence of any tax exemption or abatement (the "PILOT Payment"). The PILOT Payment shall be due and payable not later than December 31 of the year for which such PILOT Payment is due and payable. Exergonix hereby grants to City a lien (the "PILOT Payment Lien") upon the Property or portion thereof for which a PILOT Payment is due to secure the payment of the PILOT Payment in accordance with the terms hereof. The PILOT Payment Lien shall be prior to all other rights hereafter granted or interests granted or created by Exergonix after the Effective Date.

(a) Determination of PILOT Payment. The City, acting through its Finance Director or such other person (including a Qualified Appraiser) as the Finance Director shall designate, will determine the amount of the PILOT Payment and will notify Exergonix or the Approved Transferee of the amount of the PILOT Payment, together with the methodology used to determine such amount (the "PILOT Notice"). If Exergonix or the Approved Transferee does not agree with the PILOT Payment amount submitted by the City in the PILOT Notice, then Exergonix or the Approved Transferee shall notify the City in writing within ten (10) days of delivery of the PILOT Notice. Exergonix or the Approved Transferee shall then retain a Qualified Appraiser who will make an independent determination of the appropriate PILOT Payment and shall submit the same to the City within forty-five (45) days of the PILOT Notice, including the methodology used. If the Qualified Appraiser and the City cannot mutually agree upon the appropriate PILOT Payment within ten (10) days of the delivery of the Exergonix or the Approved Transferee information, the City and the Qualified Appraiser shall promptly jointly select a different Qualified Appraiser (the "Final Appraiser"). Within twenty (20) days after his appointment, the Final Appraiser shall select one of the two initially submitted amounts as the appropriate PILOT Payment, and such selection shall be binding upon the parties. The fee of the selected Qualified Appraiser shall be paid by the party whose determination of the PILOT Payment was not selected.

(b) Pilot Agreement. In order to memorialize the PILOT Payment requirement and the PILOT Payment Lien, Exergonix, with respect to the Exergonix Parcel, and all Approved Transferees with respect to the portion of the Property sold or transferred shall enter into and execute a PILOT Agreement in a form substantially similar to that attached hereto as **Exhibit B** which will be recorded against the portion of the Property to be acquired by the Approved Transferee (all such agreements are collectively referred to herein as the "PILOT Agreement"). The PILOT Agreement will (i) create a lien upon the portion of the Property owned by Exergonix or the Approved Transferee, (ii) contain a notice that the portion of the Property owned by Exergonix or the Approved Transferee will be liable for any PILOT Payment due and owing on such property and is subject to a PILOT Payment Lien for a period of ten (10) years following the end of the Term, (iii) include all of the provisions set forth in this **Section 2.5**, including without limitation the procedure for determining the amount of the PILOT Payment as set forth in **Section 2.5(a)** hereof, and (iv) provide for foreclosure of the lien granted in the event that any PILOT Payment then due and owing is not paid by December 31 of the year for which such PILOT Payment is due and payable.

2.6 Reporting Requirements.

{32210/65771; 357755.5}

(a) Minimum Jobs. Semi-annually commencing on the anniversary of the Effective Date, and again upon the achievement of the Minimum Jobs requirement, Exergonix shall submit to City a report (the "Jobs Report") certifying (i) the total number of Qualifying Jobs created on the Property during the Term, (ii) evidence of the wages paid with respect to the new Qualifying Jobs created within the most recent six (6) month period, and (iii) such other evidence as the City requires in order to confirm creation of the Qualifying Jobs as required under this Agreement. In order for a new job to be counted toward the Minimum Jobs requirement, Exergonix must provide evidence that the job existed for at least six (6) months; provided, however, that if any new job that Exergonix contends is to be counted toward the Minimum Jobs requirement is created less than six (6) months prior to the Completion Date, the parties shall wait a full six (6) months from the date of creation to determine if such job still exists. If after the passage of such 6-month period the job still exists and otherwise continues to meet the requirements to be counted toward the Minimum Jobs requirement, it will count toward the Minimum Jobs requirement as of the Completion Date. After receipt of each Jobs Report, the City will conduct such investigation as it deems necessary and review the materials provided by Exergonix and will provide a response to Exergonix indicating if the City concurs with Exergonix that the information provided is sufficient to determine that the jobs created through such date are Qualifying Jobs. The obligation to provide the Job Report shall terminate six (6) months after the City has completed its investigation and determined, as provided herein, that Minimum Jobs requirement has been satisfied.

(b) Minimum Investment. Within 60 days after any Qualified Investment is made and again upon achievement of the Minimum Investment, Exergonix shall submit to City a report (the "Investment Report") certifying the Qualified Investment incurred for the construction of facilities on the Property that are utilized for Green Technology Uses. The Investment Report shall include copies of paid invoices, cancelled checks, receipts and such other supporting documentation as the City shall reasonably require in order to confirm the total Qualified Investment. After receipt of each Investment Report, the City will conduct such investigation as it deems necessary and review the materials provided by Exergonix and will provide a response to Exergonix indicating if the City concurs with Exergonix that the information provided is sufficient to determine that the investment made through such date qualifies as a Qualified Investment. The obligation to provide the Investment Report shall terminate after the City has completed its investigation and determined, as provided herein, that Minimum Investment requirement has been satisfied.

(c) Final Completion Report and Termination of Agreement. After receipt of the final Jobs Report and final Investment Report whereby Exergonix certifies that it has achieved the Minimum Jobs and Minimum Investment, the City will conduct such investigation as it deems necessary, review the materials provided by Exergonix and notify Exergonix within thirty (30) days of submittal of the final reports if the City requires further information or materials to make its determination whether Exergonix has achieved the Minimum Jobs and Minimum Investment. When the City determines it has received all information and materials necessary to complete its review of the Jobs Report and Investment Report, City will deliver its written notice (the "City Notice") to Exergonix. City will, within sixty (60) days of the delivery of the City Notice, complete

its investigation and its review of the materials provided by Exergonix as required by **Sections 2.6(a) and 2.6(b)** above. If the City determines that the Minimum Investment and Minimum Jobs have been achieved on or prior to the Completion Date, and that as of the date of the request, Exergonix has complied with and performed all of its covenants and agreements set forth in this Agreement, then the City will execute a notice, in recordable form, of satisfaction of the Minimum Investment and Minimum Jobs requirements, a notice of termination of this Agreement (the "Termination Notice"). If the City determines that the Minimum Investment or Minimum Jobs has not been achieved as required by this Agreement, or that Exergonix is not otherwise in compliance with this Agreement or has not performed all of its covenants and agreements set forth herein, then the City shall not issue the Termination Notice and shall specify in writing the reason or reasons for withholding its certification. Upon the request of Exergonix, the City Council shall hold a hearing at which Exergonix may present its evidence directly to the City Council for approval.

ARTICLE III - OPTION TO PURCHASE

3.1 Option. The City and Exergonix hereby agree that the Original Option Agreement will, concurrently with the execution of this Agreement, be amended in substantially the form attached hereto as **Exhibit B** (the Original Option Agreement, as amended, is referred to herein as the "Amended Option Agreement" or the "Option Agreement," and the "Original Option", as amended pursuant to the Option Agreement, is referred to herein as the "Option"). Without limiting any other term or provision set forth in the Option Agreement, the Option may be exercised in the following circumstances:

(a) If Exergonix fails to achieve the Minimum Investment on or before the Completion Date, then, in addition to and not in limitation of City's other rights and remedies contained herein, or at law or in equity, the City may, as to that portion of the Property which is still subject to the Option, exercise the Option on or within ten (10) years after the Completion Date; and

(b) If Exergonix fails to achieve the creation of the Minimum Jobs on or before the Completion Date, then, in addition to and not in limitation of the City's other rights and remedies contained herein or at law or in equity, the City may, as to that portion of the Property which is still subject to the Option, exercise the Option on or within ten (10) years after the Completion Date.

3.2 Release of Option.

(a) If on or before the Completion Date Exergonix has achieved or caused the achievement of the Minimum Jobs and the Minimum Investment and City has confirmed such achievement and issued the Termination Notice as described in **Section 2.6**, then the City will execute a notice, in recordable form, releasing the Option as to all of the Property then remaining subject to the Option ("Option Termination").

(b) If on or before the Completion Date Exergonix sells a portion of the Property to an Approved Transferee (as defined herein), and all of the requirements set

forth in Article VI hereof have been met and satisfied, then the City will release the Option as to the affected portion of the Property.

ARTICLE IV - ESCROW ACCOUNT

4.1 Escrowed Sales Funds. Upon any approved sale or other transfer to an Approved Transferee, Exergonix will cause all Sales Proceeds to be disbursed, pursuant to a settlement statement reviewed in advance by the City, directly to the City by wire transfer; provided, however, that if the City determines that the net amount due to Exergonix, as set forth in the settlement statement, includes reductions that are not reasonable and standard closing costs actually paid by Exergonix, or that any such reductions are in violation of the terms of this Agreement, then City shall not release the Option pending resolution of such determination in a manner acceptable to City. City's right to receive and hold all Sales Proceeds collected as a result of a sale of any portion of the Property to an Approved Transferee is referred to herein as the "Escrow Rights". City will hold the Sales Proceeds and any interest earned therein in a City-owned escrow account at UMB Bank (the "Escrowed Sales Funds") for the benefit of Exergonix, subject to the terms of this Agreement under Section 4.2 below.

4.2 Use of Escrowed Sales Funds. The Escrowed Sales Funds shall be held and disbursed as follows:

(a) Prior to Completion Date.

(i) Prior to the Completion Date and subject to the City's review and approval as provided in Subsection (ii) and (iii) below, the Escrowed Sales Funds may only be used by Exergonix to directly fund Hard Costs incurred, provided that Exergonix receives no other compensation for such payment of Hard Costs from any third party, including in the form of increased rent or purchase price. If Exergonix does receive any compensation for such payment of Hard Costs from any third party, such payment must be put into the Escrowed Sales Funds.

(ii) Reimbursement From Escrowed Sales Fund. The City must approve all disbursements of the Escrowed Sales Funds. All Hard Costs for which reimbursement is requested out of the Escrowed Sales Funds must be submitted within 60 days after they are incurred. Exergonix must provide evidence of the payment of Hard Costs providing the City with the following information:

(A) Copies of paid invoices, cancelled checks, receipts and such other supporting documentation as the City shall require, all evidencing that Exergonix paid the Hard Costs;

(B) Lien waivers from applicable contractors and sub-contractors; and

(C) Such other documentation and evidence as the City may reasonably request to confirm that the Escrowed Sales Funds will be used to directly fund or reimburse Exergonix for a Hard Cost.

The City will have thirty (30) days to review each request for reimbursement of the Escrowed Sales Funds. If City, pursuant to its review of the materials submitted, determines that any portion of the request for reimbursement should not be approved, it shall promptly state the reasons for such disapproval. Exergonix will either submit additional information sufficient to respond to the City's disapproval or Exergonix may appeal any disapproval to the City Council for approval. Should City fail to approve, disapprove, or request additional information within such thirty (30) day period, the reimbursement request will be deemed approved by City.

(iii) Funding of UCM Hard Costs. The City hereby acknowledges that the University of Central Missouri ("UCM") has proposed a facility (the "UCM Facility") to be constructed upon a portion of the Property. The UCM Facility will be used as the new "Lee's Summit Campus" of UCM. Portions of the UCM Facility will be dedicated to Green Technology Uses including higher education in the theoretical and practical applications of Green Technology Uses and the promotion of internships and partnerships with Green Technology Uses located on the Property and elsewhere in the community. The City agrees and confirms that the Hard Costs for the portion of the UCM Facility dedicated to Green Technology Use, qualify as an Approved Escrow Use, subject to verification of costs by City as provided above. Exergonix must provide evidence that the Hard Costs related to the UCM Facility were expended by Exergonix with no reimbursement from UCM or any other party. City reserves the right to determine, in its sole discretion, the portion of the UCM Facility that is dedicated to Green Technology Uses and the appropriate allocation of Hard Costs incurred by Exergonix that may be paid as an approved use of Escrowed Sales Funds. All Hard Costs for the portion of the UCM Facility, dedicated to Green Technology Use shall count towards the satisfaction of the Minimum Investment.

(b) After the Completion Date.

(i) If Exergonix has achieved or caused to be achieved the Minimum Jobs and Minimum Investment by the Completion Date, and City has issued the Termination Notice, all remaining Escrowed Sales Funds will be distributed to Exergonix.

(ii) If Exergonix fails to achieve or cause to be achieved the Minimum Jobs and Minimum Investment in accordance with the terms and provisions of this Agreement by the Completion Date, all remaining Escrowed Sales Funds shall be distributed to the City as provided in Article V herein.

ARTICLE V - FAILURE TO ACHIEVE OBJECTIVES

If Exergonix fails to achieve or cause to be achieved the Minimum Jobs and Minimum Investment by the Completion Date, City shall have the following rights and remedies.

5.1 Exercise of Option. As described in the Option, City may exercise the Option upon failure by Exergonix to achieve or cause to be achieved the Minimum Jobs and Minimum Investment by the Completion Date.

5.2 Use of Escrowed Sales Funds. In addition to the right to exercise the Option, if Exergonix fails to achieve its obligations with respect to the Minimum Investment and Minimum Jobs before the Completion Date, the balance of the Escrowed Sales Funds will immediately become the property of the City and Exergonix will have no further interest, claim to or right or title in the Escrowed Sales Funds.

5.3 Percentage Payment. In addition to the City's right to exercise the Option and the ability to receive and retain the Escrowed Sales Funds, if Exergonix fails to achieve the Minimum Investment and Minimum Jobs before the Completion Date, Exergonix will pay to City an amount equal to \$1,405,280 multiplied by a fraction, the numerator of which is the amount of the Minimum Investment that Exergonix failed to invest by the Completion Date and the denominator of which is \$50,000,000, together with interest at the Interest Rate (defined herein) (such payment shall be referred to as the "Percentage Payment"). Interest on the Percentage Payment shall begin to accrue on the Effective Date of the Option Agreement and run through the date that Exergonix submits the Percentage Payment to the City.

5.4 Interest Rate. For purposes of this Article, "Interest Rate" shall mean a rate equal to the rate set forth for a five (5) year maturity in the A scale number "92" as quoted in the Municipal Market Digest of interest rates ("MMD") scale in the *Wall Street Journal*. The rate will be adjusted annually on May 1 at the then-current five (5) year rate.

5.5 Example. For purposes of example only, if it is assumed that Exergonix failed to complete the Minimum Investment and Minimum Jobs before the Completion Date, but Exergonix (i) expended \$40 Million in Qualified Investment, and (ii) sold a portion of the Property with Sales Proceeds equal to \$1,000,000 and did not utilize any of the Escrow Sales Fund to pay for Hard Costs, after the Completion Date the City can (x) exercise the Option and purchase the remaining Property subject to the Option, (y) retain the \$1,000,000 Sales Proceeds (i.e. the Escrow Sales Fund), and (z) require Exergonix to pay \$281,056 (derived by multiplying \$1,405,280 X (\$10,000,000/\$50,000)), plus interest at the Interest Rate upon such \$281,056 from the Effective Date of the Option Agreement and run through the date that Exergonix submits the Percentage Payment to the City.

