

outline is defined and used in this document

CONSTRUCTION TITLE V. BUILDING AND

CONSTRUCTION REGULATIONS CHAPTER 500: BUILDING AND

Cross References—As to fire prevention generally, see ch. 210; as to advertising signs and billboards generally, see ch. 415; as to buildings or structures in city parks generally, see §240.280; as to property maintenance code, see ch. 505; as to building permit for swimming pools, see §500.110; as to zoning generally, see ch. 405.

ARTICLE I. IN GENERAL

**SECTION 500.010: COMPLIANCE WITH BUILDING CODE, ETC.,
PREREQUISITE TO
ISSUANCE OF BUILDING PERMITS**

Before issuance of any permit or certificate, the Building Commissioner shall determine that all requirements of the Building Code, the Zoning Ordinance and other provisions of this Code and other City ordinances and State law which may be applicable to such permit or certificate have been or will be complied with. (CC 1975 §5-1)

**SECTION 500.015: PROPERTY INSPECTION—CERTIFICATE OF
COMPLIANCE—
OCCUPANCY PERMIT REQUIRED**

- A. *Scope—Requirement.* Except as otherwise provided, it shall be unlawful for any person to occupy any property, or for any owner or agent to permit the occupancy thereof, for any purpose until all required certificates of compliance and/or occupancy permits have been issued by the Building Commissioner. No certificate of compliance or occupancy permit shall be issued until all violations of this Title shall have been corrected and brought into compliance.
- B. *Property Defined.* For the purposes of this Section, the term "*property*" shall be defined as any premises, structure, building or dwelling subject to the provisions of this Title.
- C. *Certificates And Permits—Contents.* Any certificate of compliance, occupancy inspection report or occupancy permit issued by the Building Commissioner pertaining to any dwelling shall state the maximum number of persons who may lawfully occupy the property as configured at the time of inspection.
- D. *Pre-Transfer Activity—Application For Certificate Required.*

1. It shall be unlawful for the owner or lessor of any property subject to the provisions of this Chapter, or their agent, to advertise in any way, or to list with a real estate agent or other broker, such property for the purpose of selling, leasing, renting or otherwise transferring its ownership or possession, without first applying for the issuance of a certificate of compliance by the Building Commissioner.
2. After receiving such application, the Building Commissioner shall cause the property to be inspected to determine its compliance with the provisions of this Title. If the Building Commissioner determines the property is in compliance, a certificate of compliance shall be issued.

3. If the Building Commissioner determines the property is in violation of Title provisions, the Building Commissioner shall issue an occupancy inspection report which shall list ail conditions which fail to satisfy the requirement of this Title.

E. *Transfer Of Ownership—Certificate Of Compliance Required.*

1. It shall be unlawful for the owner or lessor of any property, or their agent, to sell, lease, rent or otherwise transfer ownership or possession of property subject to the requirements of this Title unless a certificate of compliance has been issued by the Building Commissioner or an occupancy inspection report has been issued and an assumption of responsibility for abating all violations listed thereon has been approved pursuant to Subsection (H) of this Section, below.
2. On application by an owner, lessor or agent, the Building Commissioner shall issue a certificate of compliance if, after inspecting the property, the Building Commissioner determines it to be in compliance with the provisions of this Title.
3. If the Building Commissioner determines the property is in violation of requirements of this Title, the Building Commissioner shall issue an occupancy inspection report which shall list all conditions which fail to satisfy the requirements of this Title.
4. A certificate of compliance and/or an occupancy inspection report shall be valid for one hundred eighty (180) days unless revoked by the Building Commissioner for good cause. In the event an occupancy permit is not issued within said one hundred eighty (180) days, said certificates shall be null and void, and a new application for a certificate of compliance must be made before any occupancy permit may issue.
5. A fee shall be charged for inspections as provided in Section 500.110 of this Code.
6. This Section shall not apply to transfers of a structure or building wherein the transferee executes an affidavit directed to the Building Commissioner attesting to the fact that the structure(s) and/or building(s) on the property so transferred will be demolished within ninety (90) days of transfer.

F. *Occupancy Permit Required.*

1. It shall be unlawful for any person to hereafter occupy or for the owner, lessor or agent thereof to permit the occupancy of any property until an occupancy permit has been issued by the Building Commissioner.
2. On application by an owner, lessor, tenant, transferee or agent thereof, the Building Commissioner shall issue an occupancy permit if, after inspecting the property, the Building Commissioner determines it to be in compliance with the provisions of this Title. No occupancy permit may be issued for any property if there are unpaid City taxes or liens in favor of the City outstanding as to such property until such time as such unpaid taxes and/or liens are satisfied.
3. If the Building Commissioner determines the property is in violation of the requirements of this Title, the Building Commissioner shall issue an occupancy

inspection report which shall list all conditions which fail to satisfy the requirements of this Title.

4. No person not listed on the occupancy permit for a property shall occupy or be permitted to

occupy the same. No use or activity not listed on the occupancy permit for a structure or building not used for dwelling purposes shall be permitted therein.

5. Whenever the owner or occupant of any property shall permit or suffer any additional person to occupy same, the Building Commissioner shall be notified and the occupancy permit shall be amended accordingly, provided that all other requirements of this Title are satisfied. Whenever the owner or occupant of any property not used for dwelling purposes shall permit an additional or separate use or activity to be undertaken therein, the Building Commissioner shall be notified and the occupancy permit shall be amended accordingly, provided that all other requirements of this Title are satisfied.
6. A fee shall be charged for an initial or amended occupancy permit as provided in Section 500.110 of this Code.

G. *Application For Permit.* Any person hereafter occupying or proposing to occupy any property shall apply for an occupancy permit on an application form provided by the Building Commissioner. Such application shall contain the name of the applicant, the names, dates of birth and relationship of all persons to occupy the property and such other information as shall be required by the Building Commissioner. The application shall be signed and affirmed or sworn to by the applicant.

H. *Conditional Permit.*

1. A conditional occupancy permit may be issued by the Building Commissioner if, in the Commissioner's judgment:
 - a. Any deficiency or non-compliance with this Title would not seriously endanger the health or safety of the occupants or the community; and
 - b. Provided the occupant executes an affidavit that all required corrections shall be made within a time specified therein. If approved by the Building Commissioner in all respects, the property may thereafter be occupied while such corrections are being made.
2. Upon expiration of the time allowed in the conditional occupancy permit all required corrections shall be completed or the property shall be vacated. The Building Commissioner may extend the time allowed in the permit for a period not to exceed one hundred eighty (180) days if, in the Commissioner's judgment:
 - a. Any deficiency or non-compliance with this Title would not seriously endanger the health or safety of the occupants or the community; and
 - b. The occupant has made substantial progress toward bringing the property into compliance with this Title; and
 - c. All required corrections can be made within the time allowed by the extension.
3. At such time as the property shall be in compliance with the requirements of this Title,

an occupancy permit shall be issued.

4. A fee shall be charged for a conditional occupancy permit as provided in Section 500.110 of this Code.

I. *Correction Required.*

1. If there are violations of this Title which must be abated or corrected before a certificate of compliance or an occupancy permit can be issued, it shall be the responsibility of the seller, lessor or agent thereof to abate such violations. No certificate of compliance or occupancy permit shall be issued until all violations of this Title shall have been corrected and the fee for such permit shall have been paid.
2. With the approval of the Building Commissioner, a transferee of a property may assume responsibility for abating violations of this Title by executing an affidavit stating such transferee assumes responsibility for abating such violations and establishing the date by which such abatement shall be accomplished, which date shall be subject to approval by the Building Commissioner.

J. *Notice Of Inspection And Occupancy Limits.* Any residential structure offered or available for sale, lease or transfer shall display a statement provided by the City indicating the date of the most recent inspection of the structure, the results of that inspection, the expiration date of the period of validity pursuant to Subsection (E)(4) of this Section above and information as to the maximum number of persons that the structure will lawfully accommodate as determined by the most recent inspection. The required statement shall be affixed to the structure in proximity to the main entrance and in a manner reasonably calculated to come to the attention of persons entering same. It shall be unlawful to offer any residential structure for sale, lease or transfer unless the statement required by the Subsection shall be displayed as set forth herein.

K. *Misrepresentations Prohibited.*

1. It shall be unlawful for any person, firm or corporation to advertise, offer or represent in any form or manner that a certificate of compliance has been issued for any premises for which such a certificate has not been issued by the Building Commissioner.
2. It shall be unlawful for any person, firm or corporation to advertise, offer or represent in any form or manner that a property may be occupied by a number of persons in excess of that permitted by the most recent certificate of compliance or occupancy inspection report issued for that property.
3. It shall be unlawful for any person to knowingly make any false statement in an application for an occupancy permit or any amendment thereto. (Ord. No. 473 §1, 12-5-00; Ord. No. 516 §1, 4-1-03)

SECTION 500.020: BUILDER'S DEPOSIT TO ASSURE RESTORATION OF STREETS AND SIDEWALKS WHEN DAMAGED DURING COURSE OF BUILDING, ETC.

A builder's deposit on new construction, reconstruction and major alteration or repair shall be required by the Building Commissioner, to be turned over to the City Treasurer, such

deposit to be not less than one hundred fifty dollars (\$150.00), as determined by the Building Commissioner, to insure proper replacement and repair of streets and sidewalks which may be damaged by reason of any construction, reconstruction or major repair at or adjacent to the premises. Such deposits shall be refunded to the builder or owner, as the case may be, by the City Treasurer after receipt by him/her, from the Building Commissioner of a certificate of inspection, certifying that all streets and sidewalks and property for which the City is responsible have been repaired. Otherwise, such

deposit shall be used by the City to repair such street or sidewalk or other property, and the balance thereof only shall be refunded.

The City Treasurer shall deposit all builders' deposits into a special fund to be known as the City of Normandy's Builders' Deposit Account. These deposits shall be included in all general financial statements and reports of the City Treasurer. (CC 1975 §5-2; Ord. No. 168 §§7, 9)

SECTION 500.030:

VIOLATIONS AND PENALTIES

Any person who shall violate any of the provisions of this Chapter, for which no other penalty is specified, shall be subject to the penalties provided in Section 100.220. (CC 1975 §5-7; Ord. No. 168 §12)

BUILDING CODES

**ARTICLE II. ADOPTION OF VARIOUS
AND COUNTY CODES**

SECTION 500.040:

ADOPTION OF BUILDING CODE

A. *Adoption.* A certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Normandy, being marked and designated as "The BOCA National Building Code, Fourteenth Edition, 1999" as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the Building Code of the City of Normandy, in the State of Missouri; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said BOCA National Building Code, are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Subsection (B) of this Section.

B. *Additions, Insertions And Changes.* The following sections are hereby revised as follows:

Section 101.1. Insert: City of Normandy.

Section 112.3.1. Insert: The fees shall be as set out in Section 500.110 of the Normandy Municipal City Code.

Section 116.4. Insert: (Ordinance violation, \$1,000.00, 90).

Section 117.2. Insert: (\$0, \$1,000.00).

Section 3408.2. Insert: July 15, 1999.

C. *Penalty.* Any person violating any of the provisions of this Section or any provisions of the Code adopted in this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be

imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 484 §5, 4-9-01)

SECTION 500.043: ADOPTED INTERNATIONAL RESIDENTIAL CODE

A. *Adoption.* A certain document, one (1) copy of which has been on file for at least ninety (90) days in the office of the City Clerk of the City of Normandy, being marked and designated as "The International Residential Code for One- and Two-Family Dwellings, 2006 Edition", including Appendices A through Q, with the additions, insertions, deletions and changes, if any, prescribed in Subsection (C) of this Section, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Normandy in the State of Missouri for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Residential Code for One- and Two-Family Dwellings, are hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Subsection (C) of this Section.

B. *Jurisdictional Titles.* Throughout the International Residential Code for One- and Two-Family Dwellings, 2006 Edition, wherever the terms "name of jurisdiction" or "local jurisdiction" appear, it shall be deemed to mean "City of Normandy, Missouri". Wherever the term "code" appears, it shall mean the International Residential Code for One- and Two-Family Dwellings, 2006 Edition.

C. *Additions, Insertions, Deletions And Changes.* The following Sections of the International Residential Code for One- and Two-Family Dwellings, 2006 Edition, adopted in Subsection (A) hereof shall be revised as follows:

Section R101.1 shall read "These provisions, with the additions, insertions, deletions and changes, if any, prescribed by the City of Normandy, shall be known as the Residential Code for One- and Two-Family Dwellings of the City of Normandy and shall be cited as such and will be referred to herein as "this code".

Section R301.2(1) shall be revised to insert the following design criteria:

Table R301.2(1) Climatic and Geographic Design Criteria

GROUND SNOW LOAD	WIND SPEED ^c (mph)	SEISMIC DESIGN CATEGORY ^e	SUBJECT TO DAMAGE FROM			
			Weathering ^a	Frost Line Depth ^b	Termite ^c	Decay ^d
20 lbs.	90 mph	C	Severe	30 inches	Moderate	R-319

WINTER DESIGN TEMP ^f	ICE SHIELD UNDER-LAYMENT REQUIRED ⁱ	FLOOD HAZARDS ^h	AIR FREEZING INDEX ^j	MEAN ANNUAL TEMP ^k
7°C/39°F	Required R905.2.7.1	See flood plain map for area	Base 32°F	58°

Section P2603.6.1. Insert "30" minimum" and "below grade".

- D. *Existing Court Cases Not To Be Affected.* Nothing in this Article or in the code hereby adopted shall be construed to affect any suit or proceeding impending in any court or any rights acquired or liability incurred or any cause or causes of action acquired or existing under any act or ordinance

hereby repealed as cited in Subsection (E) of this Section; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

- E. *Inconsistent Ordinances Repealed.* All other ordinances or parts of ordinances in conflict herewith are hereby repealed.
- F. *Violation And Penalty.* Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan of or directive of the Code Official or of a permit or certificate issued under the provision of this code shall be guilty of an ordinance violation punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense. (Ord. No. 609 §§1–2, 12-1-09)

SECTION 500.050:

- A. *Adoption.* The Electrical Code adopted by the County of St. Louis on November 29, 2005, as Ordinance No. 22556 (Exhibit A) is hereby adopted as the Electrical Code of the City of Normandy as if set forth here in full.
- B. *Enforcement.* The Mayor on behalf of the City of Normandy, is hereby authorized to enter into an agreement with St. Louis County for the enforcement of the Electrical Code of the City of Normandy by the County of St. Louis on the following terms:
 - 1. *Services to be rendered.* The County shall provide to Municipality, code enforcement in the area of electricity.
 - 2. *Terms of agreement.* Service shall continue from year to year, however, either party may terminate upon giving ninety (90) days prior written notice.
 - 3. *Compensation.* The County shall collect and retain all fees.
 - 4. *Restrictive provisions.* If the Municipality has adopted provisions more restrictive than those contained in the applicable County Code, Municipality shall approve all plans prior to submission to County's Department of Public Works.
- C. *Penalty.* Any person violating any of the provisions of the Code adopted in this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 467 §1, 8-29-00; Ord. No. 484 §5, 4-9-01; Ord. No. 526 §1, 1-6-04; Ord. No. 566 §1, 6-6-06)

SECTION 500.060:

- A. *Adoption.* The Plumbing Code adopted by the County of St. Louis, Missouri, on June 5, 2005, as Ordinance No. 22338 (Exhibit B) is hereby adopted as the Plumbing Code of the City of Normandy, Missouri, as if set forth here in full.