ARTICLE VI - CITY APPROVAL OF TRANSFERS

6.1 City Approval of Transfer and Transferee. No sale, transfer, lease, or other conveyance of any portion of the Property may be made except with the prior written approval of City. City's right of approval of any transfer shall be in force until the recording of the Termination Notice. Without limiting the generality of the foregoing, City will require that any proposed transferee:

- (a) provide a detailed financing plan (reasonably acceptable to the City) detailing all sources and uses (including a listing of costs with reasonable specificity) necessary to develop the proposed project, and proof to the City's satisfaction that all necessary debt and equity is committed and available to develop the proposed project;

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(b) provide proof that such proposed transferee is an unrelated third party and that the terms of the transaction between the proposed transferee and Exergonix are arms length and at market price;

(c) provide evidence of submission for approval by the City of all zoning, platting, and land use matters and plans required by law, including the City's Unified Development Ordinance, for the development of that portion of the Property that is proposed to be transferred to the proposed transferee;

(d) provide for the City's reasonable approval (i) the schematic design drawings, (ii) the design development drawings; and (iii) the architectural design materials including the quality and types of exterior finish for the proposed project. City shall have twenty-one (21) days from submittal to issue its approval, or in the case approval is not given, the detailed reasons in writing for not granting approval;

(e) provide a detailed description of how the proposed transferee intends to use the development for Green Technology Uses;

(f) has received approval by City or in City's sole determination is reasonably likely to receive approval of all required Land Use Approvals for the proposed project; and

(g) execute the PILOT Agreement.

City may require that any transferee demonstrate to City's reasonable satisfaction that it has sufficient financial, management, property ownership and operation capabilities, and that it is interested in the long-term viability of the Project. The City will provide notice to Exergonix and the proposed transferee when the City has received all the required information for the City's review. Once the City has received all the required information from the proposed transferee, City shall exercise its right to approve or deny any proposed sale or transfer within forty-five (45) days from the date of the City's notice of receipt. A City-approved transferee is referred to herein as an "Approved Transferee".

ARTICLE VII - DEVELOPMENT OF EXERGONIX PARCEL

7.1 Development of Exergonix Parcel. In connection with the development of the Exergonix Parcel, if this Agreement and the Option are still in effect, Exergonix must request the release of the Option by the City for the Exergonix Parcel. In order for the City to approve the request, Exergonix must:

(a) provide a detailed financing plan (reasonably acceptable to the City) detailing all sources and uses (including a listing of costs with reasonable specificity) necessary to develop the proposed project, and proof to the City's satisfaction that all necessary debt and equity is committed and available to develop the proposed project;

(b) submit plans for approval by the City of all zoning, platting, and land use matters and plans required by law, including the City's Unified Development Ordinance, for the development of the Exergonix parcel;

(c) have received approval by City or in City's sole determination is reasonably likely to receive approval of all required Land Use Approvals for development of the Exergonix Parcel for the proposed project;

(d) provide for the City's reasonable approval (i) the schematic design drawings, (ii) the design development drawings; and (iii) the architectural design materials including the quality and types of exterior finish for the proposed project. City shall have twenty-one (21) days from submittal to issue its approval, or in the case approval is not given, the detailed reasons in writing for not granting approval;

(e) provide a fully-executed construction contract for construction of the proposed project. Such contract should contain a guaranteed maximum price consistent with the City-approved financing plan; and

(f) have executed the PILOT Agreement.

The City will provide notice to Exergonix when the City has received all the required information for the City's review. Once the City has received all the required information, City shall complete its review to confirm compliance with terms of this Agreement within forty-five (45) days from the date of the City's notice of receipt, and if the proposed project complies with the terms of this Agreement, the City will release the Option as to the Exergonix Parcel.

ARTICLE VIII - USE RESTRICTIONS

8.1 Permitted Uses. In addition to the other provisions and restrictions contained in this Agreement, the Property may only be used for such uses that are permitted under zoning District PMIX as of the Effective Date and as otherwise permitted by the Land Use Approvals (the "Property Permitted Uses"). The City acknowledges that Exergonix has the right to request other uses for the Property on a case-by-case basis, subject to the review and approval of the City Council, which approval may be given in the sole and subjective discretion of the City Council.

8.2 Green Technology Use Required. No less than 60% of the total square footage of the Property must be utilized for a Green Technology Use (the "60% Green Requirement"). The remaining 40% of the Property may be developed for Property Permitted Uses. The 60% Green Requirement will remain a restriction on all portions of the Property for which the Option has not been released. In connection with the approval of a project or a proposed transfer, the City will make a determination as to whether the proposed use qualifies as a Green Technology Use. If the City determines that the proposed use qualifies as a Green Technology Use, the square footage of the Property transferred to the Approved Transferee will count toward the 60% Green Requirement. Up to five percent (5%) of the Property may be used by a user whose primary business operation is retail sales (the "Retail User"), provided such user is approved as an Approved Transferee under Section 6.1 hereof. None of the Retailer User property may be utilized to reach the 60% Green Requirement. A Retail User may only be located within the area shown on the site plan attached hereto as Exhibit D and designated thereon as the "Retail Use Area".

8.3 Pre-Approved Uses. A list of uses pre-approved by the City Council that meet the definition of Green Technology Use and pre-approved Retail Users is attached hereto as Exhibit C, and incorporated herein by reference.

ARTICLE IX - MISCELLANEOUS

9.1 Compliance with Laws. Subject to Exergonix' rights to contest the same in any manner permitted by law, Exergonix, its officers, directors and principals, successors and assigns, and Approved Transferees, at their sole cost and expense, shall comply in every respect with all Legal Requirements, ordinances, rules and regulations of all federal, state, county and municipal governments, agencies, bureaus or instrumentalities thereof now in force or which may be enacted hereafter which pertain to the development, construction, ownership, occupancy, use and operation of the Project and the Property, specifically including, if required under State law, the payment of workers at the "prevailing hourly rate of wages", as such term is defined in Mo. Rev. Stat. § 290.210(5).

9.2 Notice. Any notice, request, consent or communication under this Agreement will be effective only if it is in writing and personally delivered or sent by a nationally recognized overnight delivery service, with delivery confirmed, addressed as follows:

If to the City:

Name:

Attn: Stephen Arbo, City Manager
The City of Lee's Summit, Missouri
City Hall
220 SE Green Street
Lee's Summit, Missouri 64063

With Copy To:

Teresa Williams, City Attorney
The City of Lee's Summit, Missouri
City Hall
220 SE Green Street
Lee's Summit, Missouri 64063

If to Exergonix:

Name:

Attn: Don Nissanka, President/CEO
Exergonix, Inc.
4201 NE Lakewood Way
Lee's Summit, Missouri 64064

With Copy To:

Mark L. Weinrub
MW Law, PC
15180 Dallas Parkway, Suite 600
Addison, TX 75001

Aaron March, Esq.
White Goss Bowers March Schulte
& Weisenfels
4510 Belleview Suite 300
Kansas City, Mo 64111

or such other persons and/or addresses as are furnished in writing by any party to the other party, and will be deemed to have been given, if delivered personally, upon its delivery, and if via nationally recognized overnight delivery service, with delivery confirmed, upon the 1st business day following deposit with such delivery service.

9.3 Indemnification.

(a) Exergonix shall indemnify, protect, defend and hold the City and its officers, agents, employees, elected officials and attorneys, each in their official and individual capacities, now or previously holding office (collectively, the "Indemnified Parties" or, individually, an "Indemnified Party") harmless from and against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages), to persons or property occurring or allegedly occurring (i) on or about the Property, or (ii) as a result of any acts or omissions of Exergonix, its constituent members or partners, their employees, agents, independent contractors, licensees, invitees or others acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Agreement, (iii) in connection with the ownership, use or occupancy and development or redevelopment of the Property or a portion thereof, or (iv) as a result of a challenge to the terms of this Agreement or the legality thereof, except to the extent such claims, demands, liabilities and costs were caused by the City's negligent or intentional acts or omissions.

(b) In the event any suit, action, investigation, claim or proceeding (collectively, an "Action") is begun or made as a result of which Exergonix may become obligated to one or more of the Indemnified Parties hereunder, the Indemnified Party shall give prompt notice to Exergonix of the occurrence of such event, but the failure to notify Exergonix will not relieve Exergonix of any liability that it may have to an Indemnified Party. After receipt of such notice, Exergonix may elect to defend, contest or otherwise protect the Indemnified Party against any such Action, at the cost and expense of Exergonix, utilizing counsel approved by the Indemnified Party. The Indemnified Party shall have the right, but not the obligation, to participate, at the Indemnified Party's own cost and expense, in the defense thereof by counsel of the Indemnified Party's choice. In the event that Exergonix shall fail timely to defend, contest or otherwise protect an Indemnified Party against such Action, the Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Indemnified Party after notice to Exergonix asserting Exergonix' failure to timely defend, contest or otherwise protect against such Action), the Indemnified Party may submit any bills for fees and costs received from its counsel to Exergonix for payment and, within thirty (30) business days after such submission, Exergonix shall transfer to the Indemnified Party sufficient funds to pay such bills. Exergonix acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

(c) An Indemnified Party shall submit to Exergonix any settlement proposal that the Indemnified Party shall receive. Exergonix shall be liable for the payment of any amounts paid in settlement of any Action to the extent that Exergonix consents to such settlement. Neither Exergonix nor the Indemnified Party will unreasonably withhold its consent to a proposed settlement.

(d) Exergonix expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Agreement imposed upon Exergonix in order to induce City to enter into this Agreement. To the fullest extent permitted by law, an Indemnified Party shall have the right to maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Agreement, and the right to apply any deposit or other funds submitted by Exergonix to the Indemnified Party in payment of the damages suffered by it, as is necessary to protect the Indemnified Party from loss. If such court action is successful, the Indemnified Party shall be reimbursed by Exergonix for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

(e) The right to indemnification set forth in this Agreement shall survive the termination of this Agreement.

9.4 Breach-Compliance.

(a) If Exergonix or City does not comply with provisions of this Agreement, within the time limits and in the manner for the completion of the Project as therein stated, except for any extensions or waivers described herein, in that Exergonix or City shall do, permit to be done, or fail or omit to do, or shall be about so to do, permit to be done, or fail or omit to have done, anything contrary to or required of it by this Agreement, and if, within thirty (30) days after notice of such default by the nondefaulting party to the defaulting party, the defaulting party shall not have cured such default or commenced such cure and be diligently pursuing the same if such cure would reasonably take longer than said thirty (30) day period (but in any event if the defaulting party shall not have cured such default within one hundred twenty (120) days), then the nondefaulting party may institute such proceedings as may be necessary in its opinion to cure the default including, but not limited to, proceedings to compel specific performance by the party in default of its obligations and the right to apply any deposit or other funds submitted by Exergonix to City in payment of the damages suffered by it, the right to withhold or apply funds from the Escrowed Sales Fund to such extent as is necessary to protect City from loss or to ensure that the Project is fully and successfully implemented in a timely fashion.

(b) If any action is instituted by either party hereunder, the nonprevailing party in such action shall pay any and all costs, fees and expenses, including attorneys' fees incurred by the prevailing party in enforcing this Agreement.

(c) The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by either party shall apply to obligations beyond those expressly waived.

(d) Exergonix (for itself and its successors and assigns, and for all other persons who are or who shall become liable, by express or implied assumption or otherwise, upon or subject to any obligation or burden under this Agreement), waives to the fullest extent permitted by law and equity all claims or defenses otherwise available on the ground of being or having become a surety or guarantor, whether by agreement or operation of law. This waiver includes, but is not limited to, all claims and defenses based upon extensions of time, indulgence or modification of terms of Agreement.

(e) Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit them in any way. No waiver in fact made by either party of any specific default by the other party shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect, to the particular default except to the extent specifically waived.

(f) Notwithstanding anything to the contrary herein, Exergonix agrees that in the event of any default by City under this Agreement, it will not bring any action or suit to recover damages against City or any officer, director, commissioner, member, employee, or agent of any of them, except that this Section shall not prevent the award of attorneys' fees in the event of a default by City under this Agreement. Actions brought in equity or which otherwise do not seek to recover damages are not precluded by this Section.

9.5 Assignment. This Agreement may only be assigned with the express approval of the parties.

9.6 Modification. The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and by mutual agreement between the City and Exergonix. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

9.7 Recording. Upon full execution by City and Exergonix, this Agreement shall be recorded by City, at Exergonix' expense, in the Office of the Recorder of Deeds for Jackson County, in Independence, Missouri.

9.8 Binding Effect. This Agreement will bind and, except as specifically provided herein, will inure to the benefit of the respective successors and permitted assigns, as applicable, of the parties hereto. The provisions of this Agreement shall be covenants running with the land and shall remain in effect for the duration of the Term. They shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and be enforceable by the parties, against each other and their respective successors and assigns, and every successor in interest to the subject Property, or any part of it or any interest in it and any party in possession or occupancy of the Property or any part thereof.

9.9 Governing Law. This Agreement is governed by and is to be construed and determined in accordance with the laws of the State of Missouri without reference to its choice of law provisions.

9.10 Time and Performance are of the Essence. Time and exact performance are of the essence of this Agreement.

9.11 Entire Agreement; Controlling Documents. This Agreement, the Option Agreement, and the PILOT Agreement constitute the entire agreement between the parties hereto with respect to the subject matter hereof. In the event of a discrepancy between this Agreement and the Option, the Option Agreement shall control. In the event of a discrepancy between this Agreement and any PILOT Agreement, such PILOT Agreement shall control. In the event of a discrepancy between the Option and any PILOT Agreement, the Option Agreement shall control.

9.12 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

9.13 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

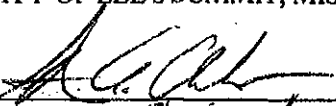
9.14 Acknowledgement. Exergonix agrees that the City has not made, and does not make, any representation or warranty to Exergonix about the tax treatment or implications of the transactions contemplated in this Agreement, or with respect to any other matter relating to this Agreement or the conduct or handling of the transactions contemplated herein. Exergonix agrees that it has made an independent decision to enter into this Agreement, without reliance on any representation, warranty, covenant or undertaking by the City, whether written or oral, explicit or implicit, except to the extent expressly set forth in this Agreement.

9.15 City's Legislative Authority. Notwithstanding any other provisions in this Agreement, nothing herein shall be deemed to usurp the governmental authority or police powers of the City or to limit the legislative discretion of the City Council, and no action by the City Council in exercising its legislative authority, including without limitation any decision to approve the satisfaction of any conditions precedent hereunder, shall be a default under this Agreement.


9.16 Subject to Appropriation. If and to the extent that any covenant, agreement or obligation of the City hereunder requires the payment by the City of any monies that have not, as of the Effective Date, been appropriated by the City Council of the City, then City's obligation to pay such monies hereunder shall be subject to the passage of an ordinance by the City Council appropriating such monies for payment hereunder.

The parties have executed this Agreement on the date first above written.

THE CITY OF LEE'S SUMMIT, MISSOURI

By: 
Name: Stephen A. Arabo
Title: City Manager

EXERGONIX, INC.

By: 
Name: DON NISSANKA
Title: PRESIDENT / CEO

**EXHIBIT A
TO DEVELOPMENT AGREEMENT**

Legal Description of the Property

PARCEL 1:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTH 02°-22'-03" EAST ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 19.34 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD AS NOW ESTABLISHED; THENCE NORTH 29°-25'-41" WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 153.40 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 83°-24'-46" WEST, A DISTANCE OF 656.73 FEET; THENCE NORTH 87°-49'-44" WEST, A DISTANCE OF 312.64 FEET; THENCE NORTH 02°-58'-23" EAST, A DISTANCE OF 678.03 FEET; THENCE NORTH 87°-01'-37" WEST, A DISTANCE OF 1019.79 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTH 06°-06'-41" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 144.99 FEET; THENCE NORTH 07°-51'-41" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 549.47 FEET; THENCE SOUTH 87°-49'-30" EAST DEPARTING SAID RIGHT OF WAY LINE, A DISTANCE OF 1303.12 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 29°-25'-41" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1498.93 FEET TO THE POINT OF BEGINNING. CONTAINING 1,524,252 SQUARE FEET, OR 34.992 ACRES, MORE OR LESS.

PARCEL 2:

ALL THAT PART OF THE NORTHWEST QUARTER, AND ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 87°-53'-51" EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 11.96 FEET, TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, AS NOW ESTABLISHED; THENCE SOUTH 29°-25'-41" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 223.09 FEET, TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 29°-25'-41" EAST, A DISTANCE OF 1323.59 FEET, TO A POINT IN THE SOUTH LINE OF THE NORTHWEST QUARTER

{32210 / 65771; 357755.5}

OF SAID NORTHEAST QUARTER; THENCE NORTH $87^{\circ}-32'-55''$ WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 832.35 FEET, TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH $2^{\circ}-36'-20''$ EAST, ALONG THE EAST LINE SAID NORTHWEST QUARTER AND ALONG THE EAST LINE OF **MADDOX ACRES**, A SUBDIVISION, A DISTANCE OF 358.00 FEET, TO THE NORTHEAST CORNER OF LOT 12 OF SAID SUBDIVISION; THENCE NORTH $87^{\circ}-49'-43''$ WEST, ALONG THE NORTH LINE OF SAID SUBDIVISION, A DISTANCE OF 1507.48 FEET, TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2416.83 FEET, A CHORD BEARING OF NORTH $26^{\circ}-20'-38''$ WEST, A CENTRAL ANGLE OF $1^{\circ}-18'-57''$, AN ARC LENGTH OF 55.50 FEET; THENCE NORTH $27^{\circ}-00'-06''$ WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 256.79 FEET; THENCE NORTH $26^{\circ}-49'-41''$ WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 241.77 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1784.86 FEET, A CHORD BEARING OF NORTH $18^{\circ}-00'-47''$ WEST, A CENTRAL ANGLE OF $12^{\circ}-35'-16''$, AN ARC LENGTH OF 392.13 FEET; THENCE NORTH $32^{\circ}-04'-12''$ EAST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 61.73 FEET; THENCE SOUTH $87^{\circ}-49'-44''$ EAST, A DISTANCE OF 1158.47 FEET; THENCE SOUTH $78^{\circ}-33'-51''$ EAST, A DISTANCE OF 869.58 FEET, TO THE POINT OF BEGINNING. CONTAINING 2,079,053 SQUARE FEET, OR 47.728 ACRES, MORE OR LESS.

**EXHIBIT B
TO DEVELOPMENT AGREEMENT**

Form of Amendment to Original Option Agreement

FIRST AMENDMENT TO OPTION AGREEMENT

THIS FIRST AMENDMENT TO OPTION AGREEMENT ("Amendment") is entered into as of the ___ day of _____, 2011, by and between EXERGONIX, INC., a Missouri corporation ("Exergonix"), and the CITY OF LEE'S SUMMIT, MISSOURI, a Missouri constitutional charter city and political subdivision ("City").

Recitals

A. Reference is made to that certain Option Agreement dated June 15, 2011, recorded on _____, as Document No. _____ in the Recorder's Office of Jackson County, Missouri ("Original Option Agreement"), between the City and Exergonix granting City an option relating to certain real property located within the City at the intersection of U.S. Highway 50 and Missouri Highway 291, and described on **Exhibit A** attached hereto and by this reference made a part hereof (the "Property").

B. The City has determined that assisting in the acquisition and redevelopment of the Property, will serve public purposes because it will, without limitation, (i) result in the creation of desirable new technology jobs within the City, (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth.

C. The Original Option Agreement contemplated the execution by Exergonix and the City of a definitive development agreement.

D. As of the date hereof, Exergonix and the City have entered into the Development Agreement ("Development Agreement") authorizing this Amendment and creating a revised option to purchase the Property in favor of the City.

E. The City desires to encourage Exergonix to carry out the acquisition and redevelopment of the Property by entering into this Amendment.

Agreement

In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows.

1. **Incorporation of Recitals**. The above Recitals are incorporated herein by this reference. Capitalized terms not defined in this Amendment shall have the meaning assigned to them in the Agreement.

2. **Amendment to Term**. Paragraph 4 of the Option is hereby amended by deleting Paragraph 4 in its entirety and replacing it with the following:

(32210 / 65771; 357755.5)

Term. This Agreement shall be effective upon the Effective Date and shall remain in effect until the earlier to occur of (i) the release of this Option by City pursuant to the terms of the Development Agreement; or (ii) upon the completion of the Minimum Investment and Minimum Jobs as confirmed by the City's Termination Notice (as such terms are defined in the Development Agreement). If Exergonix has not achieved the creation of the Minimum Investment and Minimum Jobs by September 1, 2016, City shall have the right to exercise the Option at any time thereafter for a period of ten (10) years (the "Option Period").

3. **Confirmation of Completion.** The parties acknowledge that the City has made the Option Payment as required under Paragraph 3 of the Original Option Agreement, and that Exergonix has provided copies of all surveys, reports, test and studies as required under Paragraph 9 of the Original Option Agreement.

4. **Recording Memorandum.** A memorandum of this Amendment will be recorded by City, in a form substantially similar to that attached hereto as Exhibit B (the "Memorandum"). The Memorandum will be recorded in the public land records for Jackson County, Missouri.

5. **Counterparts.** This Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

6. **Continued Effect.** Except as specifically modified by this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between any term and provision of the Agreement and this Amendment, the terms and provisions of this Amendment shall control.

In Witness Whereof, the parties have executed this Amendment as of the date first above written.

THE CITY OF LEE'S SUMMIT, MISSOURI

By: _____
Stephen Arbo, City Manager

EXERGONIX, INC.

By: _____
Don Nissanka, President/CEO

**Exhibit A
to First Amendment to Option Agreement**

LEGAL DESCRIPTION

PARCEL 1:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER: THENCE NORTH 02°-22'-03" EAST ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 19.34 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD AS NOW ESTABLISHED; THENCE NORTH 29°-25'-41" WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 153.40 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 83°-24'-46" WEST, A DISTANCE OF 656.73 FEET; THENCE NORTH 87°-49'-44" WEST, A DISTANCE OF 312.64 FEET; THENCE NORTH 02°-58'-23" EAST, A DISTANCE OF 678.03 FEET; THENCE NORTH 87°-01'-37" WEST, A DISTANCE OF 1019.79 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTH 06°-06'-41" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 144.99 FEET; THENCE NORTH 07°-51'-41" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 549.47 FEET; THENCE SOUTH 87°-49'-30" EAST DEPARTING SAID RIGHT OF WAY LINE, A DISTANCE OF 1303.12 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 29°-25'-41" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1498.93 FEET TO THE POINT OF BEGINNING. CONTAINING 1,524,252 SQUARE FEET, OR 34.992 ACRES, MORE OR LESS.

PARCEL 2:

ALL THAT PART OF THE NORTHWEST QUARTER, AND ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER: THENCE SOUTH 87°-53'-51" EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 11.96 FEET, TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, AS NOW ESTABLISHED; THENCE SOUTH 29°-25'-41" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 223.09 FEET, TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 29°-25'-41" EAST, A DISTANCE OF 1323.59 FEET, TO A POINT IN THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE NORTH 87°-32'-55" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 832.35 FEET, TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 2°-36'-20" (32210 / 65771; 357755.5)

EAST, ALONG THE EAST LINE SAID NORTHWEST QUARTER AND ALONG THE EAST LINE OF **MADDOX ACRES**, A SUBDIVISION, A DISTANCE OF 358.00 FEET, TO THE NORTHEAST CORNER OF LOT 12 OF SAID SUBDIVISION; THENCE NORTH 87°-49'-43" WEST, ALONG THE NORTH LINE OF SAID SUBDIVISION, A DISTANCE OF 1507.48 FEET, TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2416.83 FEET, A CHORD BEARING OF NORTH 26°-20'-38" WEST, A CENTRAL ANGLE OF 1°-18'-57", AN ARC LENGTH OF 55.50 FEET; THENCE NORTH 27°-00'-06" WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 256.79 FEET; THENCE NORTH 26°-49'-41" WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 241.77 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1784.86 FEET, A CHORD BEARING OF NORTH 18°-00'-47" WEST, A CENTRAL ANGLE OF 12°-35'-16", AN ARC LENGTH OF 392.13 FEET; THENCE NORTH 32°-04'-12" EAST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 61.73 FEET; THENCE SOUTH 87°-49'-44" EAST, A DISTANCE OF 1158.47 FEET; THENCE SOUTH 78°-33'-51" EAST, A DISTANCE OF 869.58 FEET, TO THE POINT OF BEGINNING. CONTAINING 2,079,053 SQUARE FEET, OR 47.728 ACRES, MORE OR LESS.

**Exhibit B
to First Amendment to Option Agreement**

Form of Memorandum

MEMORANDUM OF AMENDMENT

THIS MEMORANDUM OF AMENDMENT (the "Memorandum") is made and entered into as of the ____ day of _____, 2011, by and between Exergonix, Inc., a Missouri corporation ("Exergonix"), and the City of Lee's Summit, Missouri, a Missouri constitutional charter city and political subdivision ("City").

AGREEMENT:

1. Pursuant to that certain Option Agreement dated June 15, 2011, between Exergonix and City (the "Agreement"), a Memorandum of which was recorded on _____ as Instrument No. _____, Exergonix has granted to City an option to purchase certain real property located in the City of Lee's Summit, Missouri, legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

2. Exergonix and City have entered into the First Amendment to Option Agreement, dated _____, 2011 (the "Amendment"), that amends certain terms of the Agreement.

3. The Agreement, as amended by the Amendment, is for a term commencing on June 15, 2011 and ending upon the exercise or release of the Option by City, all as provided in the Agreement and Amendment, to be no later than August 31, 2026.

3. All of the other terms and conditions of the Agreement and Amendment are more fully set forth in the Agreement and Amendment and are incorporated herein by this reference.

4. This Memorandum is executed for recording purposes only and is not intended to alter or amend the terms of the Agreement or Amendment. In the event of a conflict between this Memorandum and the Amendment, the Amendment shall control.

5. This Memorandum shall inure to the benefit of and be binding upon Exergonix and City and their respective representatives, successors and assigns.

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IN WITNESS WHEREOF, Exergonix and City have executed this Memorandum of Amendment as of the date first above written.

THE CITY OF LEE'S SUMMIT, MISSOURI

By: _____
Stephen Arbo, City Manager

EXERGONIX, INC.

By: _____
Don Nissanka, President/CEO

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this ___ day of _____, 2011, before me personally appeared to me Stephen Arbo, personally known, who being by me duly sworn did say that he is the City Manager of the City of Lee's Summit, Missouri, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.

Notary Public

My commission expires:

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this __ day of _____, before me personally appeared to me Don Nissanka, personally known, who being by me duly sworn did say that he is the President/CEO of Exergonix, Inc., a Missouri corporation and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and said Don Nissanka acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.

Notary Public

My commission expires:

EXHIBIT A TO

MEMORANDUM OF FIRST AMENDMENT TO OPTION

PARCEL 1:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER: THENCE NORTH 02°-22'-03" EAST ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 19.34 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD AS NOW ESTABLISHED; THENCE NORTH 29°-26'-41" WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 153.40 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 83°-24'-46" WEST, A DISTANCE OF 656.73 FEET; THENCE NORTH 87°-49'-44" WEST, A DISTANCE OF 312.64 FEET; THENCE NORTH 02°-58'-23" EAST, A DISTANCE OF 878.03 FEET; THENCE NORTH 87°-01'-37" WEST, A DISTANCE OF 1019.79 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTH 08°-08'-41" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 144.99 FEET; THENCE NORTH 07°-51'-41" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 549.47 FEET; THENCE SOUTH 87°-49'-30" EAST DEPARTING SAID RIGHT OF WAY LINE, A DISTANCE OF 1303.12 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 29°-25'-41" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1498.93 FEET TO THE POINT OF BEGINNING. CONTAINING 1,524,252 SQUARE FEET, OR 34.992 ACRES, MORE OR LESS.

PARCEL 2:

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392.13 FEET; THENCE NORTH 32°-04'-12" EAST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 61.73 FEET; THENCE SOUTH 87°-49'-44" EAST, A DISTANCE OF 1158.47 FEET; THENCE SOUTH 78°-33'-51" EAST, A DISTANCE OF 869.58 FEET, TO THE POINT OF BEGINNING. CONTAINING 2,079,053 SQUARE FEET, OR 47.728 ACRES, MORE OR LESS.

**EXHIBIT B
TO DEVELOPMENT AGREEMENT
FORM OF PILOT AGREEMENT**

(Above Space Reserved for Office of Records)

Document Title: Payment in Lieu of Taxes Agreement

Document Date: _____

Grantor: _____

Grantee: _____

Grantee's Address: _____

Legal Description: See Exhibit A attached hereto

Reference: Document No. _____

PAYMENT IN LIEU OF TAXES AGREEMENT

THIS AGREEMENT is made and entered into as of the ____ day of _____, 20____, by and between the **CITY OF LEE'S SUMMIT, MISSOURI**, a Missouri constitutional charter city and political subdivision (the "City"), having an address of 220 SE Green Street, Lee's Summit, Missouri, and _____, and its successors in interest as owners of the Property as herein provided (the "Owner").

RECITALS

A. Owner is the owner of a certain parcel of real estate and the improvements thereon, if any, located in Lee's Summit, Jackson County, Missouri, legally described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

B. The City is a party to that certain Development Agreement to Promote Economic Development Activities (the "Development Agreement"), between the City and Exergonix, Inc. ("Exergonix"), dated _____, 2011, and approved by the City Council of the City on _____, as Ordinance No. _____; and

C. Pursuant to the Development Agreement, Exergonix agreed to develop and construct, or cause to be constructed, a campus consisting in major part of innovative, green, high tech manufacturing and other facilities (the "Project") to be located upon the real property located in Lee's Summit, Jackson County, Missouri, legally described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Project Property"); and

D. The Property is a portion of the Project Property; and

E. The Development Agreement provides that, except as otherwise provided in the Development Agreement, the Project Property will remain subject to ad valorem real property taxes for a certain term, as described herein; and

F. The Development Agreement requires that this Agreement be executed by any successor to Exergonix in the ownership of the Property.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed between City and Owner, for themselves and on behalf of their heirs, personal representatives, successors and assigns, as follows:

1. Definitions. All capitalized words shall have the meanings ascribed to them in this Section unless defined elsewhere in this Agreement. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Development Agreement.

(a) Finance Director means the finance director of the City.

(b) PILOT Payment Term means the period comprised of the Term of the Development Agreement plus an additional ten (10) years following the end of the Term of the Development Agreement.

(c) Qualified Appraiser means an appraiser who is independent, licensed and a member of the American Institute of Real Estate Appraisers or its successor, with at least ten (10) years experience appraising commercial properties in the Kansas City metropolitan area.

(d) Term of the Development Agreement means that period beginning on _____, 2011 and ending on the earlier to occur of (i) the date the Amended Option (as defined in the Development Agreement) is exercised by the City, or (ii) the date of the issuance by the City of the Termination Notice (as defined in the Development Agreement).

2. Payment of Ad Valorem Real Property Taxes. So long as the Property is not exempt from the payment of ad valorem real property tax, Owner shall pay as they become due and payable, all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the Property, or any part thereof or interest therein.