- B. *Enforcement.* The Mayor, on behalf of the City of Normandy is hereby authorized to enter into an Agreement with St. Louis County for the enforcement of the Plumbing Code of the City of Normandy by the County of St. Louis on the following terms:
 - 1. *Services to be rendered.* The County shall provide to Municipality, code enforcement in the area of Plumbing.
 - 2. *Terms of agreement.* Service shall continue from year to year, however, either party may terminate upon giving ninety (90) days prior written notice.
 - 3. *Compensation.* The County shall collect and retain all fees.
 - 4. *Restrictive provisions.* If the Municipality has adopted provisions more restrictive than those contained in the applicable County Code, Municipality shall approve all plans prior to submission to County's Department of Public Works.
 - 5. *Regulatory ordinances.* The Municipality shall approve all plans for compliance with Zoning or other regulatory ordinances prior to submission to County's Department of Public Works.
- C. *Permit Required.* No installation or alterations of any plumbing or sewerage shall be made without first procuring a permit therefor. Applications for such permit, describing such work, shall be made by the person, firm or corporation installing same and permit when issued shall be to such applicant.
- D. *Penalty.* Any person violating any of the provisions of the Code adopted in this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 424, 10-13-98; Ord. No. 484 §5, 4-9-01; Ord. No. 489 §1, 6-5-01; Ord. No. 566 §2, 6-6-06)

SECTION 500.070:

- A. The Mechanical Code of St. Louis County, (as it pertains to elevators only), adopted by St. Louis County on March 17, 1994, and the Building Code of St. Louis County, (as it pertains to elevators only), adopted by St. Louis County on August 7, 1997, are hereby adopted as the Elevator Code of the City of Normandy, Missouri.
- B. *Agreement With County For Enforcement Of Elevator Code.* The City Manager, on behalf of the City of Normandy, is hereby authorized to enter into an agreement with the County for the enforcement of the Elevator Code of the City of Normandy by St. Louis County. The County shall collect and retain all fees.
- C. *Penalty.* Any person violating any of the provisions of the Code adopted in this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense

and shall be punishable as such hereunder. (Ord. No. 484 §5, 4-9-01)

SECTION 500.080:

- A. *Adoption.* The Mechanical Code adopted by the County of St. Louis on May 18, 2005, as Ordinance No. 22313 (Exhibit C) is hereby adopted as the Mechanical Code of the City of Normandy, Missouri, as if set forth here in full.
- B. *Enforcement.* The Mayor, on behalf of the City of Normandy, is hereby authorized to enter into an agreement with St. Louis County for the enforcement of the Mechanical Code of the City of Normandy by the County of St. Louis on the following terms:
 - 1. *Services to be rendered.* The County shall provide to Municipality, code enforcement in the area of mechanical.
 - 2. *Terms of agreement.* Service shall continue from year to year, however, either party may terminate upon giving ninety (90) days prior written notice.
 - 3. *Compensation.* The County shall collect and retain all fees.
 - 4. *Restrictive provisions.* If the City has adopted provisions more restrictive than those contained in the applicable County Code, the City shall approve all plans prior to submission to County's Department of Public Works.
- C. *Penalty.* Any person violating any of the provisions of the Code adopted in this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 484 §5, 4-9-01; Ord. No. 489 §2, 6-5-01; Ord. No. 566 §3, 6-6-06)

SECTION 500.090:

- A. The Explosives Code adopted and amended by the County of St. Louis on or about October 24, 1962 as Ordinance No. 2703, and as amended on or about November 29, 1967 by Ordinance No. 4524, on or about January 8, 1981 by Ordinance No. 10,039, on or about December 23, 1981 by Ordinance No. 10,462, on or about June 2, 1994 by Ordinance No. 17,057, and on or about November 6, 1997 by Ordinance No. 18,693, is hereby adopted as the Explosives Code of the City of Normandy, as if set forth here in full.
- B. *Enforcement.* The Mayor, on behalf of the City of Normandy, is hereby authorized to enter into an agreement with St. Louis County for the enforcement of the Explosives Code of the City of Normandy by the County of St. Louis on the following terms:
 - 1. *Services to be rendered.* The County shall provide to Municipality, code enforcement in the area of explosives.
 - 2. *Terms of agreement.* Service shall continue from year to year, however, either party may terminate upon giving ninety (90) days prior written notice.

3. *Compensation.* The County shall collect and retain all fees.
4. *Restrictive provisions.* If the City has adopted provisions more restrictive than those contained

in the applicable County Code, the City shall approve all plans prior to submission to County's Department of Public Works.

- C. *Penalty.* Any person violating any of the provisions of the Code adopted in this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 467 §2, 8-29-00; Ord. No. 484 §5, 4-9-01)

SECTION 500.100:

AM

The St. Louis County Code, as amended, for:

- 1. Amusement,

which was adopted by the Council of the County of St. Louis on:

- 1. Amusement, May 16, 1980.

respectively, is hereby adopted as the Amusement Code of the City of Normandy, Missouri, as if fully set out herein. (Ord. No. 133 §§1–2, 7-28-81)

SECTION 500.110:

FEE

The building fees and inspection fees for the City of Normandy shall be as follows:

For occupancy inspections:

Inspection fee (including one (1) reinspection	
Each additional reinspection within two (2) months	
Inspection for premises already occupied prior to occupancy permit issuance	\$100.00
Compliance certificate fee	

\$10.

Note: Inspection fees will be charged if request for service is not cancelled at least twenty-four (24) hours before scheduled inspection or if inspector is unable to access the premises.

Occupancy permit:

<i>Permit fee</i>	\$25.00
<i>Update to permit fee</i>	

\$25.

Building permit:

Three dollars (\$3.00) per thousand dollars of estimated construction cost for all construction,

alteration and demolition with a ten dollar (\$10.00) minimum fee.

The following categories of construction, alteration and demolition shall be deemed applicable to a building permit fee:

Breezeways, carports, garages

Footing inspection	\$10.00
Framing inspection	\$10.00
Final inspection	<u>\$10.00</u>
Total		\$30.00

Demolition (Building)

First story		\$10.00
Each additional story		<u>\$10.00</u>
Total		\$20.00

Driveways

Inspection		\$10.00
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Fences

Inspection		\$10.00
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Room additions, alterations and remodeling

Footing inspection		\$10.00
Foundation inspection		\$10.00
Framing inspection		\$10.00
Drywall inspection 1		\$10.00
Drywall inspection 1		\$10.00
Final inspection		<u>\$10.00</u>
Total		\$60.00

Signs

Footing inspection		\$15.00
Final inspection		<u>\$10.00</u>
Total		\$25.00

Swimming pools

Inspection		\$10.00
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Antenna dish:

Three dollars (\$3.00)/thousand ten dollars (\$10.00) minimum, plus ten dollar (\$10.00) inspection, a minimum of twenty dollars (\$20.00).

Park rental:

Resident	\$15.00	
Non-resident		\$25.00

(Ord. No. 473 §2, 12-5-00; Ord. No. 597 §1, 5-6-08)

COMMISSIONER **ARTICLE III. BUILDING**

SECTION 500.120: OFFICE OF BUILDING COMMISSIONER

There is hereby created and established the office of Building Commissioner of the City of Normandy, Missouri. (Ord. No. 79 §1, 4-10-79)

SECTION 500.130: APPOINTMENT AND TENURE

A qualified person shall be appointed as Building Commissioner by the Mayor in accordance with the provisions of the Personnel Code of the City of Normandy, Missouri. Said appointment shall be for an indefinite term. (Ord. No. 79 §2, 4-10-79; Ord. No. 214 §1, 6-12-84)

SECTION 500.140: COMPENSATION

The Building Commissioner shall receive such compensation as may be established from time to time by the City Council. Such compensation shall be payable bi-weekly. (Ord. No. 79 §3, 4-10-79)

SECTION 500.150: POWERS AND DUTIES

The Building Commissioner, under the general supervision of the Mayor, shall have the following powers and duties:

1. The Building Commissioner shall be the Enforcement Official and shall perform such duties prescribed for him\her in the Minimum Housing Code of the City of Normandy.
2. The Building Commissioner shall be the Zoning Officer of the City and shall perform such duties prescribed for him\her in the Zoning Ordinance of the City of Normandy. He/she shall attend all meetings of the Planning and Zoning Commission and shall serve as a non-voting member of that body.
3. The Building Commissioner shall be liaison officer with the Normandy Fire Protection District regarding fire protection and the duties of Fire Marshal.
4. The Building Commissioner shall coordinate with the Department of Public Works of St. Louis County all applications for building, plumbing, electrical and mechanical permits for the City of Normandy.
5. The Building Commissioner shall perform such duties prescribed for him\her in the Sign Regulations of the City of Normandy.
6. The Building Commissioner shall be responsible for enforcement of the Unsafe

Structures Code.

7. The Building Commissioner shall be responsible for enforcement of the Sign Regulations.
8. The Building Commissioner shall be responsible for enforcement of the Weed Regulations.
(Ord. No. 79 §4, 4-10-79; Ord. No. 214 §1, 6-12-84)

ARTICLE IV. SEISMIC DESIGN

**SECTION 500.160: SEISMIC DESIGN REQUIRED OF NEW
CONSTRUCTION AND MAJOR
STRUCTURAL RENOVATIONS**

- A. Any new construction, additions and alterations, as such term is defined by the building officials and code administrators code, to existing buildings and structures within the city, shall comply with the standards for seismic design and construction of the Building Officials and Code Administrators Code.
- B. Seismic design criteria as to additions and alterations apply only to structural components constituting the addition or alteration and shall not be applied to require reconstruction or fortification of existing structures proposed to be altered. If any addition or alteration adversely affects portions of existing facilities which are not being altered, then those parts thus affected may require evaluation and possible reinforcement such that the additions or alterations will result in a structure that is at least as safe as it was prior to the additions or alterations. (Ord. No. 319 §§1–3, 3-12-91)

MAINTENANCE CODE **CHAPTER 505: PROPERTY**

SECTION 505.010: INTERPRETATION

The City Council recognizes that certain of the matters addressed in the Property Maintenance Code hereinafter adopted may also be addressed by certain portions of Ch. 235 and Section 220.050, as well as by other portions of other ordinances of the City. It is hereby declared to be the intention of the Council that any provisions of such ordinances shall be read in harmony with the provisions of the Property Maintenance Code hereinafter adopted and that provisions of the aforesaid ordinances shall be so construed, interpreted, administered and applied as to reconcile any differences between such ordinances and the Code hereinafter adopted. To the extent that any provision of the aforesaid ordinances may be determined to be irreconcilable with the provisions of the Code hereinafter adopted, but only to that extent, those ordinance provisions shall be deemed to have been superseded and repealed by the adoption of this Property Maintenance Code. (Ord. No. 323 §1, 7-9-91)

SECTION 505.020: INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTION

A certain document, one (1) copy of which has been on file for at least ninety (90) days in the office of the City Clerk of the City of Normandy, being marked and designated as "The International Property Maintenance Code, 2006 Edition", with the additions, insertions and changes, if any, prescribed in Section 505.030 of this Chapter, as published by the International Code Council, be and is hereby adopted and made a part of this Code of Ordinances for the control of buildings and structures. Each and all of the regulations, provisions, conditions and terms of such International Property Maintenance Code, 2006 Edition, published by the International Code Council, on file in the office of the City Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this Code, with the additions, insertions, deletions and changes, if any, prescribed in Section 505.030 of this Chapter. (Ord. No. 323 §2, 7-9-91; Ord. No. 492 §1, 9-4-01; Ord. No. 612 §§1–3, 12-1-09)

SECTION 505.025: JURISDICTIONAL TITLES

Throughout the International Property Maintenance Code, 2006 Edition, wherever the terms "name of jurisdiction" or "local jurisdiction" appear, it shall be deemed to mean "City of Normandy, Missouri". Wherever the term "code" appears, it shall mean the International Property Maintenance Code, 2006 Edition. (Ord. No. 612 §§1–3, 12-1-09)

SECTION 505.030: AMENDMENTS

The International Property Maintenance Code, 2006 Edition, adopted in Section 505.020 hereof is amended and revised in the following respects.

1. *Section 101.1* shall read "These regulations, with the additions, insertions, deletions and

changes, if any, prescribed by the City of Normandy, shall be known as the Property Maintenance Code of the City of Normandy, hereinafter referred to as "this code".

2. *Section 103.5* is hereby deleted in its entirety and the following Section is hereby substituted in lieu thereof, to wit:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in Section 500.110 of the Municipal Code.

3. *Section 106.4* is hereby deleted in its entirety and the following Section is hereby substituted in lieu thereof, to wit:

106.4 Violation penalties. Any person, firm or corporation who shall violate any provision of this code shall, upon conviction thereof, be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for a term not to exceed ninety (90) days or by both such fine and imprisonment. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions of this code, shall be deemed to be a separate offense.

4. *Section 110* is hereby deleted in its entirety.
5. *Section 111* is hereby deleted in its entirety and the following Section is hereby substituted in lieu thereof, to wit:

Section 111 Means of Appeal

Section 111.1 Petition. Any person affected by any notice which as been issued in connection with the enforcement of any provision of this code, or of any rule or regulation adopted pursuant thereto, shall have the right to request and shall be granted a hearing on the matter before the City Council; provided that such a person shall file, with the City Clerk, a written petition requesting such a hearing and containing a statement of the grounds therefore within ten (10) days after the day the notice was served.

Section 111.2 Appeals Board. In order to protect existing structures in the jurisdiction by vigorous enforcement of the provisions of this code, there shall be and is hereby created an Appeals Board, hereinafter referred to as the Board, consisting of the members of the Board of Adjustment of the City of Normandy.

Section 111.2.1 Vote. The Board shall hear all appeals relative to the enforcement of this code and by a concurring vote of the majority of its members shall reverse or affirm, wholly or in part, or modify the decision appealed from and shall make such order or determination as in the opinion of the Board ought to be made.

Section 111.2.2 Financial interest. A member of the Board shall not participate in any hearings or vote on any appeal on which that member has a direct or indirect financial interest or is engaged as a contractor or is engaged in the preparation of plans and specifications or in which that member has any personal interest.

Section 111.3 Records. The Secretary of the Board shall keep a record of each meeting so that the record shows clearly the basis for each decision made by the Board.

Section 111.4 Appeals. Any interested parties may appeal from the determination of the hearing held by the Appeals Board, to the Circuit Court, as established in Chapter 536,

RSMo., provided however, that notice is given within ten (10) days of the date of determination of the Appeals Board.

6. A new Section, to be designed as Section 112 "Certificate of Compliance and Occupancy Permit" is inserted to read as follows:

Section 112 Certificate of Compliance and Occupancy Permit.

112.1 Scope; Requirement. Except as otherwise provided, it shall be unlawful for any person to occupy or for any owner or agent thereof to permit the occupancy of any structure or addition thereto or part thereof for any purpose until all required certificates of compliance and/or occupancy permits have been issued by the Code Official. No certificate or permit shall be issued until all violations of this code shall have been corrected and brought into compliance.

112.2 Transfer of ownership; certificate of compliance required. Prior to any transfer, change of ownership or occupancy of any building or part thereof, the owner, lessor or agent thereof shall request the Code Official to make an inspection of said building to determine compliance with the provisions of this code. If no violations are noted, the Code Official shall issue a certificate of compliance which shall be valid for one hundred eighty (180) days, unless revoked by the Code Official for good cause. A fee shall be charged for each initial and subsequent inspection. It shall be unlawful for the owner, lessor or agent thereof of any building or part thereof to sell, transfer, lease, sublease, rent or otherwise dispose thereof to another until a certificate of compliance shall have been issued.

112.2.1 Correction required. If there are violations of this code which must be abated or corrected before a certificate of compliance is issued, it shall be the responsibility of the seller, lessor or agent thereof to abate such violations.

112.2.2 Transferee may assume responsibility. With the approval of the Code Official, a transferee of a building or a part thereof may assume responsibility for abating violations of this code by executing an affidavit stating that such transferee assumes responsibility for abating such violations and establishing the date by which such abatement shall be accomplished, which date shall be subject to approval by the Code Official.

112.2.3 Exception. This Section shall not apply to transfers of a building or part thereof wherein the transferee executes an affidavit directed to the Code Official attesting to the fact that the structure(s) and or building(s) on the property so transferred will be demolished within ninety (90) days of transfer.

112.3 Occupancy permit required. It shall be unlawful for any person to hereafter occupy or for the owner, lessor or agent thereof to permit the occupancy of any building until an occupancy permit has been issued by the Code Official. No occupancy permit shall be issued until any violations of this code shall have been corrected and fee for such permit shall have been paid. No person not listed on the occupancy permit for a dwelling or dwelling unit shall occupy or be permitted to occupy the same and no person or activity not listed on the occupancy permit for a building not used for dwelling purposes shall be permitted therein. Whenever the owner or occupant of any dwelling or dwelling unit shall permit or suffer any additional person to occupy same, the Code Official shall be notified and the occupancy permit shall be amended accordingly, provided that all other requirements of this code shall then be satisfied. Whenever the owner or occupant of any building not used for dwelling purposes shall permit an additional or separate use to be undertaken therein, the Code Official shall be

notified and the occupancy permit shall be amended accordingly, provided that all other requirements of this code shall then be satisfied.

112.3.1 Application for permit. Any person hereafter occupying any building or part thereof shall apply for an occupancy permit on an application form provided by the Code Official. Such applications shall contain the name of the applicant, the names, dates of

birth and relationship of all persons to occupy the building or part thereof and such other information as shall be required by the Code Official. The application shall be signed and sworn to by the applicant. It shall be unlawful for any person to knowingly make any false statement in an application for an occupancy permit or any amendment thereto.

112.3.2 Conditional permit. A conditional occupancy permit may be issued by the code Official if, in his/her judgment, any deficiency or non-compliance with this code would not seriously endanger the health or safety of the occupants or the community and provided the occupant executes an affidavit that all required corrections shall be made within a time specified therein. If approved by the Code Official in all respects, the building may thereafter be occupied while such corrections are being made. Upon expiration of the time allowed in the conditional permit, all required corrections shall be completed or the building or part thereof shall be vacated. At such time as the building or part thereof shall be in compliance with the requirements of this code, an occupancy permit shall be issued.

7. *Section 302.4:* Substitute "6 inches" for "(jurisdiction to insert height in inches)".
8. *Section 302.8* is deleted in its entirety and a new Section 302.8 is enacted in lieu thereof to read as follows:

302.8 Motor vehicles. It shall be unlawful for any person to make repairs or work on any automobile, truck or vehicle stopped, parked or located on or about any land or premises located in any residential zoning district; except that a person who is a resident of said districts may make repairs or work on such vehicles as may be registered with the Missouri Department of Revenue in the name of such person or titled in some other lawful manner in the name of such person, provided that the vehicles are kept in a garage or on the street adjacent to such person's property or in a driveway thereof and, provided further, that no unregistered and/or uninspected and/or inoperable or dismantled vehicle shall be kept for more than twenty-four (24) hours on any street or in any driveway or any other place other than in an enclosed structure designed for storage of a motor vehicle.

9. *Section 304.14:* Substitute "April 1" for the first bracketed word "Date" and substitute "October 31" for second bracketed word "Date".
10. *Section 404.4* is deleted in its entirety and new Section 404.4 is enacted in lieu thereof to read as follows:

404.4 Bedroom requirements. Every bedroom shall comply with the requirements of Sections 404.4.1 through 404.4.5.

11. *Section 404.4.1* is deleted in its entirety and new Section 404.4.1 is enacted in lieu thereof to read as follows:

404.4.1 Area for sleeping purposes. Every bedroom occupied by one person shall contain at least 70 square feet (6.5 m²) of floor area and every bedroom occupied by

more than one person shall contain at least 50 square feet (4.6 m²) of floor area for each occupant thereof.

12. *Sections 404.4.2 through 404.4.5* remain unchanged.
13. *Section 404.5* is deleted in its entirety and new Section 404.5 is enacted in lieu thereof to read as follows:

404.5 *Overcrowding.* Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

TABLE 404.5 MINIMUM AREA REQUIREMENTS			
SPACE	MINIMUM AREA IN SQUARE FEET		
	1–2 occupants	3–5 occupants	6 or more occupants
Living room ^{a,b}	No requirements	120	150
Dining room ^{a,b}	No requirements	80	100
Bedrooms	Shall comply with Section 404.4		

For S1: 1 square foot = 0.093 m²

- a. See Section 404.5.2 for combined living room/dining room spaces.
- b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 *Sleeping area.* The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area of sleeping purposes. All sleeping areas shall comply with Section 404.4.

404.5.2 *Combined spaces.* Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

- 14. *Section 602.3:* Substitute "October 1" for the first bracketed word "Date" and substitute "April 30" for the second bracketed word "Date".
- 15. *Section 602.4:* Substitute "October 1" for the first bracketed word "Date" and substitute "April 30" for the second bracketed word "Date". (Ord. No. 323 §3, 7-9-91; Ord. No. 484 §6, 4-9-01; Ord. No. 492 §2, 9-4-01; Ord. No. 612 §§1–3, 12-1-09)

SECTION 505.040:

ADMINISTRATION

The Building Commissioner of the City of Normandy is hereby charged with and shall hereafter be responsible for administration and enforcement of this Code. The Building Commissioner is authorized to designate such other City Officials or employees as may be appropriate to assist and represent him/her in his/her duties. (Ord. No. 323 §4, 7-9-91)

SECTION 505.050:

LIABILITY

Nothing in this Chapter or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, not any rights acquired, nor liability incurred, not any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 505.010 of this Chapter; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Chapter. (Ord. No. 323 §5, 7-9-91)

SECTION 505.060:

SEVERABILITY

It is hereby declared to be the intention of the City Council that each and every part, Section and Subsection of this Chapter and the Property Maintenance Code adopted hereby shall be separate and severable from each and every other part, Section and Subsection and that the City Council intends to adopt each said part, Section and Subsection separately and independently of any other part, Section and Subsection. In the event that any part of this Chapter or the Property Maintenance Code adopted hereunder shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, Sections and Subsections shall be and remain in full force and effect. (Ord. No. 323 §6, 7-9-91)

**CHAPTER 510: STREETS, SIDEWALKS
AND PUBLIC PLACES**

Cross References—As to builder's deposit to assure restoration of streets and sidewalks damaged during course of building, etc., see §500.020 of this Code; as to garbage, refuse and weeds generally, see ch. 235; as to motor vehicles and traffic generally, see Title III; as to tampering with, damage to, etc., public property generally, see §215.470; as to street and sidewalk requirements concerning subdivision of land, see §§410.060, 410.070; as to taxicabs, see §605.420 et seq.

ARTICLE I. IN GENERAL

SECTION 510.010: ENCROACHMENTS

Except as may be provided otherwise by State law, this Code or other ordinance, no person shall encroach upon any street, sidewalk or public place or within the space above any street, sidewalk or public place in the City by the construction or maintenance of any manhole, coal chute, trap door, steps, overhanging eave or other projection or by any other means, except pursuant to a currently valid permit issued by authority of the City Council; and any such permit shall be revocable by the City Council at will; provided, that this Section shall not be construed to apply to limbs of shade or ornamental trees projecting over the surface of a sidewalk at a height not less than eight (8) feet. (CC 1975 §27-1)

SECTION 510.020: OBSTRUCTIONS

- A. Except as may be provided otherwise by State law, this Code or other ordinance, no person shall place or maintain any obstruction upon any street, sidewalk or public place in the City; provided, that this Subsection shall not be construed to prohibit merchants and other persons doing business in the City, or residents, from the temporary use of such places which abut their respective business premises or residences for the purpose of loading or unloading cargo upon or from any vehicle.
- B. Building contractors, merchants and other persons desiring the temporary use of a portion of a street, sidewalk or public place for the placement of equipment or materials or for the display of merchandise or for any other purpose shall do so only pursuant to a currently valid permit issued by the Director of Public Works and Welfare; and any such permit may contain terms and conditions relating to space to be kept unobstructed for the free passage of vehicular and pedestrian traffic, the safety of persons and property, and the welfare and convenience of the public as may be deemed by the Director of Public Works and Welfare to be appropriate, and it shall be unlawful for the holder of any such permit to violate or fail to comply with any of the terms or conditions thereof.
- C. *Public Right-Of-Way Regulations.*
 - 1. It shall be unlawful for the owner of any property to permanently or temporarily erect,

install or place, or to suffer or permit another to permanently or temporarily erect, install or place, any accessory facility, recreational device, basketball standard, badminton net, volleyball net, or any similar equipment, device or facility on any lot in such a manner as to make it reasonably likely or foreseeable that persons utilizing such equipment or facility will go onto a public street or roadway or any public right-of-way in the process of utilizing such equipment.

- 2. It shall be unlawful for the owner of any property to permanently or temporarily erect, install or place, or to suffer or permit another to permanently or temporarily erect, install or place, any accessory facility, recreational device, basketball standard, badminton net, volleyball net, or any similar equipment, device or facility in or on any public street or roadway or any public right-of-way or other public property adjacent to such owner's property.
- D. Overhanging tree limbs and projecting bushes, shrubbery or other plantings shall be considered obstructions within the meaning of this Section when they project into, over or upon the paved, travelled right-of-way of any sidewalk or street. All projecting or overhanging branches shall constitute violations of this Section if:
 - 1. They overhang sidewalks below the height of eight (8) feet; or
 - 2. They overhang streets below the height of thirteen (13) feet.
- E. No plantings of any kind shall be made within thirty (30) feet of any street intersection, if such plantings will obstruct the view of drivers of approaching vehicles upon the intersecting streets below a height of six (6) feet. (CC 1975 §27-2; Ord. No. 460 §1, 6-6-00)

SECTION 510.030: PROHIBITED ACCUMULATION OF SNOW, ICE AND DEBRIS ON SIDEWALKS AND REMOVAL THEREOF BY CITY AT EXPENSE OF PROPERTY OWNERS

- A. No person shall permit the accumulation of snow or ice upon the sidewalk adjacent to any property owned or occupied by him/her within the City but shall remove the same within a reasonable time.
- B. No person shall permit the accumulation of trash, debris or anything unsanitary upon the sidewalk adjacent to any property owned or occupied by him/her within the City, or within five (5) feet of any such sidewalk.
- C. Upon the accumulation of any snow, ice or debris upon any sidewalk or within five (5) feet of any sidewalk in violation of this Section, the City, if the owner or occupant of the adjacent property fails to do so upon notice, may remove such snow, ice or debris, and the expense of such removal shall be charged to the owner of such adjacent property and shall be collectable in any manner authorized by law. (CC 1975 §27-3)

SECTION 510.040: MAPS AND PLANS OF SPACE UNDER SURFACE OF STREETS, SIDEWALKS AND PUBLIC PLACES REQUIRED TO BE FILED WITH CITY

Users of subsurface street space shall maintain accurate drawings, plans and profiles showing the location and character of all underground structures, including abandoned

installations. Corrected maps shall be filed with the Director of Public Works and Welfare within sixty (60) days after new installations, changes or replacements are made. (CC 1975 §27-4; Ord. No. 208 §38)

CONSTRUCTION—

**ARTICLE II. STREET AND SIDEWALK
SIDEWALK MAINTENANCE**

**SECTION 510.050: CONSTRUCTION, GRADING, LOCATION,
ETC., OF SIDEWALKS**

- A. The construction of sidewalks is hereby required along any of the streets within the City as a part of and at the time of any new street construction.
- B. The grading, fill, location and type of construction of sidewalks shall be to specification as established by the Director of Public Works and Welfare, unless otherwise provided in any particular ordinance or in any particular contract by and between the City and the construction contractor. (CC 1975 §27-5; Ord. No. 289 §2)

SECTION 510.060: MAINTENANCE OF SIDEWALKS

- A. It shall be the responsibility of each owner of property which is adjacent to a sidewalk to keep such sidewalk in safe repair.
- B. It shall be the duty of the Building Commissioner to notify the property owner in writing whenever any repairs are needed, and the notice shall include a description of the length, breadth and material to be used.
- C. Upon notification, the property owner shall have ten (10) days in which to commence work. If, at the end of the fifteenth (15th) day after notification the owner has not in good faith commenced the specified repair work, the City shall cause the sidewalk to be repaired or replaced, the cost of which shall be charged the property owner and shall become a lien against the owner's property or lot.
- D. If the owner of property or a lot adjacent to a sidewalk needing repairs cannot be served personally or by mail, the City shall cause four (4) weeks' notice to be published in a local daily or weekly newspaper, containing a description of the lot and the repairs to be made, prior to commencing repair work. (CC 1975 §27-6; Ord. No. 457 §§1–4)

**SECTION 510.070: SECURITY TO BE GIVEN CITY BY
CONTRACTOR FOR STREET
CONSTRUCTION WORK**

In all instances where a street is to be constructed within the City, the contractor who is to perform such construction shall deposit with the City Clerk a sum of money to be computed at the rate of thirty dollars (\$30.00) per lineal foot of street to be constructed, or shall obtain a performance bond, the face value of which shall be computed at the rate of thirty dollars (\$30.00) per lineal foot of street to be constructed, and shall deposit such bond with the City Clerk, or he/she shall furnish such security as the City Council shall require for the faithful completion of the construction of the street; and such money, bond or other required security

shall be held by the City until such time as the street construction is completed in accordance with the specifications set forth by the City.

In the event such street is not constructed in accordance with the specifications set forth, such money, bond or other security shall be used by the City to construct, alter or repair the street so as to bring it within the specification as provided therefor, and the remainder should be forfeited for failure to comply with the City specifications. In the event the amount of money deposited or face value of the performance bond, or the other security as required, is not sufficient to meet the cost

BUILDINGS

CHAPTER 515: DANGEROUS

SECTION 515.010: PURPOSE AND SCOPE

It is the purpose of this Chapter to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this Chapter shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Normandy, Missouri. (Ord. No. 420 §1, 4-14-98)

SECTION 515.020: DANGEROUS BUILDINGS DEFINED

All buildings or structures that are detrimental to the health, safety or welfare of the residents of the City of Normandy, and that have any or all of the following defects shall be deemed "*dangerous buildings*":

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show ten percent (10%) or more damage or deterioration of the supporting member or members, or twenty percent (20%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the City.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
8. Those that have parts thereof that are so attached that they may fall and injure

members of the public or their property.

9. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City. (Ord. No. 420 §2, 4-14-98)

SECTION 515.030: DANGEROUS BUILDINGS DECLARED NUISANCE

All dangerous buildings, as defined by Section 515.020, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein. (Ord. No. 420 §3, 4-14-98)

SECTION 515.040: STANDARDS FOR REPAIR, VACATION OR DEMOLITION

The following standards shall be followed in substance by the Building Inspector and the Building Commissioner in ordering the repair, vacation or demolition of any dangerous building.

1. If the dangerous building can reasonably be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished.
4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of the City of Normandy, or Statute of the State of Missouri, it shall be repaired or demolished. (Ord. No. 420 §4, 4-14-98)

SECTION 515.050: BUILDING INSPECTOR

All Police Officers and all other employees of the City of Normandy, Missouri, so designated by the Mayor of the City of Normandy, shall be Building Inspectors within the meaning of this Chapter. (Ord. No. 420 §5, 4-14-98)

SECTION 515.060: DUTIES OF BUILDING INSPECTOR—PROCEDURE AND NOTICE

The Building Inspector(s) shall have the duty under this Chapter to:

1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places to be a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.
2. Inspect any building, wall or structure about which complaints are filed by any

person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Building Inspector determines that there are reasonable grounds to believe that such building is dangerous.

3. Inspect any building, wall or structure reported by the Normandy Fire District or the Normandy Police Department as probably existing in violation of this Chapter.
4. Notify, in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the

owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County, of any building found by him/her to be a dangerous building within the standards set forth in Section 515.020.

The notice required shall state that:

- a. The owner must vacate, vacate and repair, or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this Chapter.
 - b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession.
 - c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the County wherein the land is located, may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done; provided, that any person notified under this Subsection to repair, vacate or demolish any building or clean up the property shall be given such reasonable time not exceeding thirty (30) days, to commence and complete the required work.
- 5. The notice provided for in this Section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building and an order requiring the designated work to be commenced within the time provided for in the above Subsection.
 - 6. Report in writing to the City Building Commissioner and City Prosecutor the non-compliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.
 - 7. Appear at all hearings conducted by the Building Commissioner and testify as to the condition of dangerous buildings.
 - 8. Immediately report to the Building Commissioner concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Building Commissioner may direct that such building be marked or posted with a written notice reading substantially as follows:

"This building has been found to be a dangerous building by the Building Inspector. This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property is cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County. It is unlawful to remove this notice until such notice is complied with."

Provided however, that the order by the Building Commissioner and the posting of said

notice, shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein. (Ord. No. 420 §6, 4-14-98)

SECTION 515.070:**DUTIES OF THE BUILDING COMMISSIONER**

The Building Commissioner shall have the powers and duties pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter, and cause the Building Inspector to make inspections and perform all the duties required of him/her by this Chapter. Upon receiving a complaint or report from any source, that a dangerous building exists in the City, the Building Commissioner shall cause an inspection to be made forthwith. If the Building Commissioner deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Building Commissioner may request an inspection and report be made by any other City department or retain services of an expert whenever the Building Commissioner deems such services necessary.
2. Upon receipt of a report from the Building Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other persons(s) having an interest in said building to commence work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, the Building Commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter.

Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at least ten (10) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County wherein the land is located, to appear before the Building Commissioner on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice as provided herein. Any party may be represented by counsel and all parties shall have an opportunity to be heard.

3. Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 515.020 of this Chapter.
4. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the Building Commissioner shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons(s) having an interest in said building as shown by the land records maintained by the Recorder of Deeds of St. Louis County to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of the City of Normandy, or the owner or any person having an interest in said building as shown by the land records of the County wherein the land is located, may vacate and demolish said dangerous building at his/her own risk to prevent the acquiring by the City of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a dangerous building or structure is a dangerous building, no order shall be issued.

5. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Building Commissioner shall cause such building or structure to be repaired, vacated or demolished and shall certify the cost of the work borne, by the City of Normandy, for such repair, vacation or demolition (including administrative costs and inspection fees) to the City

Clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s) unless that building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the City of Normandy, and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Sections 429.010 to 429.360, RSMo. Except as provided in Subsection (6) of this Section, at the request of the taxpayer, this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of eighteen percent (18%) per annum until paid.

6. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the Building Commissioner as provided in Subsection (5) of this Section, and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to twenty-five percent (25%) of the insurance proceeds, as set forth in Subsections (1) and (2) of this Section. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:
 - a. The insurer shall withhold from the covered claim payment up to twenty-five percent (25%) of the covered claim payment, and shall pay such monies to the City of Normandy, to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this Chapter.
 - b. The City of Normandy, shall release the proceeds and any interest that has accrued on such proceeds received under Subsection (1) of this Section to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies, unless the City of Normandy, has instituted legal proceedings under the provisions of Subsection (5) of this Section. If the City of Normandy has proceeded under the provisions of Subsection (5) of this Section, all monies in excess of that necessary to comply with the provisions of Subsection (5) of this Section for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.
7. If there are no proceeds of any insurance policy as set forth in Subsection (6) of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
8. Subsection (6) of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
9. Subsection (6) of this Section does not make the City of Normandy a party to any

insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

- 10. The Building Commissioner may certify that in lieu of payment of all or part of the covered claim payment under Subsection (6) that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Building Commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection (6) of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided for in this Subsection.
- 11. The City of Normandy, shall also recover from the property owner its reasonable attorney's fees, collection costs, and court costs incurred in filing or enforcing the lien or incurred in collecting any amount due under this Chapter. (Ord. No. 420 §7, 4-14-98)

SECTION 515:080: APPEAL

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of St. Louis County, wherein the land is located, may, within thirty (30) days from receipt of the order of the Building Commissioner, appeal such decision to the Circuit Court of St. Louis County, wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri. (Ord. No. 420 §8, 4-14-98)

SECTION 515.090: EMERGENCIES

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building Inspector shall report such facts to the Building Commissioner and the Building Commissioner may cause the immediate repair, vacation or demolition of such dangerous building and cleanup of the property. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Sections 515.070. (Ord. No. 420 §9, 4-14-98)

SECTION 515.100: VIOLATIONS–DISREGARDING NOTICES OR ORDERS

- A. The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Building Commissioner shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 515.110.
- B. Any person removing any notices provided for in this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 515.110. (Ord. No. 420 §10, 4-14-98)

SECTION 515.110:

PENALTIES

Any person violating the provisions of this Chapter is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). Each day that a person fails to comply with an order of the Building Commissioner may be deemed a separate offense.

(Ord. No. 420 §11, 4-14-98)

**CHAPTER 520: REGISTRATION OF
VACANT RESIDENTIAL STRUCTURES**

SECTION 520.010: PURPOSE AND SCOPE

It is the purpose of this Chapter to provide for effective monitoring and routine inspection of vacant buildings and structures that, due to housing code violations, may endanger the life, limb, health, property, safety or welfare of the general public, and this Chapter shall apply to all residential structures that have been vacant for more than six (6) months and that are subject to housing code violations. (Ord. No. 515 §1, 4-1-03)

SECTION 520.020: DEFINITIONS

The following words and phrases when used in this Chapter shall mean:

HOUSING CODE: A local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings.

RESIDENTIAL STRUCTURE: A structure devoted primarily to residential use, whether classified as residential or commercial, and regardless of the number of dwelling units contained within such structure. (Ord. No. 515 §1, 4-1-03)

SECTION 520.030: REGISTRATION REQUIREMENT

Every parcel of residential property improved by a residential structure or commercial property improved by a structure containing multiple dwelling units, that is vacant and has been vacant for at least six (6) months, and is characterized by violations of the housing code shall be registered as a vacant residential structure and shall be subject to the registration fee. (Ord. No. 515 §1, 4-1-03)

**SECTION 520.040: DESIGNATION OF VACANT RESIDENTIAL
STRUCTURES**

- A. *Registration.* The Building Commissioner for the City of Normandy, Missouri, or his designee, shall investigate any property that may be subject to registration. Based upon his findings, the Building Commissioner may register property as a vacant residential structure subject to this Chapter.
- B. *Notice Of Registration.* Within five (5) business days of such registration, the City Clerk shall notify the owners of the registered property by mail at their last known address according to the records of the City of Normandy and St. Louis County. Such notice shall state:
 - 1. A description of the property registered;

2. The fact that a semi-annual registration fee has been levied on the property; and
 3. The amount of the semi-annual registration fee.
- C. *Time To Cure—Reconsideration.* Within thirty (30) days of the date of notification, the property owner may complete any improvements to the property that may be necessary to remove the property from registration under this Chapter and may request a reinspection of the property and

reconsideration of the levy of the registration fee. Upon a request for reconsideration of the levy of the registration fee, the Building Commissioner may waive levy of the registration fee following timely compliance.

- D. *Appeal Of Registration And/Or Reconsideration To Municipal Court.* Within thirty (30) days of the date of such notification or within thirty (30) days of the date of reconsideration by the Building Commissioner, the property owner may appeal the decision to the office of the Municipal Court for the City of Normandy. (Ord. No. 515 §1, 4-1-03)

SECTION 520.050:

REGISTRATION FEE

- A. *Amount Of Fee.* There is hereby established and assessed a semi-annual fee in the amount of two hundred dollars (\$200.00) imposed on all owners of property registered under this Chapter.
- B. *Owner Responsible.* It shall be the joint and several responsibility of each owner of property registered pursuant to this Chapter to pay the semi-annual registration fee.
- C. *Accrual Of Fee.* The registration fee shall begin to accrue on the beginning of the second calendar quarter after registration by the Building Commissioner or reconsideration by the Building Commissioner; however, in the event that an appeal is filed with the municipal court, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the final decision of the municipal judge or court of competent jurisdiction.
- D. *Billing Procedures—Late Penalties.* The City Clerk shall cause to be mailed to the owner of property registered under this Chapter, at his or her last known address, a bill for the semi-annual registration fee. The fee shall be due and payable within thirty (30) days of mailing. In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property within thirty (30) days of the date of mailing, a late payment fee of twenty-five dollars (\$25.00) per month shall be assessed for each month during which the fee remains unpaid.
- E. *Failure To Pay Fee Unlawful.* It shall be unlawful for any owner of property registered pursuant to this Chapter to fail to pay the registration fee imposed for such property. Any person found guilty of failing to pay any required fee shall be punished as provided in Section 100.220 of the Municipal Code.
- F. *Collection Of Delinquent Fees—Lien On Property And Other Effects Of Delinquent Fees—Foreclosure Proceedings.*
1. *Action to recover.* In addition to any other penalties provided by law, the City may initiate and pursue an action in a court of competent jurisdiction to recover any unpaid fees, interest and penalties from any person liable therefore and, in addition, may recover the cost of such action, including reasonable attorney fees.
 2. *Lien on property.* Any unpaid or delinquent fees, interest and/or penalties, whether or not reduced to judgment, shall constitute a lien against the property for which the fee was originally assessed until the same shall be fully satisfied. The City Clerk is

authorized to take all steps necessary to file and perfect such liens as may be required or directed by the Building Commissioner or City Council from time to time.

3. *Obtaining permits prohibited.* In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property, including any late payment fee subsequently

imposed, within sixty (60) days of the date of mailing of the initial bill, said owner shall not be permitted to apply for, obtain or renew any City license or permit of any kind until such delinquency has been satisfied.

4. *Foreclosure.* Any registration fees which are delinquent for a period of one (1) year shall be subject to foreclosure proceedings in the same manner as delinquent real property taxes. The owner of the property against which the assessment was originally made shall be able to redeem the property only by presenting evidence that the violations of the applicable housing code cited by the Building Commissioner have been cured and presenting payment of all registration fees and penalties.
5. *Sale of property.* Upon bona fide sale of the property to an unrelated party, the lien on such property for the registration fees shall be considered released and the delinquent registration fee forgiven. (Ord. No. 515 §1, 4-1-03; Ord. No. 518 §1, 6-3-03)

CHAPTER 525: LAND DISTURBANCE

CODE

SECTION 525.010: SCOPE

- A. *Title.* These regulations shall be known as the "Land Disturbance Code" of Normandy, Missouri, hereinafter referred to as "this code".
- B. *Introduction.* On construction or land disturbance sites, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Deposits of eroded soil also necessitate maintenance of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. Construction activities also utilize materials and generate wastes, which if not properly controlled can pollute receiving waters.
- C. *Purpose.* The purpose of this code is to safeguard persons, protect property and prevent damage to the environment in Normandy. This code will also promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth or land in Normandy.
- D. *Scope.* This code provides for the safety, health and welfare of the public by regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs land surfaces or results in the movement of earth in Normandy, Missouri. (Ord. No. 594 §1, 4-1-08)

SECTION 525.020: DEFINITIONS

For the purpose of this code, the following terms, phrases, words and their derivations shall have the meanings given herein. Where terms are not defined by this Section, such terms shall have ordinarily accepted meanings such as the context implies.

BEST MANAGEMENT PRACTICES OR BMP: Practices, procedures or a schedule of activities to reduce the amount of sediment and other pollutants in storm water discharges associated with construction and land disturbance activities.

CLEARING: Any activity that removes the vegetative surface cover.

CODE OR THIS CODE: The "Land Disturbance Code" of Normandy, Missouri.

CONSTRUCTION SITE OR LAND DISTURBANCE SITE: A parcel or contiguous parcels where land disturbance activities are performed as part of a proposed development.

COUNTY: St. Louis County, Missouri.

DEPARTMENT OF PROTECTIVE INSPECTIONS: The Normandy Department of

Protective Inspections and/or his/her designee.

DIRECTOR OF PUBLIC WORKS: The Normandy Department of Public Works and/or his/her designee.

DRAINAGE WAY: Any channel that conveys surface runoff through a site.

EROSION: The wearing away of land surface through the action of wind or water.

EROSION CONTROL: Any Best Management Practices (BMP) that prevents or minimizes erosion.

GRADING: Reshaping the ground surface through excavation and/or fill of material.

LAND DISTURBANCE ACTIVITIES: Clearing, grading or any related work which results in removal of the natural site vegetation and destruction of the root zone or otherwise results in leaving the ground surface exposed to soil erosion through the action of wind or water.

LAND DISTURBANCE, MAJOR: Any land disturbance activity involving one (1) acre or more of land or a site involving less than one (1) acre that is part of a proposed development that will ultimately disturb one (1) acre or more.

LAND DISTURBANCE ORDINARY: Any land disturbance activity involving less than one (1) acre of land.

LAND DISTURBANCE PERMIT: A permit issued by the authority having jurisdiction authorizing a land disturbance activity at a specific site subject to conditions stated in the permit. A permit may be for either major or ordinary land disturbance activities.

PERIMETER CONTROL: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PHASING: Clearing a parcel of land in distinct stages, with the stabilization of each phase substantially completed before the clearing of the next.

QUALIFIED PROFESSIONAL: A Missouri licensed professional engineer or other person or firm knowledgeable in the principles and practices of erosion and sediment control, including the Best Management Practices described in this code.

RUNOFF COEFFICIENT: The fraction of total rainfall that exits at the outfalls from a site.

SEDIMENT CONTROL: Any Best Management Practices (BMP) that prevents eroded sediment from leaving a site.

STABILIZATION: The use of Best Management Practices (BMP) that prevent exposed soil from eroding from a land disturbance site.

START OF CONSTRUCTION: The first (1st) land disturbance activity associated with a development.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): A management plan, the purpose of which is to ensure the design, implementation, management and maintenance of Best Management Practices (BMP) in order to reduce the amount of sediment and other pollutants in storm water discharges associated with land disturbance activities, comply with

the standards of the County and ensure compliance with the terms and conditions of the applicable State permits, including adherence to the land disturbance program contained in Missouri MS4 NPDES permits.

WATERCOURSE: A natural or artificial channel or body of water including, but not limited to,

lakes, ponds, rivers, streams, ditches and other open conveyances that carry surface runoff water either continuously or intermittently. (Ord. No. 594 §1, 4-1-08)

SECTION 525.030: APPLICABILITY

The provisions of this code shall not be deemed to nullify any provisions of City, County, State or Federal law. (Ord. No. 594 §1, 4-1-08)

SECTION 525.040: ENFORCEMENT

The Department of Protective Inspections shall have the authority and responsibility to administer and enforce the requirements of this code. (Ord. No. 594 §1, 4-1-08)

SECTION 525.050: VIOLATIONS

- A. *Unlawful Acts.* It shall be unlawful for any person, firm or corporation to perform any land disturbance activities or cause or allow same to be done in conflict with or in violation of any of the provisions of this code.
- B. *Notices Of Violations.* When the Department of Protective Inspections determines that a violation of this code exists, he shall notify the violator. The notification shall be in writing and shall be delivered to the violator or his/her legally authorized representative or mailed to his last known address via first class mail postage prepaid. Any person having been notified that a violation exists and who fails to abate the violation within ten (10) days after notification shall be subject to the penalties enumerated herein.
- C. *Prosecution Of Violation.* If the violator does not abate the violation promptly, the Department of Protective Inspections shall request the City legal counsel to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation.
- D. *Violation, Penalties.* Any person, firm or corporation who shall violate any provision of this code or who shall fail to comply with any of the requirements thereof or who shall perform work in violation of the approved construction documents or the Storm Water Pollution Prevention Plan or any directive of the Department of Protective Inspections or of a permit or certificate issued under the provisions of this code or shall start any work requiring a permit without first obtaining a permit therefore or who shall continue any work in or about a structure after having been served a stop work order, except for such work which that person, firm or corporation has been directed to perform to remove a violation or unsafe conditions, or any owner of a property or any other person who commits, takes part or assists in any violation of this code or who maintains any property on which such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.
 - 1. *No-permit penalty.* In addition to the penalties set out above, the following procedure shall be followed where Department of Protective Inspections determines that work has

been started prior to the acquisition of a permit required by this code:

- a. The Department of Protective Inspections shall issue a stop work order.

- b. The Department of Protective Inspections shall notify the violator of his/her assessment regarding the appropriate penalty amount to be assessed against the violator, which shall not exceed one thousand dollars (\$1,000.00) for each day that work occurs without a permit. In making the assessment, the Department of Protective Inspections shall consider whether the violator has previously violated this code and whether the occupation or experience of the violator indicates that he/she knew or should have known that a permit was required. In no case will a no-permit penalty be assessed against a property owner unless he/she actually performed the work involved.
- c. At the violator's option, he/she may deposit the assessed penalty amount in escrow (certified check or cash only) with the City, in which case the violator's right to a hearing will be preserved.
- d. No-permit penalties are appealable to the Board of Adjustment in the same manner as other code enforcement decisions of the Director of Public Works.
- e. At the hearing the Department of Protective Inspections and the alleged violator shall have an opportunity to present any evidence or make any statements they wish to have considered.
- f. Following the hearing the Board of Adjustment shall determine whether a permit was required:
 - (1) If the Board determines that a permit was required, an appropriate penalty amount shall be assessed, taking into account the same considerations as noted above. The stop work order shall remain in full force and effect until such time as the penalty and the violator has complied with all other regulations pertaining to the issuance of permits.
 - (2) If the Board determines that no permit was required, the Department of Protective Inspections shall immediately cancel the stop work order.
- E. *Abatement Of Violation.* The imposition of the penalties herein prescribed shall not preclude the City from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal use of a property or to stop an illegal act.
- F. *Permit Suspension Or Revocation.* When a land disturbance activity is conducted in violation of the requirements of this code or the terms of the permit in such a manner as to materially adversely affect the safety, health or welfare of persons or materially be detrimental or injurious to property or improvements, the Department of Protective Inspections may suspend or revoke such permit.
- G. *Stop Work Order.* Upon notice from the Department of Protective Inspections that work on any property is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume.