3. Payment in Lieu of Taxes. If, by reason of any exemption or abatement provided by statute or constitutional provision (federal or state), (i) real property taxes for any taxing period (A) are not levied, assessed or imposed upon the Property or any part thereof, or (B) are levied or imposed at any rate less than the full levy rate applicable to real property not classified as "Agricultural and Horticultural property" or "Residential property" under Missouri law, or (ii) the Property or any part thereof is assessed in any manner that results in the real property taxes being less than the taxes that would otherwise be paid if the Property was subject to full assessment as real property not classified as "Agricultural and Horticultural property" or "Residential property" under Missouri law, Owner hereby agrees that it will make payments in lieu of taxes during the PILOT Payment Term in amounts equal to the taxes, assessments and other governmental charges that would be lawfully levied or assessed or imposed upon the Property in the absence of any tax exemption or abatement (the "PILOT Payment"). The PILOT Payment shall be due and payable not later than December 31 of the year for which such PILOT Payment is due and payable.

4. Determination of PILOT Payment. The City, acting through its Finance Director or such other person (including a Qualified Appraiser) as the Finance Director shall designate, will determine the amount of the PILOT Payment and will notify Owner of the amount of the PILOT Payment, together with the methodology used to determine such amount (the "PILOT Notice"). If Owner does not agree with the PILOT Payment amount submitted by the City in the PILOT Notice, then Owner shall notify the City in writing within ten (10) days of delivery of the PILOT Notice. Owner shall then retain a Qualified Appraiser who will make an independent determination of the appropriate PILOT Payment and shall submit the same to the City within forty-five (45) days of the PILOT Notice, including the methodology used. If the Qualified Appraiser and the City cannot mutually agree upon the appropriate PILOT Payment within ten (10) days of the delivery of the Owner information, the City and the Qualified Appraiser shall promptly jointly select a different Qualified Appraiser (the "Final Appraiser"). Within twenty (20) days after his appointment, the Final Appraiser shall select one of the two initially submitted amounts as the appropriate PILOT Payment, and the determination of the Final Appraiser shall be binding upon the parties. The fee of the Final Appraiser shall be paid by the party whose determination of the PILOT Payment was not selected. If, on December 31 of any year, the

amount of the PILOT Payment is being disputed through the above-described process, Owner shall remit to City the amount of the PILOT Payment as determined by City and provided in the PILOT Notice. In the event that as a result of the challenge by Owner, there is a reduction in the amount of the PILOT Payment, City agrees to promptly reimburse Owner the amount of the reduction.

5. Interest. Any PILOT Payment that is not paid in full within thirty (30) days of the due date shall accrue interest at a rate equal to 1-1/2% per month compounding monthly.

6. Lien. Owner hereby grants to City a lien on the Property, effective as of the date of this Agreement, to secure Owner's obligation hereunder to pay when due all PILOT Payments, interest, costs and reasonable attorneys' fees now owing or hereafter becoming due and payable pursuant to the terms of this Agreement. Such lien shall run with the land and shall be a continuing lien upon the Property.

7. Priority of Lien. The lien on the Property granted pursuant to Section 6 hereof is prior to all other liens, encumbrances or other matters except: (i) liens, encumbrances and other matters recorded prior to the recording of this Agreement; and (ii) liens for real estate taxes and other governmental assessments or charges against the Property.

8. Remedy. If the Owner shall breach the terms of this Agreement, City shall have the right to give to the Owner written notice of such breach, and Owner shall have thirty (30) days from the date of receipt of written notice of such breach from the City (the "Cure Period") to cure such breach, including, without limitation, payment of the PILOT Payment. In the event Owner fails to cure such breach within the Cure Period, the City shall have the right to bring an action at law against the Owner or foreclose the lien against the Property. The City may foreclose on the lien in the manner provided in under the laws of the State of Missouri that govern the foreclosure of any interest in property, including without limitation, a suit in the nature of a suit to foreclose a mortgage/deed of trust or mechanic's lien under the applicable provisions of the law of the State of Missouri. The recording of this Agreement constitutes record notice and perfection of the lien. The City may, but shall not be required to, file with the Recorder of Deeds of Jackson County, Missouri a certificate of nonpayment identifying the Property and stating the delinquent amount owed under this Agreement.

9. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

10. Costs and Attorneys' Fees. In the event Owner fails to cure a breach within the cure period, then in addition to the amount of the PILOT Payment and the interest as calculated under Section 5 hereof, the Owner is liable for payment of the costs and expenses incurred by or on behalf of City in connection with any proceedings brought by the City under Section 8 hereof, the costs and expenses for the filing of a certificate of nonpayment, if any, and all reasonable attorneys' fees incurred in connection with the enforcement of the lien hereunder or the collection of all amounts owed hereunder.

11. Successors Bound. This Agreement will bind and inure to the benefit of the

respective successors and permitted assigns, as applicable, of the parties hereto. The provisions of this Agreement shall be covenants running with the land and shall remain in effect for the duration of the PILOT Payment Term.

IN WITNESS WHEREOF, each party has executed and sealed this Agreement on the date first above written.

CITY OF LEE'S SUMMIT, MISSOURI

By: _____
Name: _____
Title: _____

OWNER:

By: _____
Name: _____
Title: _____

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this _____ day of _____, 2011, before me personally appeared to me _____, personally known, who being by me duly sworn did say that [he/she] is the City Manager of the City of Lee's Summit, Missouri, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in _____ County, _____ the day and year last above written.

Notary Public
Printed Name: _____

My commission expires:

**EXHIBIT D
TO DEVELOPMENT AGREEMENT
SITE PLAN**

STATE OF MISSOURI)
COUNTY OF JACKSON) SS.
COUNTY OF CASS)

I, Denise R. Chisum, City Clerk of the City of Lee's Summit, Missouri, in the Counties of Jackson and Cass, do hereby certify that in accordance with Section 4.4(c) of the City Charter, that Ordinance No. 7890, AN ORDINANCE APPROVING THE ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES AND THE SECOND AMENDED TO OPTION AGREEMENT, BOTH BEING BY AND BETWEEN EXERGONIX, INC. WESTCOTT INVESTMENT GROUP, LLC, AND THE CITY OF LEE'S SUMMIT AND PERTAINING TO THE SAME SUBJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI was the subject of a veto over-ride on June 2, 2016, By and at that meeting, the Council of the City of Lee's Summit, Missouri, by a vote of 6 to 1, approved the above-described Ordinance over the veto of Mayor Randall L. Rhoads. This Ordinance became effective upon approval of two-thirds of the entire City Council on June 2, 2016.

IN WITNESS WHEREOF, I hereunto set my hand and affixed the seal of the City of Lee's Summit, Missouri, at my office in said City this 9th day of June, 2016.

for Justin Fowler - Deputy City Clerk
Denise R. Chisum
City Clerk
City of Lee's Summit, Missouri

Attest
Office of the City Attorney



ELECTRONICALLY RECORDED
JACKSON COUNTY, MISSOURI
06/16/2016 10:48:11 AM
ASSN FEE: \$ 117.00 33 Pages

INSTRUMENT NUMBER:
2016E0053338



City of Lee's Summit, Missouri
Document to be Recorded
With Jackson County, Missouri

DATE OF DOCUMENT: June 16, 2016

DOCUMENT TITLE: Assignment and First Amended and Restated Development Agreement to Promote Economic Development Activities

GRANTOR(S) NAME: Exergonix, Inc.

ADDRESS: 4201 NE Lakewood Way

Lee's Summit, Missouri 64064

GRANTOR(S) NAME: Westcott Investment Group

ADDRESS: P.O. Box 3102

San Rafael, California 94912

GRANTEE NAME: City of Lee's Summit, Missouri

ADDRESS: 220 SE Green Street

Lee's Summit, Missouri 64063

LEGAL DESCRIPTION:

Please see Page 20 and 21 of the subject document.

**ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT
AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES**

THIS ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC ACTIVITIES (the "Amended Agreement") is made and entered into on June 13, 2016 (the "Effective Date"), by and between the **CITY OF LEE'S SUMMIT, MISSOURI**, a Missouri constitutional charter city and political subdivision (the "City"), **EXERGONIX, INC.**, a Missouri corporation ("Exergonix") and **WESTCOTT INVESTMENT GROUP**, a Delaware limited liability company ("Westcott").

Recitals.

A. Whereas, the City Council of the City previously determined that assisting in the acquisition and redevelopment of certain real property located within the City near the intersection of U.S. Highway 50 and Missouri Highway 291 (the "Property") and described on **Exhibit A** attached hereto and by this reference made a part hereof (the "Property") will serve public purposes because the acquisition and redevelopment of the Property will, without limitation, (i) result in the creation of new jobs, (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth, and therefore authorized the City to enter into the Development Agreement To Promote Economic Activities with Exergonix on the 2nd day of September, 2011 (the "Original Agreement") to encourage Exergonix to carry out the acquisition and redevelopment of the Property.

B. Whereas, the City and Exergonix entered into an Option Agreement, dated June 15, 2011 (the "Original Option Agreement"), pursuant to authorization given by the City Council of the City on June 2, 2011 and the First Amendment to Option Agreement on September 2, 2011 (the "First Amended Option"). Pursuant to the Original Option Agreement, as amended by the First Amended Option, Exergonix granted to the City a right and option to purchase the Property (the "Original Option").

C. Whereas, Exergonix acquired the Property on June 15, 2011, subject to the City's right to purchase the Property as set forth in the Original Option Agreement.

D. RESERVED

E. Whereas, a key component of the Original Agreement was the development of a green technology campus by the University of Central Missouri.

F. Whereas, the University of Central Missouri has decided to locate and has in fact located its campus elsewhere in the City.

G. Whereas, Exergonix has determined that it is in the best interest of the City to bring in Westcott, a developer with vast experience in business park and commercial development, to lead the development efforts on the Property.

H. Whereas, Westcott not only wants to bring its expertise to the development of the Property, it also intends to acquire and develop surrounding properties in order to create a homogenous and cohesive gateway into the City.

I. Whereas, Westcott, in undertaking its development plans for the area, wishes to take on Exergonix's rights, duties and obligations regarding the Property under the Original Agreement, as amended hereunder.

J. Whereas, Exergonix wishes to assign its rights, duties and obligations under the Original Agreement to Westcott as provided for herein.

K. Whereas, City recognizes that in order to expedite development of the Property and the surrounding area, it is in the City's best interest to approve and authorize the assignment of Exergonix's rights under the Original Agreement to Westcott.

L. Whereas, City recognizes that in order to reflect current market and other conditions in the City for the development of the Property, it is in the City's best interest to amend the Original Agreement and to restate Westcott's rights, duties and obligations under the Original Agreement to reflect current conditions and circumstances.

M. In accordance with the terms and conditions set forth herein, Westcott proposes to: (i) construct and develop a business park of approximately One Million (1,000,000) square feet (the "Project") on the Property as generally depicted on the Site Plan attached hereto as **Exhibit B** (the "Site Plan"); (ii) construct and develop all on-site and off-site public infrastructure necessary to support development of the Property (the "Public Infrastructure"); and (iii) guarantee construction of the Public Infrastructure and the Minimum Development – Phase I by posting performance bonds or other surety in favor of the City as a condition of recording the first plat of the Property.

N. Whereas, in order to implement this Amended Agreement, the Property must be transferred and conveyed by Exergonix to Westcott.

O. Whereas, the Property is subject to the Original Option Agreement, as amended by the First Amended Option which the parties agree to revise and modify to reflect the terms of the Amended Agreement (the "Second Amended Option"). (The Original Option Agreement as modified by the First Amended Option and Second Amended Option is referred to as the "Amended Option."). A copy of the Second Amendment to Option Agreement is attached hereto as **Exhibit D**.

P. In order to further the public purposes of economic development, job creation and blight clearance, and the other public purposes considered by the City Council in determining to proceed as provided herein, the City desires to enter into this Amended Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I - DEFINITIONS

I.1 Definitions. All capitalized words shall have the meanings ascribed to them in this Section unless the context in which such words and terms are used clearly requires otherwise or unless defined elsewhere in this Amended Agreement.

(a) "Affiliate", any person, entity or group of persons or entities in which any owner or member of Westcott owns or controls five percent (5%) or more of the ownership interests. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise.

(b) "Amended Option," the Original Option, as amended by the First Amended Option and the Second Amended Option.

(c) "City," the City of Lee's Summit, Missouri.

(d) "City Manager," the city manager of the City.

(e) "City Council," the governing body of the City.

(f) "Finance Director," the finance director of the City.

(g) "Hard Costs," the costs paid or incurred by Westcott: (i) to a contractor or material supplier for labor, material and equipment, excluding all soft costs (soft costs include but are not limited to, architectural and engineering costs, legal fees, permitting costs and fees, financing fees, construction interest and operating expenses, leasing and real estate commissions, advertising and promotion, and supervision) used for the construction of the Project; (ii) to acquire furniture, fixtures and equipment utilized in the Project; and (iii) for construction of infrastructure improvements within and adjacent to the Property necessary for the operation of the Project. No amounts paid to an Affiliate shall be considered Hard Costs.

(h) "Land Use Approvals," those approvals required pursuant to the City's zoning and subdivision regulations which are required for the construction of the Project.

(i) "Legal Requirements," any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence and specifically including but not limited to all ordinances, rules and regulations of the City of Lee's Summit, Missouri, such as zoning ordinances, subdivision ordinances, building codes, property maintenance codes, and City's Design and Construction Manual (Ordinance No. 3719).

(j) "Minimum Development – Phase I," 200,000 square feet of gross leasable area, in one or more buildings, located on the Property.

(k) "Minimum Development – Phase I Commencement Date," subject to the provisions of Section 3.1(a)(1) below, August 15, 2017.

(l) "Minimum Development – Phase I Completion Date," subject to the provisions of Section 3.1(a)(1) below, August 15, 2019.

(m) "Minimum Development – Phase I Guarantee," an escrow secured with cash, a bond, an irrevocable letter of credit or other surety deposited with the City to secure the completion of the Minimum Development – Phase I by August 15, 2019. The Minimum Development – Phase I Guarantee will be based upon the approved PMIX Plan and reflect the estimated average costs to construct 200,000 s.f. of building within the Project as reasonably agreed to by the parties. The Minimum Development – Phase I Guarantee will at a minimum equal Five Million Dollars (\$5,000,000). The Minimum Development – Phase I Guarantee will be issued in favor of the City and may be called or drawn down by the City if the Minimum Development – Phase I is not constructed by the Minimum Development – Phase I Completion Date. The form of the Minimum Development – Phase I Guarantee is subject to the reasonable approval of the City Attorney and the Director of Finance and shall be filed with the Director of Finance as a condition of recording the first plat of the Property.

(n) "Minimum Development – Phase II," an additional 300,000 s.f. of gross leasable area, in one or more buildings, located on the Property, over and above the Minimum Development – Phase I.

(o) "Minimum Development – Phase II Completion Date," subject to the provisions of Section 3.1(a)(1) below, December 1, 2022.

(p) "Public Infrastructure," the public infrastructure both within the property and offsite that is reasonably determined, through the PMIX zoning process and platting of the Property, to be necessary to support development of the Project.

(q) "Public Infrastructure Guarantee," an escrow secured with cash, a bond, an irrevocable letter of credit or other surety deposited with the City to secure the completion of the Public Infrastructure by December 1, 2022. The cost to construct the Public Infrastructure and the amount of the Public Infrastructure Guarantee will be based upon estimates acceptable to the Director of Public Works and reflect the infrastructure needed to fully support the Preliminary PMIX Development Plan to be approved by the City Council. The Public Infrastructure Guarantee will be issued in favor of the City and may be called or drawn down by the City if the Public Infrastructure is not constructed by the Public Infrastructure Completion Date. The form of the Public Infrastructure Guarantee is subject to the reasonable approval of the City Attorney and the Director of Finance and shall be filed with the Director of Finance as a condition of recording the first plat of the Property.