1. *Unlawful continuance.* Whenever the Department of Protective Inspections finds that any land disturbance activity is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, the owner or the person performing such activity shall immediately stop such activity. The stop work order shall be in writing and shall be given to the owner of the

property involved or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume. Any person who shall continue any work in or about the property after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as specified in this code. (Ord. No. 594 §1, 4-1-08)

SECTION 525.060: APPEALS

- A. *Application For Appeal.* Any person shall have the right to appeal a decision of the Department of Protective Inspections to the Board of Adjustment. An application for appeal shall be based on a claim that the intent of this code or the rules or regulations adopted thereunder have been incorrectly interpreted or the provisions of this code do not apply.
1. *Filing procedure.* All appeals shall be filed in writing with the Department of Public Works. All appeals shall be filed within fifteen (15) days after the decision to be appealed is rendered by the departments identified in this Section.
 2. *Filing fee.* All appeals must be accompanied by a fee in the amount specified by the Board of Aldermen from time to time.
- B. *Notice Of Meeting.* The Board of Adjustment shall meet upon notice from the Chairman or at stated periodic meetings.
- C. *Open Hearing.* All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the enforcement officer and any person whose interests are affected shall be given an opportunity to be heard.
- D. *Procedure.* The Board may adopt procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.
- E. *Board Decision.* Decisions by the Board to reverse or modify a decision by the Department of Protective Inspections requires a minimum vote of three (3) members.
1. *Resolution.* The decision of the Board shall be in writing. Copies shall be furnished to the appellant and to the Director of Public Works.
 2. *Court review.* A party adversely affected by a decision of the Board may appeal to Circuit Court of St. Louis County from such decision. Application for review shall be made in the manner and time required by law following the filing of the decision. (Ord. No. 594 §1, 4-1-08)

SECTION 525.070: LAND DISTURBANCE PERMITS REQUIRED

- A. *Permit Required.* Any person who intends to conduct any land disturbance activity must obtain a permit prior to beginning the activity. The type of permit shall be as required by

Subsections (A)(1) or (A)(2) of this Section.

Exception: Activities that do not require permits under Subsection (C) of this Section.

1. *Major land disturbance permit.* No person shall perform any major land disturbance activity prior to receipt of a major land disturbance permit. Applications for major land disturbance permits shall be filed with the Director of Public Works. In addition, land disturbance activity over one (1) acre must comply with the Missouri Department of Natural Resources land disturbance permitting requirements.

Exception: Activities that do not require permits under Subsection (C) of this Section.

2. *Ordinary land disturbance permit.* No person shall perform any ordinary land disturbance activity prior to receipt of an ordinary land disturbance permit. Applications for ordinary land disturbance permits shall be filed with the Director of Public Works.

Exception: Activities that do not require permits under Subsection (C) of this Section.

- a. *Building permit and related ordinary land disturbance activities.* The Department of Protective Inspections may include ordinary land disturbance activities associated with the construction of a building, structure or parking lot authorized by a permit issued under the Building Code, as an integrated permit for the proposed construction.

- B. *Limitation On Transfer Of Land Disturbance Permits.* Any person who buys land from a person who has been issued a land disturbance permit under Subsections (A)(1) or (A)(2) of this Section must obtain a separate land disturbance permit.

Exceptions:

1. Major land disturbance permits may be transferred to a new landowner provided the original permit holder obtains the approval of the Department of Protective Inspections to retain responsibility for the land disturbance activities on such property.
2. Ordinary land disturbance permits may be transferred to a new landowner provided the original permit holder obtains the approval of the Department of Protective Inspections to retain responsibility for the land disturbance activities on such property.

- C. *Exceptions—Land Disturbance Permits Not Required.* Land disturbance permits are not required for the activities identified as items (4)(a) and (h) in this Subsection, nor are such permits required for the activities identified in items (4)(b–g), provided the activity does not alter or cause to be altered, the present surface of the ground:

1. By any cut or fill at the property line;
2. By any cut or fill that would permanently divert one drainage area to another drainage area;
3. By any cut or fill which would deposit mud or harmful silt or create erosion or damage to adjoining properties; or
4. By any cut or fill that would block or affect an existing swale or drainage path in a

manner to cause damming and ponding.

- a. Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

- b. Existing farming, nursery and agricultural operations conducted as a permitted or accessory use.
- c. Excavation or fill of less than thirty (30) cubic yards provided the land disturbance activity is for the improvement of the property. Erosion and sediment control measures shall be provided, when necessary, until grass or other vegetation is established or other approved means of ground cover means are used.
- d. Land disturbance activities associated with additions to and accessory structures for one- and two-family dwellings.
- e. Land disturbance activities less than two thousand (2,000) square feet in area.
- f. Removal of existing or dying grass or similar vegetation by disturbing not more than ten thousand (10,000) square feet and resodding or reseeding with new landscaping to include preparation of the seedbed; provided erosion and sediment control measures are provided until the grass or other vegetation is established. Any cut or fill in conjunction with the preparation of the seedbed shall not exceed thirty (30) cubic yards.
- g. Gardening and similar activities on property occupied by one- or two-family dwellings.
- h. Land disturbance activities by any public utility for the installation, inspection, repair or replacement of any of its equipment or for its collection or distribution lines or plumbing systems; provided erosion and sediment control measures are provided until grass or other vegetation is established or other approved ground cover means are used. This exception does not apply to any land disturbance activity associated with work that requires a building permit.

D. *State Of Missouri Permits Required.* The permit applicant must obtain a land disturbance permit from the State of Missouri Department of Natural Resources for any site where one (1) acre or more of land will be disturbed, before beginning any site work authorized by a City permit. This requirement applies to sites of less than one (1) acre that are part of a proposed development that will ultimately disturb one (1) acre or more. (Ord. No. 594 §1, 4-1-08)

SECTION 525.080: LAND DISTURBANCE PERMIT APPLICATIONS

- A. *Permit Applications.* Applications for land disturbance permits required by this code shall be in the form prescribed by and accompanied by the site plans and documents determined necessary by the Director of Public Works.
- B. *Storm Water Pollution Prevention Plan Required (SWPPP) For Major Land Disturbance Permits.* All applications for major land disturbance permits shall be accompanied by a Storm Water Pollution Prevention Plan prepared for the specific site by or under the direction of a qualified professional. The application shall contain a statement that any land

clearing, construction or development involving the movement of earth shall be in accordance with the Storm Water Pollution Prevention Plan and the applicant will assume and acknowledge responsibility for compliance with this code and the Storm Water Pollution Prevention Plan at the site of the permitted activity.

- C. *Required Site Development Escrows For Major Land Disturbance Permits.* Applicants for major land disturbance permits shall file a site development escrow in the form of a letter of credit or other improvement security in an amount deemed sufficient by the Department of Protective Inspections

to cover all costs of improvements, landscaping and maintenance of improvements for such period as specified by the Director of Public Works. The site development escrow shall include engineering and inspection costs sufficient to cover the cost of failure or repair of improvements installed on the site.

1. *Release of escrows—project closure.* Any site development escrow will not be fully released to the property owner, site operator or permit holder until all of the following have been completed:
 - a. All temporary storm water control Best Management Practices (BMP) have been removed and the site has been fully stabilized.
 - b. All permanent storm water control Best Management Practices (BMP) have been completed.
 - c. All final inspections/certifications have been completed by each of the government jurisdictions involved in authorizing the project. (Ord. No. 594 §1, 4-1-08)

SECTION 525.090: FEES

Issuance Of Permits. Land disturbance permits shall not be issued until the fees associated with the permit are paid as specified by the Board of Aldermen from time to time. (Ord. No. 594 §1, 4-1-08)

SECTION 525.100: STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

- A. *Content—Storm Water Pollution Prevention Plan (SWPPP).* The design requirements of this code shall be complied with when developing the Storm Water Pollution Prevention Plan and the plan shall include the following:
 1. Name, address and telephone number of the site owner and the name, address and telephone number of the individual who will be in overall responsible charge of construction/development activities at the site.
 2. Site address or location description and parcel identification number(s).
 3. A site map showing the outlines of the total project area, the areas to be disturbed, existing land uses, locations and names of surface water bodies, locations of flood plains, locations of temporary and permanent Best Management Practices (BMP) and such other information as may be required by the Director of Public Works.
 4. Existing contours of the site and adjoining strips of off-site property and proposed contours after completion of the proposed land disturbance and development, based on United States Geological Survey datum, with established elevations at buildings, walks, drives, street and roads; and information on necessary clearing and grubbing, removal of existing structures, excavating, filling, spreading and compacting.

5. A natural resources map identifying soils, forest cover and resources protected under other provisions of City ordinances.

6. An estimate of the runoff coefficient of the site prior to disturbance and the runoff coefficient after the construction addressed in the permit application is completed.
7. Estimated quantity of land to be disturbed.
8. Details of the site drainage pattern both before and after major land disturbance activities.
9. Access to construction site.
10. Description of Best Management Practices (BMP) to be utilized to control erosion and sedimentation during the period of land disturbance.
11. Description of Best Management Practices (BMP) to be utilized to prevent other potential pollutants such as construction wastes, toxic or hazardous substances, petroleum products, pesticides, herbicides, site litter, sanitary wastes and other pollutants from entering the natural drainage ways during the period of construction and land disturbance.
12. Description of Best Management Practices (BMP) that will be installed during land disturbance to control pollutants in storm water discharges that will occur after land disturbance activity has been completed.
13. Location of temporary off-street parking and washdown area for related vehicles.
14. Sources of off-site borrow material or spoil sites and all information relative to haul routes, trucks and equipment.
15. The anticipated sequence of construction and land disturbance activities, including installation of Best Management Practices (BMP), removal of temporary Best Management Practices (BMP), stripping and clearing; rough grading; construction utilities, infrastructure and buildings; and final grading and landscaping. Sequencing shall identify the expected date(s) on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures and establishment of permanent vegetation.
16. All erosion and sediment control measures necessary to meet the objectives of this code throughout all phases of construction and after completion of site development. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
17. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application and kind and quantity of mulching for both temporary and permanent vegetative control measures.
18. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
19. Plans for responding to any loss of contained sediment to include the immediate actions

the permit holder will take in case of a containment failure. This plan must include documentation of actions and mandatory reporting to the Director of Public Works.

20. Schedules and procedures for routine inspections of any structures provided to prevent pollution of storm water or to remove pollutants from storm water and of the site in general to ensure

all Best Management Practices (BMP) are continually implemented and are effective.

B. *Required Plan Amendments—Storm Water Pollution Prevention Plan (SWPPP)*. The permit holder shall amend the Storm Water Pollution Prevention Plan whenever:

1. Design, operation or maintenance of Best Management Practices (BMP) is changed;
2. Design of the construction project is changed that could significantly affect the quality of the storm water discharges;
3. Site operator's inspections indicate deficiencies in the Storm Water Pollution Prevention Plan (SWPPP) or any Best Management Practices (BMP);
4. Inspections by City or by the Missouri Department of Natural Resources indicate deficiencies in the Storm Water Pollution Prevention Plan (SWPPP) or any Best Management Practices (BMP);
5. The Storm Water Pollution Prevention Plan (SWPPP) is determined to be ineffective in significantly minimizing or controlling erosion or excessive sediment deposits in streams or lakes;
6. The Storm Water Pollution Prevention Plan (SWPPP) is determined to be ineffective in preventing pollution of waterways from construction wastes, chemicals, fueling facilities, concrete truck washouts, toxic or hazardous materials, site litter or other substances or wastes likely to have an adverse impact on water quality;
7. Total settleable solids from a storm water outfall exceeds one-half (0.5) ml/L/hr if the discharge is within the prescribed proximity of a "valuable resource water" as defined by the Missouri Department of Natural Resources;
8. Total settleable solids from a storm water outfall exceeds two and one-half (2.5) ml/L/hr for any other outfall; or
9. The City or the Missouri Department of Natural Resources determines violations of water quality standards may occur or have occurred.

C. *Permit Holder Responsibilities For Administration Of Storm Water Pollution Prevention Plan (SWPPP)*. The permit holder shall:

1. Notify all contractors and other entities (including utility crews or their agents) that will perform work at the site of the existence of the Storm Water Pollution Prevention Plan (SWPPP) and what actions or precautions shall be taken while on site to minimize the potential for erosion and the potential for damaging any Best Management Practices (BMP);
2. Determine the need for and establish training programs to ensure that all site workers have been trained, at a minimum, in erosion control, material handling and storage and housekeeping;

3. Provide copies of the Storm Water Pollution Prevention Plan (SWPPP) to all parties who are responsible for installation, operation or maintenance of any Best Management Practices (BMP); and

4. Maintain a current copy of the Storm Water Pollution Prevention Plan (SWPPP) on the site at all times. (Ord. No. 594 §1, 4-1-08)

SECTION 525.110: DESIGN REQUIREMENTS

A. *Design.* The design of erosion and settlement controls required for land disturbance activities shall comply with the following minimum requirements:

1. Land disturbance, erosion and sediment control practices and watercourse crossings shall be adequate to prevent transportation of sediment from the site.
2. Materials brought to any site or property under a permit issued under this code, where said material is intended to be utilized as fill material at the site for land disturbance, erosion or sediment control, shall consist of clean uncontaminated earth, soil, dirt, sand, rocks, gravel or masonry materials only.
3. Cut and fill slopes shall be no greater than 3:1 except as approved by the Department of Protective Inspections to meet other community or environmental objectives.
4. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other ordinances.
5. Clearing techniques that retain existing vegetation to the maximum extent practicable shall be used and the time period for disturbed areas to be without vegetative cover shall be minimized to the extent practical.
6. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
7. Phasing shall be required on all sites disturbing greater than thirty (30) acres of land. The size of each phase will be established by the Department of Protective Inspections at the time of plan review for the issuance of a major land disturbance permit.

B. *Erosion Control Design.* Erosion control requirements shall include the following:

1. Soil stabilization shall be completed within five (5) days of clearing or inactivity in construction.
2. If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks or the site shall be reseeded or a non-vegetative option employed.
3. Techniques shall be employed to ensure stabilization on steep slopes and in drainage ways.
4. Soil stockpiles must be stabilized or covered at the end of each workday or perimeter controls must be in place to prevent silt from the stockpile from leaving the site.

5. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
6. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
7. Techniques shall be employed to divert upland runoff past disturbed slopes.

- C. *Sediment Control Design.* Sediment control requirements shall include:
1. Settling basins, sediment traps or tanks and perimeter controls.
 2. Settling basins shall be provided for each drainage area within ten (10) or more acres disturbed at one (1) time and shall be sized to contain one-half (0.5) inch of sediment from the drainage area and be able to contain a 2-year, 24-hour storm. If the provision of a basin of this size is impractical, other similarly effective Best Management Practices (BMP), as evaluated and specified in the Storm Water Pollution Prevention Plan (SWPPP), shall be provided.
 3. Settling basins shall be designed in a manner that allows adaptation to provide long-term storm water management as required by the Director of Public Works.
 4. Settling basins shall have stabilized spillways to minimize the potential for erosion of the spillway or basin embankment.
 5. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- D. *Watercourse Design.* Watercourse protection requirements shall include:
1. Encroachment into or crossings of active watercourses/riparian areas and wetlands shall be avoided to the maximum extent practicable. All City, State and Federal permits and approvals shall be obtained by a permit holder prior to beginning work authorized by a land disturbance permit.
 2. Stabilization of any watercourse channels before, during and after any in-channel work.
 3. If a defined watercourse is to be realigned or reconfigured, clearing and grubbing activities within fifty (50) feet of the watercourse shall not begin until all materials and equipment necessary to protect the watercourse and complete the work are on site. Once started, work shall be completed as soon as possible. Areas within fifty (50) feet of the watercourse shall be recontoured and revegetated, seeded or otherwise protected within five (5) working days after land disturbance activities have ceased.
 4. All storm water conveyances shall be designed according to the criteria of the St. Louis Metropolitan Sewer District (MSD) and the necessary MSD permits obtained.
 5. Stabilization adequate to prevent erosion shall be provided at the outlets of all pipes and paved channels.
- E. *Construction Site Access Design.* Construction site access requirements for major land disturbance activities shall include:
1. A temporary access road provided at all land disturbance sites including a washdown area supporting all active sites.
 2. The Department of Protective Inspections may require other measures to ensure that

construction vehicles do not track sediment onto public streets or be washed with wash effluent channeled directly into storm drains.