(r) "Public Infrastructure Completion Date," subject to the provisions of Section 3.1(b) below, December 1, 2022.

(s) "Sales Proceeds," the net sales proceeds due and owing to Westcott from the sale of any portion of the Property to an Approved Transferee derived from subtracting reasonable and standard closing costs actually paid by Westcott from the gross sales price.

I.2 Other Defined Terms. The following terms are defined in the Sections of this Amended Agreement indicated below:

<u>Term</u>	<u>Article/Recital/Section</u>
"Action"	Article X, Section 10.3(b)
"Amended Option"	Recital B
"Amended Option Termination"	Article IV, Section 4.2(a)
"Approved Transferee"	Article VII, Section 7.1
"Development Report"	Article III, Section 3.4
"Escrow Rights"	Article V, Section 5.1
"Escrowed Sales Funds"	Article V, Section 5.1
"Indemnified Parties/Party"	Article X, Section 10.3(a)
"Interest Rate"	Article VI, Section 6.4
"Minimum Development Completion Date"	Article I, Section 1.1(m) and (o)
"MMD"	Article VI, Section 6.4
"Percentage Payment"	Article VI, Section 6.3
"PMIX Submittal Date"	Article III, Section 3.1(c)(1)
"Project"	Recital M
"Property"	Recital A
"Property Permitted Uses"	Article IX, Section 9.1
"Original Option Agreement"	Recital B
"Original Option"	Recital B
"Term"	Article III, Section 3.2
"Termination Notice"	Article III, Section 3.5

ARTICLE II - ASSIGNMENT OF PROJECT

II.1 Assignment. The parties hereby acknowledge and agree that, other than as specifically set forth in this Amended Agreement, all rights, duties and obligations of Exergonix under the Original Agreement are hereby assigned and conveyed to Westcott.

II.2 Amendment of Obligations. Westcott's rights, duties and obligations as assigned under the Original Agreement are amended and modified by the terms and provisions of this Amended Agreement.

II.3 Release and Discharge. Unless specifically set forth herein, Exergonix is hereby released and discharged from any and all obligations arising under the Original Agreement.

ARTICLE III - DEVELOPMENT OF PROJECT

III.1 The Project. Westcott hereby agrees to develop and construct or cause the development and construction of the Project subject to the terms and conditions hereinafter provided. The performance of all activities by Westcott hereunder shall be as an independent contractor and not as an agent of the City, except as otherwise specifically provided herein.

(a) **Minimum Development.** In order to satisfy its obligations to construct the Project, Westcott must: (i) commence construction of the Minimum Development – Phase I by August 15, 2017, the Minimum Development – Phase I Commencement Date and complete construction thereon by August 15, 2019, (the "Minimum Development – Phase I Completion Date"); and (ii) complete construction of the Minimum Development – Phase II by December 1, 2022 the "Minimum Development – Phase II Completion Date") (the Minimum Development – Phase I and the Minimum Development – Phase II are collectively referred to as the "Minimum Development").

(b) **Public Infrastructure.** In order to satisfy its obligation under the Amended Agreement, Westcott has agreed to complete construction of the Public Infrastructure by December 1, 2022, the Public Infrastructure Completion Date. In order to place the City in a position of assurance and financially guarantee that the Public Infrastructure is completed, Westcott has agreed to provide the Public Infrastructure Guarantee. The cost to construct the Public Infrastructure and the amount of the Public Infrastructure Guarantee will be based upon estimates acceptable to the Director of Public Works and reflect the infrastructure needed to fully support the Preliminary PMIX Development Plan to be approved by the City Council. The Public Infrastructure Guarantee shall be provided as a condition of recording the first final plat of the Property.

(c) **Minimum Development – Phase I Guarantee.** In order to satisfy its obligation under the Amended Agreement, Westcott has agreed to complete construction of the Minimum Development – Phase I by August 15, 2019, the Minimum Development – Phase I Completion Date. In order to place the City in a position of assurance and financially guarantee that the Minimum Development – Phase I is completed, Westcott has agreed to provide the Minimum Development – Phase I Guarantee. The Minimum Development – Phase I Guarantee will be issued for at least Five Million Dollars (\$5,000,000) or such higher amount based upon estimates acceptable to the parties to reflect the average estimated cost to build 200,000 s.f. of building as depicted on the Preliminary PMIX Development Plan to be approved by the City Council. The Minimum Development – Phase I Guarantee shall be provided as a condition of recording the first final plat of the Property.

(d) **Additional Obligations.** In addition to Westcott's obligation to commence construction of the Minimum Development – Phase I by the Minimum Development –

Phase I Commencement Date and construct the Public Infrastructure by the Public Infrastructure Completion Date, in order to satisfy its obligations under this Amended Agreement, Westcott agrees to:

(1) submit an application to rezone the Property to a PMIX zoning classification, including the submittal of design guidelines for consideration by the City on or before September 1, 2016 (the "PMIX Submittal Date"). The PMIX Submittal Date deadline may be extended by the City Manager or his designee in the event that the anticipated South 291 Corridor planning process is not concluded on or before July 1, 2016. In the event the PMIX Submittal Date is extended by the City Manager, the Minimum Development – Phase I Commencement Date, the Minimum Development – Phase I Completion Date and the Public Infrastructure Completion Date shall automatically be extended for the same amount of time.

(2) As part of the development of the PMIX Preliminary Development Plan, Westcott shall work with the City to determine the appropriate location for the siting of an EMS/fire facility within the Project (the "EMS/Fire Station Property"). Subsequent to the approval of the PMIX Preliminary Development Plan by the City Council and within thirty (30) days of being requested to do so, Westcott agrees to dedicate the EMS/Fire Station Property to the City at no cost.

III.2 Term. This Amended Agreement is effective as of the Effective Date and shall continue until the earlier to occur of (i) the date the Amended Option is exercised by the City, or (ii) the date of the issuance by the City of the Termination Notice, as described in **Section 3.5** (the "Term").

III.3 Restrictions on Encumbrances. Prior to the release of the Amended Option, neither Exergonix nor Westcott shall create or incur or permit to be created or incurred or to exist any mortgage, lien, security interest, charge or encumbrance upon the Property, or any part thereof, except as otherwise set forth herein. Notice is hereby given that any lien granted during the Term upon any portion of the Property that has not been released from the Amended Option shall be subject and subordinate to all rights, titles and interests created pursuant to the Amended Option, and no such lien shall encumber or affect the interest of any purchaser of the Property or any part thereof pursuant to the Amended Option or any successor or assign of any purchaser of the Property or any part thereof pursuant to the Amended Option. This restriction will terminate upon release of the Amended Option by the City. Notwithstanding the foregoing, with the consent of the City, which shall not unreasonably be withheld and which may be given by the City Manager or his designee, Westcott may encumber individual platted lots within the Property upon which the Minimum Development or portions thereof are being constructed for purposes of obtaining construction and permanent financing specifically related to such construction and development.

III.4 Reporting Requirements. Within one hundred twenty (120) days after the Effective Date, Westcott shall submit to City a report ("Development Report") updating the City as to the status of: (i) the PMIX application referred to in Section 3.1(b)(2) above; and (ii) acquisition of any land adjacent to the Property.

III.5 Termination of Agreement. When the City determines that the Minimum Development and the Public Infrastructure have been built on or prior to the Minimum Development – Phase II Completion Date and the Public Infrastructure Completion Date, and that as of the date of the request, Westcott has complied with and performed all of its covenants and agreements set forth in this Amended Agreement, then the City will execute a notice, in recordable form, of satisfaction of the Minimum Development and construction of the Public Infrastructure and a notice of termination of this Amended Agreement (the "Termination Notice"). If the City determines that the Minimum Development and the Public Infrastructure are not otherwise in compliance with this Amended Agreement or has not performed all of its covenants and agreements set forth herein, then the city shall not issue the Termination Notice and shall specify in writing the reason or reasons for withholding its certification. Upon the request of Westcott, the City Council shall hold a hearing at which Westcott may present its evidence directly to the City Council for approval.

ARTICLE IV - OPTION TO PURCHASE

IV.1 Option. The City, Exergonix and Westcott hereby acknowledge and agree, without limiting any other term or provision set forth in the Amended Option, that the Amended Option is in full force and effect. The Amended Option may be exercised in the following circumstances:

- (a) If Westcott fails to commence construction of the Minimum Development – Phase I on or before the Minimum Development – Phase I Commencement Date;
- (b) If Westcott fails to complete construction of the Minimum Development – Phase I on or before the Minimum Development – Phase I Completion Date;
- (c) If Westcott fails to complete construction of the Minimum Development – Phase II on or before the Minimum Development – Phase II Completion Date.
- (d) If Westcott fails to complete construction of the Public Infrastructure on or before the Public Infrastructure Completion Date.

In addition to and not in limitation of the City's other rights and remedies contained herein, or at law or in equity, the City may, as to that portion of the Property which is still subject to the Amended Option, exercise the Amended Option on or within ten (10) years after the Minimum Development – Phase II Completion Date.

IV.2 Release of Amended Option.

- (a) If on or before the Minimum Development – Phase II Completion Date Westcott has achieved or caused the achievement of the Minimum Development and if on or before the Public Infrastructure Completion Date the Public Infrastructure has been built and accepted by City pursuant to the City Code, and City has confirmed such

achievement and issued the Termination Notice as described in **Section 3.5**, then the City will execute a notice, in recordable form, releasing the Amended Option as to all of the Property then remaining subject to the Amended Option ("Amended Option Termination").

(b) If on or before the Minimum Development – Phase II Completion Date Westcott sells a portion of the Property to an Approved Transferee (as defined herein), and all of the requirements set forth in **Article VIII** hereof have been met and satisfied, then the City will release the Amended Option as to the affected portion of the Property.

ARTICLE V - ESCROW ACCOUNT

V.1 Escrowed Sales Funds. Upon any approved sale or other transfer to an Approved Transferee, Westcott will cause all Sales Proceeds to be disbursed, pursuant to a settlement statement reviewed in advance by the City, directly to the City by wire transfer; provided, however, that if the City determines that the net amount due to Westcott, as set forth in the settlement statement, includes reductions that are not reasonable and standard closing costs actually paid by Westcott, or that any such reductions are in violation of the terms of this Amended Agreement, then City shall not release the Amended Option pending resolution of such determination in a manner acceptable to City. City's right to receive and hold all Sales Proceeds collected as a result of a sale of any portion of the Property to an Approved Transferee is referred to herein as the "Escrow Rights". City will hold the Sales Proceeds and any interest earned therein in a City-owned escrow account at UMB Bank (the "Escrowed Sales Funds") for the benefit of Westcott, subject to the terms of this Amended Agreement under **Section 5.2** below.

V.2 Use of Escrowed Sales Funds. The Escrowed Sales Funds shall be held and disbursed as follows:

(a) Prior to Minimum Development Completion Date.

(i) Prior to the Minimum Development Completion Date and subject to the City's review and approval as provided in **Subsection (ii)** below, the Escrowed Sales Funds may only be used by Westcott to directly fund Hard Costs incurred, provided that Westcott receives no other compensation for such payment of Hard Costs from any third party, including in the form of increased rent or purchase price. If Westcott does receive any compensation for such payment of Hard Costs from any third party, such payment must be put into the Escrowed Sales Funds.

(ii) Reimbursement From Escrowed Sales Fund. The City must approve all disbursements of the Escrowed Sales Funds. All Hard Costs for which reimbursement is requested out of the Escrowed Sales Funds must be submitted within 60 days after they are incurred. Westcott must provide evidence of the payment of Hard Costs providing the City with the following information:

(A) Copies of paid invoices, cancelled checks, receipts and such other supporting documentation as the City shall require, all evidencing that Westcott paid the Hard Costs;

(B) Lien waivers from applicable contractors and sub-contractors; and

(C) Such other documentation and evidence as the City may reasonably request to confirm that the Escrowed Sales Funds will be used to directly fund or reimburse Westcott for a Hard Cost.

The City will have thirty (30) days to review each request for reimbursement of the Escrowed Sales Funds. If City, pursuant to its review of the materials submitted, determines that any portion of the request for reimbursement should not be approved, it shall promptly state the reasons for such disapproval. Westcott will either submit additional information sufficient to respond to the City's disapproval or Westcott may appeal any disapproval to the City Council for approval. Should City fail to approve, disapprove, or request additional information within such thirty (30) day period, the reimbursement request will be deemed approved by City.

(b) After the Minimum Development Completion Date.

(i) If Westcott has achieved or caused to be achieved the Minimum Development by the Minimum Development Completion Date, and City has issued the Termination Notice, all remaining Escrowed Sales Funds will be distributed to Westcott.

(ii) If Westcott fails to achieve or cause to be achieved the Minimum Development in accordance with the terms and provisions of this Amended Agreement by the Minimum Development Completion Date, all remaining Escrowed Sales Funds shall be distributed to the City as provided in **Article VII** herein.

ARTICLE VI - FAILURE TO ACHIEVE OBJECTIVES

If Westcott fails to build or cause to be built the Minimum Development – Phase I, the Minimum Development – Phase II, or the Public Infrastructure pursuant to the terms of Sections 3.1(a) and 3.1(b) above, City shall have the following rights and remedies.

VI.1 Public Infrastructure Guarantee. If Westcott fails to build or cause to be built the Public Infrastructure prior to the Public Infrastructure Completion Date, City may, at its sole discretion, call upon the Public Infrastructure Guarantee and utilize the Public Infrastructure Guarantee to complete construction of the Public Infrastructure.

VI.2 Minimum Development – Phase I Guarantee. If Westcott fails to build or cause to be built the Minimum Development – Phase I by the Minimum Development – Phase I Completion Date, City may, at its sole discretion, call upon the Minimum Development – Phase I Guarantee in order to construct the Minimum Development – Phase I upon the Property under such terms and conditions as City establishes in its sole discretion.

VI.3 Exercise of Option. As described in the Amended Option, City may exercise the Amended Option upon failure by Westcott to build or cause to be built the Minimum

Development – Phase I by the Minimum Development – Phase I Completion Date, the Minimum Development – Phase II by the Minimum Development – Phase II Completion Date, and the Public Infrastructure by the Public Infrastructure Completion Date.

VI.4 Use of Escrowed Sales Funds. In addition to the right to exercise the Amended Option, if Westcott fails to achieve its obligations with respect to the Minimum Development – Phase I and the Minimum Development – Phase II as described in Section 3.1(a) above before the Minimum Development Completion Dates, the balance of the Escrowed Sales Funds will immediately become the property of the City and Westcott will have no further interest, claim to or right or title in the Escrowed Sales Funds.

VI.5 Percentage Payment. In addition to the City's right to exercise the Amended Option and the ability to receive and retain the Escrowed Sales Funds, if Westcott fails to achieve the Minimum Development before the Minimum Development Completion Date, Westcott will pay to City an amount equal to \$1,405,280 multiplied by a fraction, the numerator of which is the amount of the Minimum Development that Westcott failed to construct by the Minimum Development Completion Date and the denominator of which is 500,000 s.f., together with interest at the Interest Rate (defined herein) (such payment shall be referred to as the "Percentage Payment"). Interest on the Percentage Payment shall begin to accrue on the Effective Date of the Option Agreement and run through the date that Westcott submits the Percentage Payment to the City.

VI.6 Interest Rate. For purposes of this Article, "Interest Rate" shall mean a rate equal to the rate set forth for a five (5) year maturity in the A scale number "92" as quoted in the Municipal Market Digest of interest rates ("MMD") scale in the *Wall Street Journal*. The rate will be adjusted annually on May 1 at the then-current five (5) year rate.

VI.7 Example. For purposes of example only, if it is assumed that Westcott failed to complete the Minimum Development before the Minimum Development Completion Date, but Westcott (i) built 100,000 s.f. of development, and (ii) sold a portion of the Property with Sales Proceeds equal to \$1,000,000 and did not utilize any of the Escrow Sales Fund to pay for Hard Costs, after the Minimum Development Phase II Completion Date the City can (x) exercise the Amended Option and purchase the remaining Property subject to the Amended Option, (y) retain the \$1,000,000 Sales Proceeds (i.e. the Escrow Sales Fund), and (z) require Westcott to pay \$281,056 (derived by multiplying \$1,405,280 X (100,000/500,000)), plus interest at the Interest Rate upon such \$281,056 from the Effective Date of the Option Agreement and run through the date that Westcott submits the Percentage Payment to the City.

ARTICLE VII - CITY APPROVAL OF TRANSFERS

VII.1 City Approval of Transfer and Transferee. Other than the transfer to Westcott or a Westcott related entity, which is specifically approved, no sale, transfer, lease, or other conveyance of any portion of the Property may be made except with the prior written approval of City. City's right of approval of any transfer shall be in force until the recording of the Termination Notice. Without limiting the generality of the foregoing, City will require that any proposed transferee:

- (a) provide a detailed financing plan (reasonably acceptable to the City) detailing all sources and uses (including a listing of costs with reasonable specificity)

necessary to develop the proposed project, and proof to the City's satisfaction that all necessary debt and equity is committed and available to develop the proposed project;

(b) provide proof that such proposed transferee is an unrelated third party and that the terms of the transaction between the proposed transferee and Westcott are arms-length and at market price;

(c) provide evidence of submission for approval by the City of all zoning, platting, and land use matters and plans required by law, including the City's Unified Development Ordinance, for the development of that portion of the Property that is proposed to be transferred to the proposed transferee;

(d) provide for the City's reasonable approval (i) the schematic design drawings, (ii) the design development drawings; and (iii) the architectural design materials including the quality and types of exterior finish for the proposed project. City shall have twenty-one (21) days from submittal to issue its approval, or in the case approval is not given, the detailed reasons in writing for not granting approval; and

(e) has received approval by City or in City's sole determination is reasonably likely to receive approval of all required Land Use Approvals for the proposed project.

City may require that any transferee demonstrate to City's reasonable satisfaction that it has sufficient financial, management, property ownership and operation capabilities, and that it is interested in the long-term viability of the Project. The City will provide notice to Westcott and the proposed transferee when the City has received all the required information for the City's review. Once the City has received all the required information from the proposed transferee, City shall exercise its right to approve or deny any proposed sale or transfer within forty-five (45) days from the date of the City's notice of receipt. A City-approved transferee is referred to herein as an "Approved Transferee".

ARTICLE VIII - DEVELOPMENT OF THE PROPERTY

VIII.1 Development of the Property. Until the Minimum Development has been built in connection with the development of any portion of the Property, if this Amended Agreement and the Amended Option are still in effect, Westcott must request the release of the Amended Option by the City for any portion of the Property. In order for the City to approve the request, Westcott must:

(a) provide a detailed financing plan (reasonably acceptable to the City) detailing all sources and uses (including a listing of costs with reasonable specificity) necessary to develop the proposed project, and proof to the City's satisfaction that all necessary debt and equity is committed and available to develop the proposed project;

(b) submit plans for approval by the City of all zoning, platting, and land use matters and plans required by law, including the City's Unified Development Ordinance, for the development of the Property;

(c) have received approval by City or in City's sole determination is reasonably likely to receive approval of all required Land Use Approvals for development of the Property for the proposed project;

(d) provide for the City's reasonable approval (i) the schematic design drawings, (ii) the design development drawings; and (iii) the architectural design materials including the quality and types of exterior finish for the proposed project. City shall have twenty-one (21) days from submittal to issue its approval, or in the case approval is not given, the detailed reasons in writing for not granting approval; and

(e) provide a fully-executed construction contract for construction of the proposed project. Such contract should contain a guaranteed maximum price consistent with the City-approved financing plan.

The City will provide notice to Westcott when the City has received all the required information for the City's review. Once the City has received all the required information, City shall complete its review to confirm compliance with terms of this Amended Agreement within forty-five (45) days from the date of the City's notice of receipt, and if the proposed project complies with the terms of this Amended Agreement, the City will release the Amended Option as to the Property.

VIII.2 Quality Jobs. In order to promote the economic development goals and objectives of the City and further the public benefits promoted by the this Amended Agreement, Westcott, during the term of this Amended Agreement, shall use commercially reasonable efforts to develop the Property in such a way as to attract Quality Jobs.

VIII.3 Right of Way Dedication. It is understood and agreed between the parties that the City and the Missouri Department of Transportation are in the process of acquiring right-of-way for the realignment and reconstruction of the intersection of M291 and US Highway 50 near the Property (the "291 South Improvements.") It is understood that Westcott, and Exergonix, to the extent it may still own the Property, shall dedicate such reasonable right-of-way and permanent and temporary easements from the Property necessary to complete the construction of the 291 South Improvements on or attendant to the Property (the "Property ROW Dedication.") The parties further agree that no compensation of any kind will be paid by the City or the Missouri Department of Transportation for the Property ROW Dedication.

ARTICLE IX - USE RESTRICTIONS

IX.1 Permitted Uses. In addition to the other provisions and restrictions contained in this Amended Agreement, the Property may only be used for such uses that are permitted under zoning Districts PI and PMIX as of the Effective Date and as otherwise permitted by the Land Use Approvals (the "Property Permitted Uses"). The City acknowledges that Westcott has the right to request other uses for the Property on a case-by-case basis, subject to the review and approval of the City Council, which approval may be given in the sole and subjective discretion of the City Council.

IX.2 Pre-Approved Uses. A list of uses pre-approved by the City Council is attached hereto as **Exhibit C**, and incorporated herein by reference.

ARTICLE X - MISCELLANEOUS

X.1 Compliance with Laws. Subject to Westcott's rights to contest the same in any manner permitted by law, Westcott, its officers, directors and principals, successors and assigns, and Approved Transferees, at their sole cost and expense, shall comply in every respect with all Legal Requirements, ordinances, rules and regulations of all federal, state, county and municipal governments, agencies, bureaus or instrumentalities thereof now in force or which may be enacted hereafter which pertain to the development, construction, ownership, occupancy, use and operation of the Project and the Property, specifically including, if required under State law, the payment of workers at the "prevailing hourly rate of wages", as such term is defined in Mo. Rev. Stat. § 290.210(5).

X.2 Notice. Any notice, request, consent or communication under this Amended Agreement will be effective only if it is in writing and personally delivered or sent by a nationally recognized overnight delivery service, with delivery confirmed, addressed as follows:

If to the City:

Name:
Stephen Arbo, City Manager
The City of Lee's Summit, Missouri
City Hall
220 SE Green Street
Lee's Summit, Missouri 64063

With Copy To:
Brian Head, City Attorney
The City of Lee's Summit, Missouri
City Hall
220 SE Green Street
Lee's Summit, Missouri 64063

If to Exergonix:

Name:
Don Nissanka, President/CEO
Exergonix, Inc.
4201 NE Lakewood Way
Lee's Summit, Missouri 64064

With Copy To:
Kenneth E. Barnes, Esq.
Barnes Law Firm
919 W. 47th Street
Kansas City, MO 64112

If to Westcott:

Name:
Steve Singh
Westcott Investment Group, LLC
P.O. Box 3102
San Rafael, CA 94912

With Copy To:
Aaron March, Esq.
White Goss,
a Professional Corporation
4510 Belleview Suite 300
Kansas City, Mo 64111

or such other persons and/or addresses as are furnished in writing by any party to the other party, and will be deemed to have been given, if delivered personally, upon its delivery, and if via nationally recognized overnight delivery service, with delivery confirmed, upon the 1st business day following deposit with such delivery service.

X.3 Indemnification.

(a) Westcott shall indemnify, protect, defend and hold the City and its officers, agents, employees, elected officials and attorneys, each in their official and individual capacities, now or previously holding office (collectively, the "Indemnified Parties" or, individually, an "Indemnified Party") harmless from and against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages), to persons or property occurring or allegedly occurring (i) on or about the Property, or (ii) as a result of any acts or omissions of Westcott, its constituent members or partners, their employees, agents, independent contractors, licensees, invitees or others acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Amended Agreement, (iii) in connection with the ownership, use or occupancy and development or redevelopment of the Property or a portion thereof, or (iv) as a result of a challenge to the terms of this Amended Agreement or the legality thereof, except to the extent such claims, demands, liabilities and costs were caused by the City's negligent or intentional acts or omissions.

(b) In the event any suit, action, investigation, claim or proceeding (collectively, an "Action") is begun or made as a result of which Westcott may become obligated to one or more of the Indemnified Parties hereunder, the Indemnified Party shall give prompt notice to Westcott of the occurrence of such event, but the failure to notify Westcott will not relieve Westcott of any liability that it may have to an Indemnified Party. After receipt of such notice, Westcott may elect to defend, contest or otherwise protect the Indemnified Party against any such Action, at the cost and expense of Westcott, utilizing counsel approved by the Indemnified Party. The Indemnified Party shall have the right, but not the obligation, to participate, at the Indemnified Party's own cost and expense, in the defense thereof by counsel of the Indemnified Party's choice. In the event that Westcott shall fail timely to defend, contest or otherwise protect an Indemnified Party against such Action, the Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Indemnified Party after notice to Westcott asserting Westcott's failure to timely defend, contest or otherwise protect against such Action), the Indemnified Party may submit any bills for fees and costs received from its counsel to Westcott for payment and, within thirty (30) business days after such submission, Westcott shall transfer to the Indemnified Party sufficient funds to pay such bills. Westcott acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

(c) An Indemnified Party shall submit to Westcott any settlement proposal that the Indemnified Party shall receive. Westcott shall be liable for the payment of any amounts paid in settlement of any Action to the extent that Westcott consents to such settlement. Neither Westcott nor the Indemnified Party will unreasonably withhold its consent to a proposed settlement.

(d) Westcott expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Amended Agreement imposed upon Westcott in order to induce City to enter into this Amended Agreement. To the

fullest extent permitted by law, an Indemnified Party shall have the right to maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Amended Agreement, and the right to apply any deposit or other funds submitted by Westcott to the Indemnified Party in payment of the damages suffered by it, as is necessary to protect the Indemnified Party from loss. If such court action is successful, the Indemnified Party shall be reimbursed by Westcott for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

(e) The right to indemnification set forth in this Amended Agreement shall survive the termination of this Amended Agreement.

X.4 Breach-Compliance.

(a) If Westcott or City does not comply with provisions of this Amended Agreement, within the time limits and in the manner for the completion of the Project as therein stated, except for any extensions or waivers described herein, in that Westcott or City shall do, permit to be done, or fail or omit to do, or shall be about so to do, permit to be done, or fail or omit to have done, anything contrary to or required of it by this Amended Agreement, and if, within thirty (30) days after notice of such default by the nondefaulting party to the defaulting party, the defaulting party shall not have cured such default or commenced such cure and be diligently pursuing the same if such cure would reasonably take longer than said thirty (30) day period (but in any event if the defaulting party shall not have cured such default within one hundred twenty (120) days), then the nondefaulting party may institute such proceedings as may be necessary in its opinion to cure the default including, but not limited to, proceedings to compel specific performance by the party in default of its obligations and the right to apply any deposit or other funds submitted by Westcott to City in payment of the damages suffered by it, the right to withhold or apply funds from the Escrowed Sales Fund to such extent as is necessary to protect City from loss or to ensure that the Project is fully and successfully implemented in a timely fashion.

(b) If any action is instituted by either party hereunder, the nonprevailing party in such action shall pay any and all costs, fees and expenses, including attorneys' fees incurred by the prevailing party in enforcing this Amended Agreement.

(c) The rights and remedies of the parties to this Amended Agreement, whether provided by law or by this Amended Agreement, shall be cumulative and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by either party shall apply to obligations beyond those expressly waived.

(d) Westcott (for itself and its successors and assigns, and for all other persons who are or who shall become liable, by express or implied assumption or otherwise, upon or subject to any obligation or burden under this Amended Agreement), waives to the fullest extent permitted by law and equity all claims or defenses otherwise available on the ground of being or having become a surety or guarantor, whether by agreement or

operation of law. This waiver includes, but is not limited to, all claims and defenses based upon extensions of time, indulgence or modification of terms of Agreement.

(e) Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit them in any way. No waiver in fact made by either party of any specific default by the other party shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect, to the particular default except to the extent specifically waived.

(f) Notwithstanding anything to the contrary herein, Westcott agrees that in the event of any default by City under this Amended Agreement, it will not bring any action or suit to recover damages against City or any officer, director, commissioner, member, employee, or agent of any of them, except that this Section shall not prevent the award of attorneys' fees in the event of a default by City under this Amended Agreement. Actions brought in equity or which otherwise do not seek to recover damages are not precluded by this Section.

X.5 Assignment. This Amended Agreement may only be assigned with the express approval of the parties.

X.6 Modification. The terms, conditions, and provisions of this Amended Agreement can be neither modified nor eliminated except in writing and by mutual agreement between the City and Westcott. Any modification to this Amended Agreement as approved shall be attached hereto and incorporated herein by reference.

X.7 Recording. Upon full execution by City and Westcott, this Amended Agreement shall be recorded by City, at Westcott's expense, in the Office of the Recorder of Deeds for Jackson County, in Independence, Missouri.

X.8 Binding Effect. This Amended Agreement will bind and, except as specifically provided herein, will inure to the benefit of the respective successors and permitted assigns, as applicable, of the parties hereto. The provisions of this Amended Agreement shall be covenants running with the land and shall remain in effect for the duration of the Term. They shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and be enforceable by the parties, against each other and their respective successors and assigns, and every successor in interest to the subject Property, or any part of it or any interest in it and any party in possession or occupancy of the Property or any part thereof.

X.9 Governing Law. This Amended Agreement is governed by and is to be construed and determined in accordance with the laws of the State of Missouri without reference to its choice of law provisions.

X.10 Time and Performance are of the Essence. Time and exact performance are of the essence of this Amended Agreement.

X.11 Entire Agreement; Controlling Documents. This Amended Agreement and the Amended Option constitute the entire agreement between the parties hereto with respect to the

subject matter hereof. In the event of a discrepancy between this Amended Agreement and the Amended Option, the Amended Option shall control.

X.12 Counterparts. This Amended Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

X.13 No Third Party Beneficiaries. Nothing in this Amended Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations, or liabilities under or by reason of this Amended Agreement.


X.14 Acknowledgement. Westcott agrees that the City has not made, and does not make, any representation or warranty to Westcott about the tax treatment or implications of the transactions contemplated in this Amended Agreement, or with respect to any other matter relating to this Amended Agreement or the conduct or handling of the transactions contemplated herein. Westcott agrees that it has made an independent decision to enter into this Amended Agreement, without reliance on any representation, warranty, covenant or undertaking by the City, whether written or oral, explicit or implicit, except to the extent expressly set forth in this Amended Agreement.

X.15 City's Legislative Authority. Notwithstanding any other provisions in this Amended Agreement, nothing herein shall be deemed to usurp the governmental authority or police powers of the City or to limit the legislative discretion of the City Council, and no action by the City Council in exercising its legislative authority, including without limitation any decision to approve the satisfaction of any conditions precedent hereunder, shall be a default under this Amended Agreement.