- F. *Control Of Construction Materials And Waste.* Control requirements for construction materials, construction wastes and other wastes generated on site at land disturbance sites shall include provisions satisfactory to the Director of Public Works:
1. Spill prevention and control facilities for materials such as paint, solvents, petroleum products, chemicals, toxic or hazardous substances, substances regulated under the Resource Conservation and Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and any wastes generated from the use of such materials and substances, including their containers. Any containment systems employed to meet this requirement shall be constructed of materials compatible with the substances contained and shall be adequate to protect both surface and ground water.
 2. Collection and disposal of discarded building materials and other construction site wastes, including those listed in Subsection (F)(1) above.
 3. Litter control.
 4. Control of concrete truck washouts.
 5. Assurance that on-site fueling facilities will adhere to applicable Federal and State regulations concerning storage and dispensers.
 6. Provision of sufficient temporary toilet facilities to serve the number of workers on major land disturbance sites. (Ord. No. 594 §1, 4-1-08)

SECTION 525.120:**INSPECTIONS**

- A. *Department Of Protective Inspections—General.* The Department of Protective Inspections shall make inspections as herein required and shall either approve that portion of the work completed or shall notify the permit holder wherein the work fails to comply with the land disturbance, erosion and sediment control plan as approved. Plans for land disturbance, stripping, excavating and filling work bearing the stamp of approval of the department issuing the permit shall be maintained at the site during the progress of the work. To obtain inspections, a permit holder shall notify the Department of Protective Inspections at least two (2) working days before the following:
1. Start of construction.
 2. Installation of sediment and erosion measures.
 3. Completion of site clearing.
 4. Completion of rough grading.
 5. Completion of final grading.
 6. Close of the construction season.

7. Completion of final landscaping.

- B. *Extra Inspections.* In addition to the inspections otherwise required, the Department of Protective Inspections is authorized to perform and charge fees for extra inspections or reinspections which in

his judgment are reasonably necessary due to non-compliance with the requirements of this code or work not ready or accessible for inspection when requested.

C. *Permit Holder Inspection And Report Responsibilities—Major Land Disturbances.* The holder of a major land disturbance permit or his/her agent shall cause regular inspections of land disturbance sites, including all erosion and sediment and other pollutant control measures, outfalls and off-site receiving waters, in accordance with the inspection schedule outlined in the approved Storm Water Pollution Prevention Plan (SWPPP). Inspections must be scheduled at least once per week and no later than seventy-two (72) hours after heavy rain. The purpose of such inspections will be to ensure proper installation, operation and maintenance of Best Management Practices (BMP) and to determine the overall effectiveness of the Storm Water Pollution Prevention Plan (SWPPP) and the need for additional control measures. All inspections shall be documented in written form on weekly reports with copies submitted to the Department of Protective Inspections at the time interval specified in the permit. Permit holder inspection reports must include the following minimum information:

1. Inspector's name and signature;
2. Date of inspection;
3. Observations relative to the effectiveness of the Best Management Practices (BMPs);
4. Actions taken and/or necessary to correct deficiencies;
5. A listing of areas where land disturbance operations have permanently or temporarily stopped.

The permit holder shall notify the site contractor(s) responsible for any deficiencies identified so that deficiencies can be corrected within seven (7) calendar days of the weekly inspection report.

D. *Verification Of Permit Holder's Reports.* The Department of Protective Inspections may make extra inspections as deemed necessary to ensure the validity of the reports filed under this code or to otherwise ensure proper installation, operation and maintenance of storm water Best Management Practices (BMP) and to determine the overall effectiveness of the Storm Water Pollution Prevention Plan (SWPPP) and the need for additional control measures. (Ord. No. 594 §1, 4-1-08)

**NEW SITE DEVELOPMENT AND
LAND DISTURBANCE ACTIVITIES**

**CHAPTER 527: REGULATIONS FOR
POST SITE RE-DEVELOPMENT FOR**

**SECTION 527.010: REGULATIONS FOR CONTROLLING NEW
SITE DEVELOPMENT AND
POST SITE RE-DEVELOPMENT FOR LAND DISTURBANCE
ACTIVITIES ON ONE ACRE OR GREATER**

- A. The City of Normandy hereby establishes regulations controlling land disturbances in coordination with and in compliance with requirements set forth by the Missouri Department of Natural Resources and the Metropolitan St. Louis Sewer District. These regulations govern two (2) basic types of land disturbances:
1. *New site development.* Governing land disturbances equal to or greater than one (1) acre for new construction; and
 2. *Post site re-development.* Also governing land disturbances equal to or greater than one (1) acre for re-development projects.
- B. All permitting plan reviews and inspections will be provided by the City of Normandy's Department of Protective Inspections.
- C. All plan reviews will also receive approval by the Metropolitan St. Louis Sewer District.
- D. The entirety of these regulations shall be held on file in the City offices. (Ord. No. 622 §§1-2, 6-1-10)

PROTECTION

CHAPTER 530: STREAM BUFFER

ARTICLE I. TITLE

SECTION 530.010: TITLE

This Chapter shall be known as the "City of Normandy, Missouri, Stream Buffer Protection Ordinance". (Ord. No. 595 §1, 4-1-08)

ARTICLE II. FINDINGS AND PURPOSES

SECTION 530.020: FINDINGS

The City Council of the City of Normandy, Missouri, finds that buffers adjacent to streams provide numerous benefits including:

1. Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources;
2. Removing pollutants delivered in urban storm water;
3. Reducing erosion and controlling sedimentation;
4. Protecting and stabilizing stream banks;
5. Providing for infiltration of storm water runoff;
6. Maintaining base flow of streams;
7. Contributing organic matter that is a source of food and energy for the aquatic ecosystem;
8. Providing tree canopy to shade streams and promote desirable aquatic habitat;
9. Providing riparian wildlife habitat;
10. Furnishing scenic value and recreational opportunity;
11. Providing opportunities for the protection and restoration of green space. (Ord. No. 595 §1, 4-1-08)

SECTION 530.030: PURPOSES

The purpose of this Chapter is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:

1. Create buffer zones along the streams of City of Normandy for the protection of water resources; and
2. Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities. (Ord. No. 595 §1, 4-1-08)

ARTICLE III. DEFINITIONS

SECTION 530.040: DEFINITIONS

As used in this Chapter, the following terms shall have these prescribed meanings:

BUFFER: With respect to a stream, a natural or enhanced vegetated area lying adjacent to the stream.

FLOODPLAIN: Any land area susceptible to flooding, which would have at least a one percent (1%) probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.

IMPERVIOUS COVER: Any manmade paved, hardened or structural surface regardless of material. Impervious cover includes, but is not limited to, rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.

LAND DEVELOPMENT: Any land change including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

LAND DEVELOPMENT ACTIVITY: Those actions or activities which comprise, facilitate or result in land development.

LAND DISTURBANCE: Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

LAND DISTURBANCE ACTIVITY: Those actions or activities which comprise, facilitate or result in land disturbance.

PARCEL: Any plot, lot or acreage shown as a unit on the latest County tax assessment records.

PERMIT: The permit issued by the City of Normandy required for undertaking any land development activity.

PERSON: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility,

cooperative, City, County or other political subdivision of the State, any interstate body or any other legal entity.

PROTECTION AREA OR STREAM PROTECTION AREA: With respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

RIPARIAN: Belonging or related to the bank of a river, stream, lake, pond or impoundment.

SETBACK: With respect to a stream, the area established pursuant to these regulations extending beyond any buffer applicable to the stream.

STREAM: Any stream, beginning at:

1. All natural watercourses depicted by a solid or dashed blue line on the most current United States Geological Survey (U.S.G.S.) 7.5 Minute Series (Topographic) Maps for Missouri; or
2. A point in the stream channel with a drainage area of twenty-five (25) acres or more.

STREAM BANK: The sloping land that contains the stream channel and the normal flows of the stream. Where no established top-of-bank can be determined, the stream bank will be the "ordinary high water mark" as defined by the Corps of Engineers in Title 33 of the Code of Federal Regulation, Part 328.3.

STREAM CHANNEL: The portion of a watercourse that contains the base flow of the stream. (Ord. No. 595 §1, 4-1-08)

ARTICLE IV. APPLICABILITY

SECTION 530.050: APPLICABILITY

This Chapter shall apply to all land development activity on property containing a stream protection area as defined in Article III of this Chapter. These requirements are in addition to, and do not replace or supersede, any other applicable buffer or flood plain requirements established under State law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under State law or from other applicable local, State or Federal regulations. (Ord. No. 595 §1, 4-1-08)

SECTION 530.060: GRANDFATHER PROVISIONS

This Chapter shall not apply to the following activities:

1. Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this Chapter.
2. Existing development and ongoing land disturbance activities including, but not limited to, existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
3. Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this Chapter.

4. Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two (2) years of the effective date of this Chapter. (Ord. No. 595 §1, 4-1-08)

SECTION 530.070: EXEMPTIONS

The following specific activities are exempt from this Chapter. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

1. Activities for the purpose of building one (1) of the following:
 - a. A stream crossing by a driveway, transportation route or utility line;
 - b. Public water supply intake or public wastewater structures or storm water outfalls;
 - c. Intrusions necessary to provide access to a property;
 - d. Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - e. Unpaved foot trails and paths;
 - f. Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
2. *Public sewer line easements.* This includes such impervious cover as is necessary for the operation and maintenance of the utility including, but not limited to, manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in Section 530.070(1), above.
3. Land development activities within a right-of-way existing at the time this Chapter takes effect or approved under the terms of this Chapter.
4. Within an easement of any utility existing at the time this Chapter takes effect or approved under the terms of this Chapter, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility including, but not limited to, manholes, vents and valve structures.
5. Emergency work necessary to preserve life or property. However, when emergency work is performed under this Section, the person performing it shall report such work to the City Engineer on the next business day after commencement of the work. Within ten (10) days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the City Engineer to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
6. Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be

allowed on the entire property for three (3) years after the end of the activities that intruded on the buffer.

7. Any activities approved under a 404 permit issued by the Corps of Engineers and 401 water quality certification issued by the Missouri Department of Natural Resources.

After the effective date of this Chapter, it shall apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to these regulations. (Ord. No. 595 §1, 4-1-08)

REQUIREMENTS **ARTICLE V. LAND DEVELOPMENT**

SECTION 530.080: BUFFER AND SETBACK REQUIREMENTS

All land development activity subject to this Chapter shall meet the following requirements:

1. For streams depicted as a solid blue line on the U.S.G.S. map, an undisturbed natural vegetative buffer shall be maintained for fifty (50) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. For all other streams subject to this Chapter, an undisturbed natural vegetative buffer shall be maintained for twenty-five (25) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.
2. An additional setback shall be maintained for twenty-five (25) feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.
3. No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback. (Ord. No. 595 §1, 4-1-08)

SECTION 530.090: VARIANCE PROCEDURES

Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

1. Where a parcel was platted prior to the effective date of this Chapter and its shape, topography or other existing physical condition prevents land development consistent with this Chapter and the City Engineer finds and determines that the requirements of this Chapter prohibit the otherwise lawful use of the property by the owner, the Board of Adjustment of the City of Normandy may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.
2. Except as provided above, the Board of Adjustment of the City of Normandy shall grant no variance from any provision of this Chapter without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Board of Adjustment. The City of Normandy shall give public notice of each such public hearing in a newspaper of general circulation within City of

Normandy.

Variances will be considered only in the following cases:

- a. When a property's shape, topography or other physical conditions existing at the time of

the adoption of this Chapter prevents land development unless a buffer variance is granted.

- b. Unusual circumstances when strict adherence to the minimal buffer requirements in the Chapter would create an extreme hardship.

Variances will not be considered when, following adoption of this Chapter, actions of any property owner of a given property have created conditions of a hardship on that property.

3. At a minimum, a variance request shall include the following information:
 - a. A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features as determined by field survey;
 - b. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - c. A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
 - d. Documentation of unusual hardship should the buffer be maintained;
 - e. At least one (1) alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
 - f. A calculation of the total area and length of the proposed intrusion;
 - g. A storm water management site plan, if applicable; and
 - h. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
4. The following factors will be considered in determining whether to issue a variance:
 - a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - b. The locations of all streams on the property, including along property boundaries;
 - c. The location and extent of the proposed buffer or setback intrusion;
 - d. Whether alternative designs are possible which require less intrusion or no intrusion;
 - e. The long-term and construction water-quality impacts of the proposed variance;

- f. Whether issuance of the variance is at least as protective of natural resources and the environment. (Ord. No. 595 §1, 4-1-08)

ARTICLE VI. COMPATIBILITY WITH OTHER REGULATIONS AND REQUIREMENTS

SECTION 530.100: REGULATIONS AND REQUIREMENTS

This Chapter is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, Statute or other provision of law. The requirements of this Chapter should be considered minimum requirements and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence. (Ord. No. 595 §1, 4-1-08)

ARTICLE VII. ADDITIONAL INFORMATION REQUIREMENTS FOR DEVELOPMENT ON BUFFER ZONE PROPERTIES

SECTION 530.110: SITE PLAN INFORMATION

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

1. A site plan showing:
 - a. The location of all streams on the property;
 - b. Limits of required stream buffers and setbacks on the property;
 - c. Buffer zone topography with contour lines at no greater than five (5) foot contour intervals;
 - d. Delineation of forested and open areas in the buffer zone; and
 - e. Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback.
2. A description of all proposed land development within the buffer and setback; and
3. Any other documentation that the City may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.

All buffer and setback areas must be recorded on the final plat of the property following plan approval. A note to reference the vegetated buffer shall state: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by Stream Buffer Protection Ordinance of the City of Normandy". (Ord. No. 595 §1, 4-1-08)

ARTICLE VIII. RESPONSIBILITY

SECTION 530.120: RESPONSIBILITY

Neither the issuance of a development permit nor compliance with the conditions thereof nor with

the provisions of this Chapter shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the City of Normandy, its officers or employees, for injury or damage to persons or property. (Ord. No. 595 §1, 4-1-08)

ARTICLE IX. INSPECTION

SECTION 530.130: INSPECTION

- A. The City may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the City in making such inspections. The City of Normandy shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Chapter and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.
- B. No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties. (Ord. No. 595 §1, 4-1-08)

ARTICLE X. VIOLATIONS, ENFORCEMENT AND PENALTIES

SECTION 530.140: VIOLATIONS, ENFORCEMENT AND PENALTIES

Any action or inaction which violates the provisions of this Chapter or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief. (Ord. No. 595 §1, 4-1-08)

SECTION 530.150: NOTICE OF VIOLATION

- A. If the City determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this Chapter, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this Chapter without having first secured the appropriate permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

B. The notice of violation shall contain:

1. The name and address of the owner or the applicant or the responsible person;
2. The address or other description of the site upon which the violation is occurring;

3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this Chapter and the date for the completion of such remedial action;
5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
6. A statement that the determination of violation may be appealed to the City Engineer by filing a written notice of appeal within thirty (30) days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient). (Ord. No. 595 §1, 4-1-08)

SECTION 530.160:**PENALTIES**

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one (1) or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City shall first notify the applicant or other responsible person in writing of its intended action and shall provide a reasonable opportunity of not less than ten (10) days (except that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City may take any one (1) or more of the following actions or impose any one (1) or more of the following penalties.