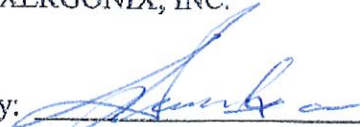
X.16 Subject to Appropriation. If and to the extent that any covenant, agreement or obligation of the City hereunder requires the payment by the City of any monies that have not, as of the Effective Date, been appropriated by the City Council of the City, then City's obligation to pay such monies hereunder shall be subject to the passage of an ordinance by the City Council appropriating such monies for payment hereunder.

The parties have executed this Amended Agreement on the date first above written.

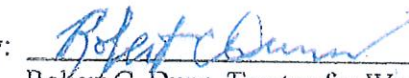
THE CITY OF LEE'S SUMMIT, MISSOURI

By: 
Name: Stephen A. Krebs
Title: City Manager

EXERGONIX, INC.

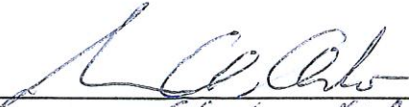
By: 
Name: DON NISSANKA
Title: PRESIDENT / CEO

WESTCOTT INVESTMENT GROUP, LLC

By: 
Robert C. Dunn, Trustee for Westcott
Investment Group, LLC

The parties have executed this Amended Agreement on the date first above written.


THE CITY OF LEE'S SUMMIT, MISSOURI

By: 
Name: Stephen A. Aabo
Title: City Manager

EXERGONIX, INC.

By: _____
Name: _____
Title: _____

WESTCOTT INVESTMENT GROUP, LLC

By: 
Robert C. Dunn, Trustee for Westcott
Investment Group, LLC

**EXHIBIT A
TO AMENDED AGREEMENT**

Legal Description of Property

PARCEL 1:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER: THENCE NORTH 02°-22'-03" EAST ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 19.34 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD AS NOW ESTABLISHED; THENCE NORTH 29°-25'-41" WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 153.40 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 83°-24'-46" WEST, A DISTANCE OF 656.73 FEET; THENCE NORTH 87°-49'-44" WEST, A DISTANCE OF 312.64 FEET; THENCE NORTH 02°-58'-23" EAST, A DISTANCE OF 678.03 FEET; THENCE NORTH 87°-01'-37" WEST, A DISTANCE OF 1019.79 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTH 06°-06'-41" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 144.99 FEET; THENCE NORTH 07°-51'-41" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 549.47 FEET; THENCE SOUTH 87°-49'-30" EAST DEPARTING SAID RIGHT OF WAY LINE, A DISTANCE OF 1303.12 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 29°-25'-41" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1498.93 FEET TO THE POINT OF BEGINNING. CONTAINING 1,524,252 SQUARE FEET, OR 34.992 ACRES, MORE OR LESS.

PARCEL 2:

ALL THAT PART OF THE NORTHWEST QUARTER, AND ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER: THENCE SOUTH 87°-53'-51" EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 11.96 FEET, TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, AS NOW ESTABLISHED; THENCE SOUTH 29°-25'-41" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 223.09 FEET, TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 29°-25'-41" EAST, A DISTANCE OF 1323.59 FEET, TO A POINT IN THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE NORTH 87°-32'-55" WEST, ALONG SAID

SOUTH LINE, A DISTANCE OF 832.35 FEET, TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 2°-36'-20" EAST, ALONG THE EAST LINE SAID NORTHWEST QUARTER AND ALONG THE EAST LINE OF **MADDOX ACRES**, A SUBDIVISION, A DISTANCE OF 358.00 FEET, TO THE NORTHEAST CORNER OF LOT 12 OF SAID SUBDIVISION; THENCE NORTH 87°-49'-43" WEST, ALONG THE NORTH LINE OF SAID SUBDIVISION, A DISTANCE OF 1507.48 FEET, TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2416.83 FEET, A CHORD BEARING OF NORTH 26°-20'-38" WEST, A CENTRAL ANGLE OF 1°-18'-57", AN ARC LENGTH OF 55.50 FEET; THENCE NORTH 27°-00'-06" WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 256.79 FEET; THENCE NORTH 26°-49'-41" WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 241.77 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1784.86 FEET, A CHORD BEARING OF NORTH 18°-00'-47" WEST, A CENTRAL ANGLE OF 12°-35'-16", AN ARC LENGTH OF 392.13 FEET; THENCE NORTH 32°-04'-12" EAST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 61.73 FEET; THENCE SOUTH 87°-49'-44" EAST, A DISTANCE OF 1158.47 FEET; THENCE SOUTH 78°-33'-51" EAST, A DISTANCE OF 869.58 FEET, TO THE POINT OF BEGINNING. CONTAINING 2,079,053 SQUARE FEET, OR 47.728 ACRES, MORE OR LESS.

**EXHIBIT B
TO AMENDED AGREEMENT**

Conceptual Site Plan



Exhibit B the "Site Plan"
Tuesday, March 22, 2016

**EXHIBIT C
TO AMENDED AGREEMENT**

Pre-Approved Uses And Retail Users

- Exergonix
- Convenience store with gas pumps
- Restaurants and food service operations
- Coffee shops
- Electric vehicle manufacture, sales and distribution
- LED lighting manufacture, sales and distribution
- Lighting system integration manufacture, sales and distribution
- Design and engineering services
- Environmental testing and materials analysis
- Material manufacture, sales and distribution
- Office warehouse and distribution facilities
- Light industrial manufacture, sales and distribution

**EXHIBIT D
TO AMENDED AGREEMENT**

SECOND AMENDMENT TO OPTION AGREEMENT

THIS SECOND AMENDMENT TO OPTION AGREEMENT ("Second Amendment") is entered into as of the 13th day of June, 2016, by and between WESTCOTT INVESTMENT GROUP, a Delaware limited liability company ("Westcott"), EXERGONIX, INC., a Missouri corporation ("Exergonix"), and the CITY OF LEE'S SUMMIT, MISSOURI, a Missouri constitutional charter city and political subdivision ("City").

Recitals

A. Reference is made to that certain Option Agreement dated June 15, 2011, recorded on June 17, 2011, as Document No. 2011E0058543 in the Recorder's Office of Jackson County, Missouri ("Original Option Agreement"), between the City and Exergonix granting City an option relating to certain real property located within the City at the intersection of U.S. Highway 50 and Missouri Highway 291, and described on **Exhibit A** attached hereto and by this reference made a part hereof (the "Property").

B. Reference is made to that certain First Amendment to Option Agreement dated September 2, 2011, recorded on Dec. 8, 2011, as Document No. 2011E0114613 in the Recorder's Office of Jackson County, Missouri ("First Amendment"), between the City and Exergonix revising the Original Optional Agreement relating to the Property.

C. The City has previously determined that assisting in the acquisition and redevelopment of the Property, will serve public purposes because it will, without limitation, (i) result in the creation of new jobs within the City, (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth.

D. The Original Option Agreement contemplated the execution by Exergonix and the City of a definitive development agreement.

E. As of the date hereof, Westcott, Exergonix and the City have entered into the Assignment Agreement and Amended and Restated Development Agreement to Promote Economic Activity ("Amended Development Agreement") authorizing the Second Amendment and creating a revised option to purchase the Property in favor of the City and authorizing this Second Amendment.

F. The City desires to encourage Westcott to carry out the acquisition and redevelopment of the Property by entering into this Second Amendment.

Agreement

In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows.

1. **Incorporation of Recitals.** The above Recitals are incorporated herein by this reference. Capitalized terms not defined in this Second Amendment shall have the meaning assigned to them in the Amended Development Agreement.

2. **Amendment to Term.** Paragraph 4 of the Option is hereby amended by deleting Paragraph 4 in its entirety and replacing it with the following:

(a.) **Term.** This Amended Development Agreement shall be effective upon the Effective Date and shall remain in effect until the earlier to occur of (i) the release of this Option by City pursuant to the terms of the Amended Development Agreement; or (ii) upon the completion of the Minimum Development by the Minimum Development – Phase II Completion Date as confirmed by the City's Termination Notice (as such terms are defined in the Amended Development Agreement). If Westcott has not achieved the creation of the Minimum Development by the Minimum Development – Phase II Completion Date, City shall have the right to exercise the Option at any time thereafter for a period of ten (10) years (the "Option Period").

3. **Recording Memorandum.** This Second Amendment will be recorded by City in the public land records for Jackson County, Missouri.


4. **Counterparts.** This Second Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

5. **Continued Effect.** Except as specifically modified by this Second Amendment, all of the terms and conditions of the Amended Development Agreement shall remain in full force and effect. In the event of a conflict between any term and provision of the Amended Development Agreement and this Second Amendment, the terms and provisions of this Second Amendment shall control.

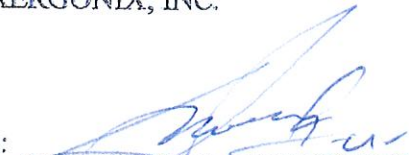
(Remainder of page intentionally left blank. Signature page to follow.)

In Witness Whereof, the parties have executed this Second Amendment as of the date first above written.


THE CITY OF LEE'S SUMMIT, MISSOURI

By: 
Stephen Arbo, City Manager

EXERGONIX, INC.

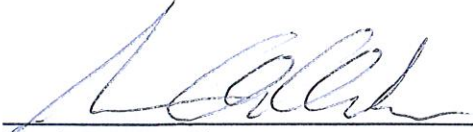
By: 
Don Nissanka, President/CEO

WESTCOTT INVESTMENT GROUP

By: 
Robert C. Dunn, Trustee for Westcott
Investment Group, LLC

In Witness Whereof, the parties have executed this Second Amendment as of the date first above written.


THE CITY OF LEE'S SUMMIT, MISSOURI

By: 
Stephen Arbo, City Manager

EXERGONIX, INC.

By: _____
Don Nissanka, President/CEO

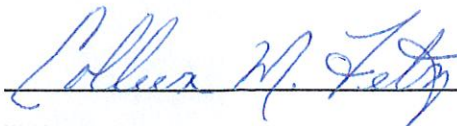
WESTCOTT INVESTMENT GROUP

By: 
Robert C. Dunn, Trustee for Westcott
Investment Group, LLC

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 13th day of June, 2016, before me personally appeared to me Stephen Arbo, personally known, who being by me duly sworn did say that he is the City Manager of the City of Lee's Summit, Missouri, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.



Notary Public

My commission expires:

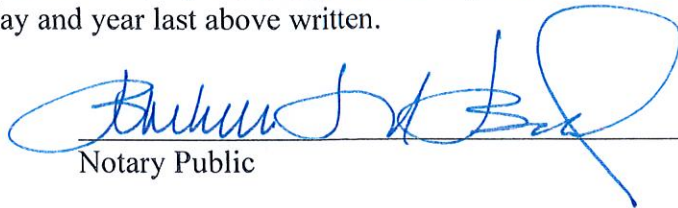
9/16/2018



STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 3rd day of June, 2016, before me personally appeared to me Don Nissanka, personally known, who being by me duly sworn did say that he is the President/CEO of Exergonix, Inc., a Missouri corporation and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and said Don Nissanka acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.



Notary Public

My commission expires:
7/31/16



RACHELLE M. BIONDO
My Commission Expires
July 31, 2016
Jackson County
Commission #12499262

Exhibit A
to Second Amendment to Option Agreement

LEGAL DESCRIPTION

PARCEL 1:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER: THENCE NORTH 02°-22'-03" EAST ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 19.34 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD AS NOW ESTABLISHED; THENCE NORTH 29°-25'-41" WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 153.40 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 83°-24'-46" WEST, A DISTANCE OF 656.73 FEET; THENCE NORTH 87°-49'-44" WEST, A DISTANCE OF 312.64 FEET; THENCE NORTH 02°-58'-23" EAST, A DISTANCE OF 678.03 FEET; THENCE NORTH 87°-01'-37" WEST, A DISTANCE OF 1019.79 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTH 06°-06'-41" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 144.99 FEET; THENCE NORTH 07°-51'-41" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 549.47 FEET; THENCE SOUTH 87°-49'-30" EAST DEPARTING SAID RIGHT OF WAY LINE, A DISTANCE OF 1303.12 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 29°-25'-41" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1498.93 FEET TO THE POINT OF BEGINNING. CONTAINING 1,524,252 SQUARE FEET, OR 34.992 ACRES, MORE OR LESS.

PARCEL 2:

ALL THAT PART OF THE NORTHWEST QUARTER, AND ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER: THENCE SOUTH 87°-53'-51" EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 11.96 FEET, TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, AS NOW ESTABLISHED; THENCE SOUTH 29°-25'-41" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 223.09 FEET, TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 29°-25'-41" EAST, A DISTANCE OF 1323.59 FEET, TO A POINT IN THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE NORTH 87°-32'-55" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 832.35 FEET, TO THE SOUTHWEST CORNER OF SAID

NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 2°-36'-20" EAST, ALONG THE EAST LINE SAID NORTHWEST QUARTER AND ALONG THE EAST LINE OF **MADDOX ACRES**, A SUBDIVISION, A DISTANCE OF 358.00 FEET, TO THE NORTHEAST CORNER OF LOT 12 OF SAID SUBDIVISION; THENCE NORTH 87°-49'-43" WEST, ALONG THE NORTH LINE OF SAID SUBDIVISION, A DISTANCE OF 1507.48 FEET, TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2416.83 FEET, A CHORD BEARING OF NORTH 26°-20'-38" WEST, A CENTRAL ANGLE OF 1°-18'-57", AN ARC LENGTH OF 55.50 FEET; THENCE NORTH 27°-00'-06" WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 256.79 FEET; THENCE NORTH 26°-49'-41" WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 241.77 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1784.86 FEET, A CHORD BEARING OF NORTH 18°-00'-47" WEST, A CENTRAL ANGLE OF 12°-35'-16", AN ARC LENGTH OF 392.13 FEET; THENCE NORTH 32°-04'-12" EAST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 61.73 FEET; THENCE SOUTH 87°-49'-44" EAST, A DISTANCE OF 1158.47 FEET; THENCE SOUTH 78°-33'-51" EAST, A DISTANCE OF 869.58 FEET, TO THE POINT OF BEGINNING. CONTAINING 2,079,053 SQUARE FEET, OR 47.728 ACRES, MORE OR LESS.



ELECTRONICALLY RECORDED
JACKSON COUNTY, MISSOURI
06/16/2016 10:55:03 AM
AMEND FEE: \$ 48.00 10 Pages

INSTRUMENT NUMBER:
2016E0053343



City of Lee's Summit, Missouri
Document to be Recorded
With Jackson County, Missouri

DATE OF DOCUMENT: June 16, 2016

DOCUMENT TITLE: Second Amendment to Option Agreement

GRANTOR(S) NAME: Exergonix, Inc.

ADDRESS: 4201 NE Lakewood Way
Lee's Summit, Missouri 64064

GRANTOR(S) NAME: Westcott Investment Group

ADDRESS: P.O. Box 3102
San Rafael, California 94912

GRANTEE NAME: City of Lee's Summit, Missouri

ADDRESS: 220 SE Green Street
Lee's Summit, Missouri 64063

LEGAL DESCRIPTION:
Please see Page 31 and 32 of the subject document (Exhibit A).

**EXHIBIT D
TO AMENDED AGREEMENT**

SECOND AMENDMENT TO OPTION AGREEMENT

THIS SECOND AMENDMENT TO OPTION AGREEMENT ("Second Amendment") is entered into as of the 13th day of June, 2016, by and between WESTCOTT INVESTMENT GROUP, a Delaware limited liability company ("Westcott"), EXERGONIX, INC., a Missouri corporation ("Exergonix"), and the CITY OF LEE'S SUMMIT, MISSOURI, a Missouri constitutional charter city and political subdivision ("City").

Recitals

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B. Reference is made to that certain First Amendment to Option Agreement dated September 2, 2011, recorded on Dec. 8, 2011, as Document No. 2011 E0114613 in the Recorder's Office of Jackson County, Missouri ("First Amendment"), between the City and Exergonix revising the Original Optional Agreement relating to the Property.

C. The City has previously determined that assisting in the acquisition and redevelopment of the Property, will serve public purposes because it will, without limitation, (i) result in the creation of new jobs within the City, (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth.

D. The Original Option Agreement contemplated the execution by Exergonix and the City of a definitive development agreement.

E. As of the date hereof, Westcott, Exergonix and the City have entered into the Assignment Agreement and Amended and Restated Development Agreement to Promote Economic Activity ("Amended Development Agreement") authorizing the Second Amendment and creating a revised option to purchase the Property in favor of the City and authorizing this Second Amendment.

F. The City desires to encourage Westcott to carry out the acquisition and redevelopment of the Property by entering into this Second Amendment.

Agreement

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1. **Incorporation of Recitals.** The above Recitals are incorporated herein by this reference. Capitalized terms not defined in this Second Amendment shall have the meaning assigned to them in the Amended Development Agreement.

2. **Amendment to Term.** Paragraph 4 of the Option is hereby amended by deleting Paragraph 4 in its entirety and replacing it with the following:

(a.) **Term.** This Amended Development Agreement shall be effective upon the Effective Date and shall remain in effect until the earlier to occur of (i) the release of this Option by City pursuant to the terms of the Amended Development Agreement; or (ii) upon the completion of the Minimum Development by the Minimum Development – Phase II Completion Date as confirmed by the City's Termination Notice (as such terms are defined in the Amended Development Agreement). If Westcott has not achieved the creation of the Minimum Development by the Minimum Development – Phase II Completion Date, City shall have the right to exercise the Option at any time thereafter for a period of ten (10) years (the "Option Period").

3. **Recording Memorandum.** This Second Amendment will be recorded by City in the public land records for Jackson County, Missouri.

4. **Counterparts.** This Second Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

5. **Continued Effect.** Except as specifically modified by this Second Amendment, all of the terms and conditions of the Amended Development Agreement shall remain in full force and effect. In the event of a conflict between any term and provision of the Amended Development Agreement and this Second Amendment, the terms and provisions of this Second Amendment shall control.

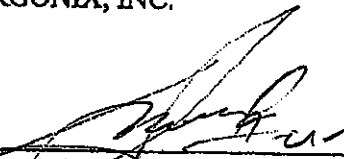
(Remainder of page intentionally left blank. Signature page to follow.)

In Witness Whereof, the parties have executed this Second Amendment as of the date first above written.


THE CITY OF LEE'S SUMMIT, MISSOURI

By: 
Stephen Arbo, City Manager

EXERGONIX, INC.

By: 
Don Nissanka, President/CEO

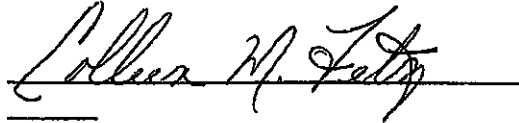
WESTCOTT INVESTMENT GROUP

By: 
Robert C. Dunn, Trustee for Westcott
Investment Group, LLC

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 13th day of June, 2016, before me personally appeared to me Stephen Arbo, personally known, who being by me duly sworn did say that he is the City Manager of the City of Lee's Summit, Missouri, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.



Notary Public

My commission expires:

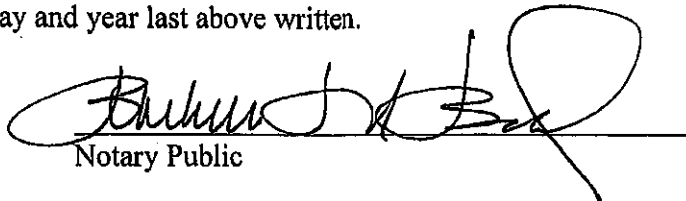
9/16/2018



STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 3rd day of June, 2016, before me personally appeared to me Don Nissanka, personally known, who being by me duly sworn did say that he is the President/CEO of Exergonix, Inc., a Missouri corporation and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and said Don Nissanka acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.



Notary Public

My commission expires:
7/31/16



RACHELLE M. BIONDO
My Commission Expires
July 31, 2016
Jackson County
Commission #12499262

Exhibit A
to Second Amendment to Option Agreement

LEGAL DESCRIPTION

PARCEL 1:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER: THENCE NORTH 02°-22'-03" EAST ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 19.34 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD AS NOW ESTABLISHED; THENCE NORTH 29°-25'-41" WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 153.40 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 83°-24'-46" WEST, A DISTANCE OF 656.73 FEET; THENCE NORTH 87°-49'-44" WEST, A DISTANCE OF 312.64 FEET; THENCE NORTH 02°-58'-23" EAST, A DISTANCE OF 678.03 FEET; THENCE NORTH 87°-01'-37" WEST, A DISTANCE OF 1019.79 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTH 06°-06'-41" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 144.99 FEET; THENCE NORTH 07°-51'-41" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 549.47 FEET; THENCE SOUTH 87°-49'-30" EAST DEPARTING SAID RIGHT OF WAY LINE, A DISTANCE OF 1303.12 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 29°-25'-41" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1498.93 FEET TO THE POINT OF BEGINNING. CONTAINING 1,524,252 SQUARE FEET, OR 34.992 ACRES, MORE OR LESS.

PARCEL 2:

ALL THAT PART OF THE NORTHWEST QUARTER, AND ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

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**EXHIBIT D
TO AMENDED AGREEMENT**

SECOND AMENDMENT TO OPTION AGREEMENT

THIS SECOND AMENDMENT TO OPTION AGREEMENT ("Second Amendment") is entered into as of the 13th day of June, 2016, by and between WESTCOTT INVESTMENT GROUP, a Delaware limited liability company ("Westcott"), EXERGONIX, INC., a Missouri corporation ("Exergonix"), and the CITY OF LEE'S SUMMIT, MISSOURI, a Missouri constitutional charter city and political subdivision ("City").

Recitals

A. Reference is made to that certain Option Agreement dated June 15, 2011, recorded on June 17, 2011, as Document No. 2011 E0056543 in the Recorder's Office of Jackson County, Missouri ("Original Option Agreement"), between the City and Exergonix granting City an option relating to certain real property located within the City at the intersection of U.S. Highway 50 and Missouri Highway 291, and described on **Exhibit A** attached hereto and by this reference made a part hereof (the "Property").

B. Reference is made to that certain First Amendment to Option Agreement dated September 2, 2011, recorded on Dec. 8, 2011, as Document No. 2011 E0114613 in the Recorder's Office of Jackson County, Missouri ("First Amendment"), between the City and Exergonix revising the Original Optional Agreement relating to the Property.

C. The City has previously determined that assisting in the acquisition and redevelopment of the Property, will serve public purposes because it will, without limitation, (i) result in the creation of new jobs within the City, (ii) promote economic development in the City, (iii) remediate an area of the City that has been previously declared blighted by the City Council of the City, (iv) result in generation of additional tax revenues to the City from the conduct of business and other activities in the City that would not otherwise occur, (v) serve as a catalyst for additional investment in and further redevelopment and rehabilitation of the portion of the City in which the Property is located, and (vi) further the City's policy of encouraging economic stability and growth.

D. The Original Option Agreement contemplated the execution by Exergonix and the City of a definitive development agreement.

E. As of the date hereof, Westcott, Exergonix and the City have entered into the Assignment Agreement and Amended and Restated Development Agreement to Promote Economic Activity ("Amended Development Agreement") authorizing the Second Amendment and creating a revised option to purchase the Property in favor of the City and authorizing this Second Amendment.

F. The City desires to encourage Westcott to carry out the acquisition and redevelopment of the Property by entering into this Second Amendment.

Agreement

In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows.

1. **Incorporation of Recitals.** The above Recitals are incorporated herein by this reference. Capitalized terms not defined in this Second Amendment shall have the meaning assigned to them in the Amended Development Agreement.

2. **Amendment to Term.** Paragraph 4 of the Option is hereby amended by deleting Paragraph 4 in its entirety and replacing it with the following:

(a.) **Term.** This Amended Development Agreement shall be effective upon the Effective Date and shall remain in effect until the earlier to occur of (i) the release of this Option by City pursuant to the terms of the Amended Development Agreement; or (ii) upon the completion of the Minimum Development by the Minimum Development – Phase II Completion Date as confirmed by the City's Termination Notice (as such terms are defined in the Amended Development Agreement). If Westcott has not achieved the creation of the Minimum Development by the Minimum Development – Phase II Completion Date, City shall have the right to exercise the Option at any time thereafter for a period of ten (10) years (the "Option Period").

3. **Recording Memorandum.** This Second Amendment will be recorded by City in the public land records for Jackson County, Missouri.


4. **Counterparts.** This Second Amendment may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

5. **Continued Effect.** Except as specifically modified by this Second Amendment, all of the terms and conditions of the Amended Development Agreement shall remain in full force and effect. In the event of a conflict between any term and provision of the Amended Development Agreement and this Second Amendment, the terms and provisions of this Second Amendment shall control.

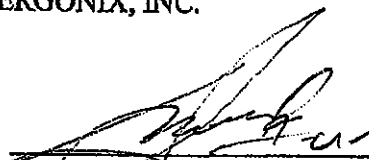
(Remainder of page intentionally left blank. Signature page to follow.)

In Witness Whereof, the parties have executed this Second Amendment as of the date first above written.


THE CITY OF LEE'S SUMMIT, MISSOURI

By: 
Stephen Arbo, City Manager

EXERGONIX, INC.

By: 
Don Nissanke, President/CEO

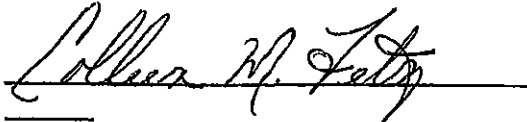
WESTCOTT INVESTMENT GROUP

By: 
Robert C. Dunn, Trustee for Westcott
Investment Group, LLC

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 13th day of June, 2016, before me personally appeared to me Stephen Arbo, personally known, who being by me duly sworn did say that he is the City Manager of the City of Lee's Summit, Missouri, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.



Notary Public

My commission expires:

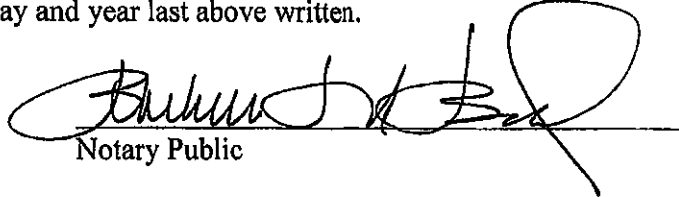
9/16/2018



STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 3rd day of June, 2016, before me personally appeared to me Don Nissanka, personally known, who being by me duly sworn did say that he is the President/CEO of Exergonix, Inc., a Missouri corporation and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and said Don Nissanka acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Lee's Summit, Missouri the day and year last above written.


Notary Public

My commission expires:

7/31/16



RACHELLE M. BIONDO
My Commission Expires
July 31, 2016
Jackson County
Commission #12499262

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], not Notary)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

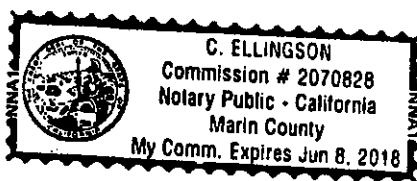
Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Marin

Subscribed and sworn to (or affirmed) before me
on this 18th day of May, 2016,
by Robert C. Durr
(1) _____



(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature C. Ellingson
Signature of Notary Public

Seal
Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Restated Development Agreement Document Date: 5/18/16
Number of Pages: 26 Signer(s) Other Than Named Above: Stephan Arba / Don Nissantken

Exhibit A
to Second Amendment to Option Agreement

LEGAL DESCRIPTION

PARCEL 1:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER: THENCE NORTH 02°-22'-03" EAST ALONG THE EAST LINE OF SAID QUARTER SECTION, A DISTANCE OF 19.34 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD AS NOW ESTABLISHED; THENCE NORTH 29°-25'-41" WEST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 153.40 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 83°-24'-46" WEST, A DISTANCE OF 656.73 FEET; THENCE NORTH 87°-49'-44" WEST, A DISTANCE OF 312.64 FEET; THENCE NORTH 02°-58'-23" EAST, A DISTANCE OF 678.03 FEET; THENCE NORTH 87°-01'-37" WEST, A DISTANCE OF 1019.79 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTH 06°-06'-41" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 144.99 FEET; THENCE NORTH 07°-51'-41" WEST CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 549.47 FEET; THENCE SOUTH 87°-49'-30" EAST DEPARTING SAID RIGHT OF WAY LINE, A DISTANCE OF 1303.12 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 29°-25'-41" EAST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 1498.93 FEET TO THE POINT OF BEGINNING. CONTAINING 1,524,252 SQUARE FEET, OR 34.992 ACRES, MORE OR LESS.

PARCEL 2:

ALL THAT PART OF THE NORTHWEST QUARTER, AND ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 47, RANGE 31, IN LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER: THENCE SOUTH 87°-53'-51" EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 11.96 FEET, TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, AS NOW ESTABLISHED; THENCE SOUTH 29°-25'-41" EAST, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 223.09 FEET, TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE SOUTH 29°-25'-41" EAST, A DISTANCE OF 1323.59 FEET, TO A POINT IN THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE NORTH 87°-32'-55" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 832.35 FEET, TO THE SOUTHWEST CORNER OF SAID

NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH $2^{\circ}-36'-20''$ EAST, ALONG THE EAST LINE SAID NORTHWEST QUARTER AND ALONG THE EAST LINE OF **MADDOX ACRES**, A SUBDIVISION, A DISTANCE OF 358.00 FEET, TO THE NORTHEAST CORNER OF LOT 12 OF SAID SUBDIVISION; THENCE NORTH $87^{\circ}-49'-43''$ WEST, ALONG THE NORTH LINE OF SAID SUBDIVISION, A DISTANCE OF 1507.48 FEET, TO A POINT ON THE EAST RIGHT OF WAY LINE OF MISSOURI STATE HIGHWAY NO. 291, AS NOW ESTABLISHED; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2416.83 FEET, A CHORD BEARING OF NORTH $26^{\circ}-20'-38''$ WEST, A CENTRAL ANGLE OF $1^{\circ}-18'-57''$, AN ARC LENGTH OF 55.50 FEET; THENCE NORTH $27^{\circ}-00'-06''$ WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 256.79 FEET; THENCE NORTH $26^{\circ}-49'-41''$ WEST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 241.77 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1784.86 FEET, A CHORD BEARING OF NORTH $18^{\circ}-00'-47''$ WEST, A CENTRAL ANGLE OF $12^{\circ}-35'-16''$, AN ARC LENGTH OF 392.13 FEET; THENCE NORTH $32^{\circ}-04'-12''$ EAST, CONTINUING ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 61.73 FEET; THENCE SOUTH $87^{\circ}-49'-44''$ EAST, A DISTANCE OF 1158.47 FEET; THENCE SOUTH $78^{\circ}-33'-51''$ EAST, A DISTANCE OF 869.58 FEET, TO THE POINT OF BEGINNING. CONTAINING 2,079,053 SQUARE FEET, OR 47.728 ACRES, MORE OR LESS.