1. *Stop work order.* The City may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violation described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
2. *Withhold certificate of occupancy.* The City may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
3. *Suspension, revocation or modification of permit.* The City may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such

conditions as the City may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

4. *Civil penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days (or such greater period as the City shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety,

twenty-four (24) hours notice shall be sufficient) after the City has taken one (1) or more of the actions described above, the City may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

- 5. *Criminal penalties.* For intentional and flagrant violations of this Chapter, the citation may be issued by the City Normandy to the applicant or other responsible person, requiring such person to appear in the City of Normandy Municipal Court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense. (Ord. No. 595 §1, 4-1-08)

ARTICLE XI. ADMINISTRATIVE

APPEAL AND JUDICIAL REVIEW

SECTION 530.170: ADMINISTRATIVE APPEAL

Any person aggrieved by a decision or order of the City's enforcement personnel may appeal in writing filed with the City Clerk within ten (10) days after the issuance of such decision or order for a hearing before the Board of Adjustment of the City of Normandy. (Ord. No. 595 §1, 4-1-08)

SECTION 530.180: JUDICIAL REVIEW

Any person aggrieved by a decision or order of Board of Adjustment, after exhausting all administrative remedies, shall have the right to seek review in the Circuit Court of St. Louis County pursuant to the provision of Chapter 536, RSMo., by filing for judicial review within fifteen (15) days of the decision for which review is sought. (Ord. No. 595 §1, 4-1-08)

CHAPTER 535: RIGHT-OF-WAY USE

REGULATIONS

Cross Reference—As to video service providers, ch. 645; as to zoning and police powers, §405.950.

SECTION 535.010: DEFINITIONS

The following terms shall have the following meanings unless otherwise defined by context:

CITY FACILITIES: Any facilities located within the public rights-of-way and owned by the City.

CITY MANAGER: The manager or administrator of the City or such other person designated by the City to hear appeals as provided in Section 535.050 hereof.

DIRECTOR: The City's Public Works Director or such other person designated to administer and enforce this Chapter.

EMERGENCY RIGHTS-OF-WAY (OR ROW) WORK: Includes, but is not limited to, ROW work made necessary by exigent circumstances to repair, control, stabilize, rectify or correct an unexpected or unplanned outage, cut, rupture, leak or any other failure of a facility when such failure results or could result in danger to the public or a material delay or hindrance to the provision of service.

FACILITIES: A network or system or any part thereof used for providing or delivering a service and consisting of one (1) or more lines, pipes, wires, cables, fibers, conduit facilities, cabinets, poles, vaults, pedestals, boxes, appliances, antennas, transmitters, radios, towers, gates, meters, appurtenances or other equipment.

PERSON: An individual, partnership, limited liability corporation or partnership, association, joint stock company, trust, organization, corporation or other entity or any lawful successor thereto or transferee thereof.

PERSON(S) HAVING FACILITIES WITHIN THE RIGHTS-OF-WAY: Any person having ownership or control of facilities located within the rights-of-way.

RIGHTS-OF-WAY OR ROW: Unless otherwise restricted herein, the surface, the air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, public easement or sidewalk in which the City now or hereafter holds any interest which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining facilities. "Rights-of-way" shall not include:

1. City facilities or the City's property other than ROW, such as City-owned or operated buildings, parks or other similar property,
2. Airwaves used for cellular, non-wire telecommunications or broadcast services,

3. Easements obtained by ROW users on private property,
4. Railroad rights-of-way or ground used or acquired for railroads, or

- 5. Facilities owned and used by the City for the transmission of one (1) or more services. No reference herein to "rights-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for the delivery of service.

RIGHTS-OF-WAY (OR ROW) PERMIT: A permit granted by the City to a ROW user for ROW work.

RIGHTS-OF-WAY (OR ROW) USER: A person performing ROW work within the rights-of-way. A ROW user shall not include ordinary vehicular or pedestrian use.

RIGHTS-OF-WAY (OR ROW) WORK: Action by a ROW user to:

- 1. Install, change, replace, relocate, remove, maintain or repair facilities within the rights-of-way, or
- 2. To conduct work of any kind within or adjacent to the rights-of-way that results in an excavation, obstruction, disruption, damage or physical invasion or impact of any kind to the rights-of-way or the use thereof. The routine inspection of facilities shall not be considered ROW work unless the inspection requires the conduct of any of the activities or actions noted herein.

SERVICE: Providing or delivering an economic good or an article of commerce, including, but not limited to, gas, telephone, cable television, Internet, open video systems, video services, alarm systems, steam, electricity, water, telegraph, data transmission, petroleum pipelines, sanitary or stormwater sewerage or any similar or related service, to one (1) or more persons located within or outside of the City by use of facilities located within the rights-of-way.

WITHIN: In, along, under, over or across rights-of-way. (Ord. No. 585 §3, 10-2-07)

SECTION 535.020: ROW PERMITS

A. Application Requirements.

- 1. Any person desiring to perform ROW work must first apply for and obtain a ROW permit in addition to any other building permit, license, easement, franchise or authorization required by law. In the event of a need for emergency ROW work, the person conducting the work shall as soon as practicable notify the City of the location of the work and shall apply for the required ROW permit as soon as practicable following the commencement of the work, not to exceed the third (3rd) business day thereafter. The Director may design and issue general permits for emergency ROW work for several different locations or throughout the City.
- 2. An application for a ROW permit shall be submitted to the Director. The Director may design and make available standard forms for such applications, requiring such information as allowed by law and as the Director determines in his or her discretion to be necessary and consistent with the provisions of this Chapter and to accomplish the

purposes of this Chapter. Each application shall at minimum contain the following information for the proposed ROW work, unless otherwise waived by the Director:

- a. The name, address and telephone number of a representative whom the City may notify

- or contact at any time (i.e., twenty-four (24) hours per day, seven (7) days per week) concerning the work;
- b. If different from the applicant, the name, address and telephone number of the person on whose behalf the proposed work is to be performed;
 - c. A description of the proposed work, including a conceptual master plan and an engineering site plan or other technical drawing or depiction showing the nature, dimensions, location and description of the applicant's proposed work or facilities, their proximity to other facilities that may be affected by the proposed work and the number of street crossings and their locations and dimensions, if applicable;
 - d. Projected commencement and termination dates and anticipated duration of the work or, if such dates are unknown, a representation that the applicant shall provide the Director with reasonable advance notice of such dates once they are determined;
 - e. Copies of any required certificates of insurance or performance and maintenance bonds.
3. The information required by the application may be submitted in the form maintained by the applicant, provided it is responsive to the application's requirements and the applicant shall be allowed a reasonable amount of time to complete the application based on the amount of data or information requested or required.
 4. Each such application shall be accompanied by the following payments:
 - a. An application fee approved by the City to cover the cost of processing the application;
 - b. Any other amounts due to the City from the applicant including, but not limited to, prior delinquent fees, costs and any loss, damage or expense suffered by the City because of the applicant's prior work in the rights-of-way or for any emergency actions taken by the City, but the Director may modify this requirement to the extent the Director determines any such fees to be in good faith dispute.
 5. Applicants shall participate in any joint planning, construction and advance notification of such work, including coordination and consolidation of any excavation of or disturbance to the rights-of-way, as directed by the Director. When deemed necessary to accomplish the goals of this Section and to the extent permitted by law, the City reserves the right, when feasible and reasonable, to require the sharing of facilities by ROW users. Applicants shall cooperate with each other and other ROW users and the City for the best, most efficient, least intrusive, most aesthetic and least obtrusive use of the rights-of-way.
 6. The Director shall establish procedures allowing applicants to ascertain whether existing capacity may be available from other persons utilizing the rights-of-way along the intended path of any proposed work. The Director shall also maintain indexes of all ROW permits issued, both by the ROW user and by the affected rights-of-way.

B. *Application Review And Determination.*

1. The Director shall promptly review each completed application for a ROW permit and shall grant or deny all such applications as provided herein within thirty-one (31) days of receipt thereof. Unless the application is denied, the Director shall issue a ROW permit upon determining that the applicant:

- a. Has submitted all necessary information,
 - b. Has paid the appropriate fees, and
 - c. Is in full compliance with this Chapter and all other City ordinances. The Director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.
2. It is the intention of the City that interference with, damage to, excavation or disruption of or the placement of facilities within the City's rights-of-way should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Chapter. When reasonable and necessary to accomplish such purposes, the Director may require as alternatives to the proposed ROW work either less disruptive methods or different locations for facilities, provided that any required alternative:
 - a. Shall not increase expenses by more than ten percent (10%) of the applicant's costs for the work as proposed,
 - b. Shall not result in a decline of service quality, and
 - c. Shall be competitively neutral and non-discriminatory. The Director shall justify to the applicant that the required alternative is reasonable and necessary.
3. Upon receipt of an application, the Director shall determine whether any portion of the rights-of-way will be affected by the proposed work and whether the interference, disruption or placement of facilities will be more than minor in nature. In determining whether the proposed work is more than minor in nature, the Director shall consider the nature and scope of the work, its location and duration and its effect on the rights-of-way, the use thereof and neighboring properties.
 - a. If the applicant can show to the Director's reasonable satisfaction that the work involves no interference, disruption, excavation or damage to or only minor interference with the rights-of-way or that the work does not involve the placement of facilities or involves time-sensitive maintenance, then the Director shall promptly grant the ROW permit.
 - b. If the Director determines that the effect on the rights-of-way will be more than minor in nature and no exemption under the above paragraph (3)(a) or any other provision of this Chapter applies, the Director shall schedule and coordinate the work and grant the ROW permit accordingly. When reasonable and necessary to accomplish the purposes of this Chapter, the Director may postpone issuance of a ROW permit and may give public notice of the application in an attempt to identify whether other person(s) intend to do work in the same area within a reasonable period of time, so that all ROW work in the area can be coordinated. Due regard shall be accorded applicants that are required by any law, rule, regulation, license or franchise to provide service to the area defined in the application. The Director shall not impose any coordination or scheduling requirements that prevent or unreasonably delay an applicant's access to the ROW or that create a barrier to entry.

4. Each ROW permit issued by the Director shall include:
 - a. Projected commencement and termination dates or, if such dates are unknown at the time the permit is issued, a provision requiring the ROW user to provide the Director with

reasonable advance notice of such dates once they are determined;

- b. Length of affected rights-of-way, number of road crossings and identification and description of any pavement or curb cuts included in the work;
 - c. Information regarding scheduling and coordination of work, if necessary;
 - d. The location of any of the applicant's facilities, both those proposed and existing, and the location of any known facilities owned by another person that may be affected by the proposed work;
 - e. An acknowledgment and representation by the applicant to comply with the terms and conditions of the ROW permit and this Chapter; and
 - f. Such conditions and requirements as are deemed reasonably necessary by the Director to protect structures and other facilities in the rights-of-way from damage, to restore such rights-of-way and any structures or facilities, to ensure the reasonable continuity and sight lines of pedestrian and vehicular traffic and to protect property values, the aesthetics of adjoining properties and neighborhoods and the public health, safety and welfare.
5. The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:
- a. Delinquent fees, costs or expenses owed by the applicant;
 - b. Failure to provide information required by the application or this Chapter;
 - c. The applicant being in violation of the provisions of this Chapter or other pertinent and applicable City ordinances;
 - d. Failure to return the ROW to its previous condition under previously issued ROW permits or after prior excavations by the applicant;
 - e. For reasons of environmental, historic or cultural sensitivity as defined by applicable Federal, State or local law;
 - f. For the applicant's refusal to comply with alternative ROW work methods, locations or other reasonable conditions required by the Director; and
 - g. For any other reason to protect the public health, safety and welfare, provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission or interfere with a ROW user's right of eminent domain of private property and, provided further, that such denial is imposed on a competitively neutral and non-discriminatory basis.

C. Permit Revocation And Ordinance Violations.

1. The Director may revoke a ROW permit without fee refund after notice and an

opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Chapter. Prior to revocation the Director shall provide written notice to the ROW user identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities

must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown by the ROW user. A substantial breach includes, but is not limited to, the following:

- a. A material violation of a provision of the ROW permit or this Chapter;
 - b. An evasion or attempt to evade any material provision of the ROW permit or this Chapter or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;
 - c. A material misrepresentation of fact in the ROW permit application;
 - d. A failure to complete ROW work by the date specified in the ROW permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the ROW user's control; and
 - e. A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards, this Chapter or any other applicable ordinances, provided that City standards are no more stringent than those of a national safety ordinance.
2. Any breach of the terms and conditions of a ROW permit shall also be deemed a violation of this Chapter and in lieu of revocation the Director may initiate prosecution of the ROW user for such violation. (Ord. No. 585 §3, 10-2-07)

SECTION 535.030:

WORK IN THE ROW

A. Jurisdiction, Inspection And Stop Work Orders.

1. All facilities and ROW work shall be subject to inspection by the City and the supervision of all Federal, State and local authorities having jurisdiction in such matters to ensure compliance with all applicable laws, ordinances, departmental rules and regulations and the ROW permit.
2. The Director shall have full access to all portions of the ROW work and may issue stop work orders and corrective orders to prevent unauthorized work or substandard work as established in Subsection (G) hereof. Such orders:
 - a. May be delivered personally or by certified mail to the address(es) listed on the application for the ROW permit or the person in charge of the construction site at the time of delivery;
 - b. Shall state that substandard work or work not authorized by the ROW permit is being carried out, summarize the substandard or unauthorized work and provide a period of not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety; and

- c. May be enforced by equitable action in the Circuit Court of Gasconade County, Missouri, and in such case the person responsible for the substandard or unauthorized work shall be liable for all costs and expenses incurred by the City in enforcing such orders, including reasonable attorney's fees, in addition to any and all penalties established in this Chapter.

B. Underground Facilities.

1. In conjunction with the City's long-standing policy favoring underground construction, no person may erect, construct or install new poles or other facilities above the surface of the rights-of-way without the written permission of the City, unless the City's authority has been pre-empted by State or Federal law. Such permission may be granted through a ROW permit when other similar facilities exist above ground or when conditions are such that underground construction is impossible, impractical or economically unfeasible, as determined by the City, and when in the City's judgment the above ground construction has minimal aesthetic impact on the area where the construction is proposed.
2. During installation of facilities and to the extent authorized by law, existing underground conduits shall be used whenever feasible and permitted by the owner thereof.
3. In the case of new construction or property development, the developer or property owner shall give reasonable written notice to other potential ROW users, as directed by the City, of the particular date on which open trenching will be available for installation of facilities. Costs of trenching and easements required to bring facilities within the development shall be borne by the developer or property owner; except that if the facilities are not installed within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then once the trenches are thereafter closed, the cost of new trenching shall be borne by the person installing the facilities.

C. Above Ground Facilities.

1. The Director may designate certain locations or facilities in the ROW to be excluded from use by the applicant for its facilities including, but not limited to:
 - a. Ornamental or similar specially designed street lights,
 - b. Designated historic areas,
 - c. Facilities, equipment, structures or locations that do not have electrical service adequate or appropriate for the proposed facilities or cannot safely bear the weight or wind loading thereof,
 - d. Facilities, equipment, structures or locations that in the reasonable judgment of the Director are incompatible with the proposed facilities or would be rendered unsafe or unstable by the installation, and
 - e. Facilities, equipment, structures or locations that have been designated or planned for other use or are not otherwise available for use by the applicant due to engineering, technological, proprietary, legal or other limitations or restrictions.
2. Above ground facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that

blends with the surrounding dominant color and helps to camouflage the facilities. Facilities shall be located in such a manner as to reduce or eliminate their visibility. A sight-proof landscape screen may be required for any authorized above ground facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the Director prior to installation of any facility requiring

landscape screening. The person having facilities within the ROW shall be responsible for the installation, repair or replacement of screening materials. Alternative screening or concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.

3. Above ground facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise and shall comply with all other applicable regulations and standards established by the City or State or Federal law.
4. If the application of this Subsection excludes locations for above ground facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but such alternatives may exceed the cost increase limitation established by Section 535.020(B)(2) and the City shall not be required to incur any financial cost or to acquire new locations for the applicant.

D. *Relocation Of Equipment And Facilities.*

1. In the event of an emergency or where construction equipment or facilities create or are contributing to an imminent danger to health, safety or property, the City may, to the extent allowed by law, remove, re-lay or relocate such construction equipment, or the pertinent parts of such facilities, without charge to the City for such action or for restoration or repair. The City shall attempt to notify the person having facilities within the ROW prior to taking such action, but the inability to do so shall not prevent same. Thereafter, the City shall notify the person having facilities within the ROW as soon as practicable.
2. At the City's direction, all facilities shall be moved underground and the cost shall be solely the obligation of the person having facilities within the ROW (or as otherwise allowed or required by law).
3. At the City's direction, a person having facilities within the ROW shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.
4. A person having facilities within the ROW shall, on the reasonable request of any person and after reasonable advance written notice, protect, support, disconnect, relocate or remove facilities to accommodate such person and the actual cost, reasonably incurred, of such actions shall be paid by the person requesting such action. The person having facilities within the ROW taking such action may require such payment in advance.
5. Rather than relocate facilities as requested or directed, a ROW user may abandon the facilities if approved by the City as provided in Subsection (F) of this Section.
6. No action hereunder shall be deemed a taking of property and no person shall be entitled to any compensation therefor. No location of any facilities within the rights-of-

way shall be a vested interest.

E. *Property Repair And Alterations.*

1. During any ROW work, the person doing the work shall protect from damage any and all existing structures and property belonging to the City and any other person. Any and all rights-

of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced by the person doing the work or the person on whose behalf the work is being done and such person shall immediately notify the owner of the fact of any damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.

2. Any alteration to the existing water mains, sewerage or drainage system or to any City, State or other public structures or facilities in the rights-of-way required on account of the construction, installation, repair or maintenance of facilities within the rights-of-way shall be made at the sole cost and expense of the owner of such facilities.

F. *Removal, Abandonment, Transfer And Relocation Of Facilities.*

1. If a person having facilities within the ROW:
 - a. Installs the facilities within the ROW without having complied with the requirements of this Chapter, or
 - b. Abandons the facilities, the City may require the removal of the facilities, remove the facilities at the expense of the person having facilities within the ROW or require the transfer of the facilities as provided herein.
2. If the City requires removal of the facilities, the person shall obtain a ROW permit and shall abide by all requirements of this Chapter. The liability, indemnity, insurance and bonding requirements required herein shall continue in full force and effect during and after the period of removal and restoration and until full compliance by the person with the terms and conditions of the ROW permit and the requirements of this Chapter.
3. If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, have the removal done at the person's expense. Alternatively, the City may permit the abandonment, without removal, of the facilities if the Director determines that abandonment is not likely to prevent or significantly impair the future use, repair, excavation, maintenance or construction of the ROW.
4. If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, decide that the ownership of the facilities should be transferred to the City or to such person as directed by the City. In either case, the owner of the facilities shall submit a written instrument, satisfactory in form to City, transferring to the City, or to such person as directed by the City, ownership of the facilities. The City may sell, assign or transfer all or part of the facilities so transferred.
5. The City shall not remove or seek to possess or transfer the facilities until thirty (30) days have passed following written notice by the Director to the person having facilities within the ROW of the City's intent to so act. The Director may choose not to act on good cause shown by the person having facilities within the ROW.

G. *Standards For ROW Work.*

1. Except for emergency ROW work as provided in Section 535.020(A)(1), ROW work

shall be performed only upon issuance and in accordance with the requirements of a ROW permit. At all times during the work, ROW permits shall be conspicuously displayed at the work site and shall be available for inspection by the Director.

2. If at any time it appears that the duration or scope of the ROW work is or will become materially different from that allowed by the ROW permit, the ROW user shall inform the Director. The Director may issue a waiver, an extension or a revised ROW permit or require that the ROW user reapply for a ROW permit in accordance with all requirements of this Chapter.
3. ROW users shall not open or encumber more of the rights-of-way than is reasonably necessary to complete the ROW work in the most expeditious manner or allow excavations to remain open longer than is necessary to complete the work.
4. All ROW work that affects vehicular or pedestrian traffic shall be properly signed, barricaded and otherwise protected at the ROW user's expense. The ROW user shall be responsible for providing adequate traffic control to the area surrounding the work as determined by the Director.
5. The ROW user shall perform the ROW work at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood as permitted by the Director. Unless otherwise provided by the Director in the permit, non-emergency ROW work on arterial and collector streets may not be accomplished during the hours of 7:00 A.M. to 8:30 A.M. and 4:00 P.M. to 6:00 P.M. in order to minimize disruption of traffic flow.
6. The ROW user shall notify the City no less than three (3) working days in advance of any ROW work that would require any street closure or would reduce traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of emergency ROW work, no such closure shall take place without notice and prior authorization from the City.
7. All ROW work shall be in accordance with all applicable Sections of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and other Federal, State or local laws and regulations that may apply including, without limitation, local health, safety, construction and zoning ordinances and laws and accepted industry practices, all as hereafter may be amended or adopted. In the event of a conflict among ordinances and standards, the most stringent ordinance or standard shall apply (except insofar as that ordinance or standard, if followed, would result in facilities that could not meet requirements of Federal, State or local law).
8. All facilities shall be installed and located to cause minimum interference with the rights and convenience of property owners, other ROW users and the City. Facilities shall not be placed where they will disrupt or interfere with other facilities or public improvements or obstruct or hinder in any manner the various utilities serving the residents and businesses in the City or public improvements.
9. All facilities shall be of good and durable quality.
10. All ROW work shall be conducted in accordance with good engineering practices, performed by experienced and properly trained personnel so as not to endanger any person or property or to unreasonably interfere in any manner with the rights-of-ways or legal rights of any property owner, including the City, or unnecessarily hinder or

obstruct pedestrian or vehicular traffic.

11. All safety practices required by law shall be used during ROW work, including commonly accepted methods and devices to prevent failures and accidents that are likely to cause damage, injury or nuisance to the public.

12. Any contractor or subcontractor of a ROW user must be properly licensed under laws of the State and all applicable local ordinances and each contractor or subcontractor shall have the same obligations with respect to its work as a ROW user would have pursuant to this Chapter. A ROW user:
 - a. Must ensure that contractors, subcontractors and all employees performing ROW work are trained and experienced,
 - b. Shall be responsible for ensuring that all work is performed consistent with the ROW permit and applicable law,
 - c. Shall be fully responsible for all acts or omissions of contractors or subcontractors,
 - d. Shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and
 - e. Shall implement a quality control program to ensure that the work is properly performed.
13. A ROW user shall not place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities or in the ROW, whether relating to the ROW user or any other person, except such necessary minimal markings approved by the City as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.
14. Unless otherwise approved in writing by the City, a ROW user shall not remove, cut or damage any trees or their roots within the ROW.
15. Street crossings will be bored at the direction of the Director.

H. *Restoring And Maintaining The Rights-Of-Way.*

1. To complete any ROW work, the ROW user shall restore the ROW and surrounding areas including, but not limited to, any pavement, foundation, concrete slabs or curbs, screening, landscaping or vegetation and shall comply with other reasonable conditions of the Director. Restoration of the ROW shall be completed within the dates specified in the ROW permit unless the Director issues a waiver, extension or a new or revised ROW permit.
2. It shall be the duty of any person making an excavation in the ROW to backfill such excavations and restore the surface in accordance with the City's minimum prescribed standards for such surfaces or the following standards as determined by the Director.
 - a. If the excavations are made in the improved portion of the ROW, twelve (12) inches of granular backfill will be placed over exposed facilities and controlled low strength material (CLSM) will fill the hole within eight (8) inches of the finished surface for concrete pavements. There will be a plastic membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining eight (8) inches will be restored by placing a twenty-eight

(28) day minimum strength, four thousand five hundred (4,500) psi concrete mix.

- b. If the excavations are made in the improved portion of an asphalt or combination street, twelve (12) inches of granular backfill will be placed over exposed facilities and CLSM will fill the hole within nine (9) inches of the finished surface. There will be a plastic

membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining nine (9) inches will be restored by placing a six (6) inch thick, twenty-eight (28) day minimum strength, four thousand five hundred (4,500) psi concrete mix under a three (3) inch asphalt concrete lift of type C mix to meet existing grades.

- c. Construction of asphalt driveway entrances in residential ROW will be constructed of six (6) inches of compacted rock base and three (3) inches of type C asphalt concrete mix. Construction of asphalt driveway entrances in commercial ROW will be constructed of four (4) inches of compacted rock base, seven and one-half (7.5) inches of type X and three (3) inches of type C asphalt concrete mix. Concrete driveway approaches will consist of a four (4) inch compacted rock base and be a minimum of six (6) inches thick in residential ROW and eight (8) inches thick in commercial ROW.
3. If a ROW user fails to restore the ROW within the date specified either by the ROW permit or any extension thereof as granted by the Director, the City may perform its own restoration. The City may also opt to perform its own restoration regardless of any failure by the ROW user, in which case the ROW permit or any amendment or revision thereto shall note such option. In either event, if the City performs the restoration, the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice.
 4. Every ROW user to whom a ROW permit has been granted shall guarantee for a period of four (4) years the restoration of the ROW in the area where the ROW user conducted excavation. During this period the ROW user shall, upon notification from the Director, correct all restoration work to the extent necessary as required by the Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days from receipt of the Director's notice unless otherwise permitted by the Director. If a ROW user fails to restore the ROW within the time specified, the City may perform the work and the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice. The Director may extend the cure period on good cause shown.
 5. A ROW user shall not be relieved of the obligation to complete the necessary right-of-way restoration and maintenance because of the existence of any performance bond required by this Chapter.
- I. Any person performing ROW work shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work. (Ord. No. 585 §3, 10-2-07)

SECTION 535.040:

**BONDS—INSURANCE—SURETY—INDEMNIFICATION—PEN
ALTIES**

A. *Performance And Maintenance Bonds.*

1. Prior to any ROW work a ROW user shall establish in the City's favor a performance and maintenance bond in an amount to be determined by the Director to ensure the restoration of the rights-of-way. The bond shall continue in full force and effect for a period of twenty-four (24) months following completion of the work. The Director shall have the authority to extend the maintenance bond period for up to an additional twenty-four (24) months. The Director

may waive this requirement when the work involves no or only minor disruption or damage to the rights-of-way. The Director shall waive this requirement when the ROW user has twenty-five million dollars (\$25,000,000.00) in net assets and does not have a history of non-compliance with State and local regulations.

2. If a ROW user fails to complete the ROW work in a safe, timely and competent manner or if the completed restorative work fails without remediation within the time period for the bond (as determined by the Director), then after notice and a reasonable opportunity to cure there shall be recoverable, jointly and severally, from the principal and surety of the bond any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the ROW user and the cost of completing work within or restoring the rights-of-way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The City may also recover against the bond any amount recoverable against a security fund or letter of credit where such amount exceeds that available under a security fund or letter of credit.
3. Upon completion of ROW work to the satisfaction of the Director and upon lapse of the bond period, including any extension by the Director, the City shall release the bond.
4. The bond shall be issued by a surety with an "A" or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the City's attorney and shall contain the following endorsement:

"This bond may not be canceled or allowed to lapse until sixty (60) days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."
5. In lieu of the bond required herein, the ROW user may establish in the City's favor such other security as the Director may determine to be commensurate with the noted bonding requirements including, but not limited to, an annual bond to be maintained in the minimum amount of twenty-five thousand dollars (\$25,000.00).

B. *Insurance.*

1. All ROW users shall maintain, for the duration of any ROW work and, when applicable, for as long as the ROW user has facilities within the rights-of-way, at least the following liability insurance coverage: Workers' Compensation and employer liability insurance to meet all requirements of Missouri law and commercial general liability insurance with respect to the construction, operation and maintenance of the facilities and the conduct of the ROW user's business in the City in the minimum amounts of:
 - a. Two million dollars (\$2,000,000.00) for property damage resulting from any one (1) accident;
 - b. Five million dollars (\$5,000,000.00) for personal bodily injury or death resulting from any one (1) accident; and

c. Two million dollars (\$2,000,000.00) for all other types of liability.

These insurance requirements shall not be construed to limit the liability of any person or to impose any liability on the City or to waive any sovereign immunity.

2. All insurance policies shall be with sureties qualified to do business in the State of Missouri with an "A" or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition and in a form approved by the City.
3. All insurance policies shall be available for review by the City and a ROW user having facilities within the rights-of-way shall keep on file with the City current certificates of insurance.
4. All general liability insurance policies shall name the City, its officers, boards, board members, commissions, commissioners, agents and employees as additional insureds and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the Director. A ROW user shall not cancel any required insurance policy without submission of proof that it has obtained alternative insurance that complies with this Chapter.
5. The Director may exempt in writing from these insurance requirements any self-insured ROW user, provided that the ROW user demonstrates to the Director's satisfaction that the ROW user's self-insurance plan is commensurate with said requirements and that the ROW user has sufficient resources to meet all potential risks, liabilities and obligations contemplated by the requirements of this Chapter. The Director may require a security fund or letter of credit as a condition to a self-insured's exemption. The Director shall waive this requirement when the ROW user has twenty-five million dollars (\$25,000,000.00) in net assets and does not have a history of non-compliance with applicable regulatory law.

C. *Indemnification.*

1. Any ROW user granted a ROW permit and any person having facilities within the rights-of-way, as partial consideration for the privilege granted, shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of:
 - a. Any ROW work including, but not limited to, the construction, maintenance, repair or replacement of the facilities,
 - b. The operation of its facilities,
 - c. Failure to secure consents from landowners, or
 - d. Any actions taken or omissions made by the person pursuant to the authority of this Chapter.
2. The foregoing indemnity provisions include, but are not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding prior to the person assuming such defense. The City shall notify a person of claims and suits within seven (7) business days of its actual knowledge of the existence of such claim,

suit or proceeding. Once a person assumes such defense, the City may, at its option, continue to participate in the defense at its own expense.

3. Notwithstanding anything to the contrary contained in this Chapter, the City shall not be so indemnified or reimbursed in relation to any amounts attributable to:
 - a. The City's own negligence, willful misconduct, intentional or criminal acts, or

- b. The City acting in a proprietary capacity to deliver service(s) within the City.
- 4. Recovery by the City of any amounts under insurance, a performance bond or otherwise does not limit a person's duty to indemnify the City in any way; nor shall such recovery relieve a person of amounts owed to the City or in any respect prevent the City from exercising any other right or remedy it may have.
- D. *Penalties.* Any person violating any provision of this Chapter shall, upon conviction by the City's Municipal Court, be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Each day the violation continues may be charged as a separate offense. (Ord. No. 585 §3, 10-2-07)

SECTION 535.050: DISPUTE RESOLUTIONS, APPEALS AND ARBITRATION

- A. The Director shall make a final determination as to any matter concerning the grant, denial or revocation of a ROW permit as provided in this Chapter. On the request of an applicant or a ROW user and within a reasonable period of time, the Director also shall make a final determination as to any other issue relating to the use of the ROW, the imposition of any fee or the application of any provision of this Chapter, provided however, that this review shall not apply to matters being prosecuted in the Municipal Court. Any final determination of the Director shall be subject to review as provided herein.
- B. Any person aggrieved by a final determination of the Director may appeal in writing to the City Manager within five (5) business days thereof. The appeal shall assert specific grounds for review and the City Manager shall render a decision on the appeal within fifteen (15) business days of receipt affirming, reversing or modifying the determination of the Director. The Board of Aldermen may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision.
- C. Any person aggrieved by the final determination of the City Manager may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of Gasconade County, Missouri. Such petition shall be filed within thirty (30) days after the City Manager's final determination.
- D. *Arbitration And Mediation.*
 - 1. On agreement of the parties and in addition to any other remedies, any final decision of the City Manager may be submitted to mediation or binding arbitration.
 - 2. In the event of mediation, the City Manager and the applicant or ROW user shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties and each party shall pay its own costs, disbursements and attorney fees.
 - 3. In the event of arbitration, the City Manager and the applicant or ROW user shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the

parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the City Manager, one (1) arbitrator selected by the applicant or ROW user and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly

and equally bear with the other party the expense of the third (3rd) arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees. (Ord. No. 585 §3, 10-2-07)

SECTION 535.060:**MISCELLANEOUS**

- A. After the completion of ROW work, the ROW user shall provide to the City as-built drawings, maps or other comparable records as determined by the Director, drawn to scale and certified to the City as reasonably depicting the location of all facilities constructed pursuant to the ROW permit. Such records may be provided to the Director in the form maintained by the ROW user, but when available to the ROW user, shall be submitted in automated formats that are compatible with City systems, as determined by the Director, or in hard copy otherwise.
- B. Upon failure of a ROW user to commence, pursue or complete any ROW work required by law or by the provisions of this Chapter to be done in any street within the time prescribed and to the reasonable satisfaction of the City, the City may, at its option, after thirty (30) days' notice, cause such work to be done and the ROW user shall pay to the City the cost thereof in the itemized amounts reported by the City to the ROW user within thirty (30) days after receipt of such itemized report.
- C. Upon ten (10) days' written notice and with the supervision of the City or as otherwise provided by law, a ROW user shall have the authority to trim trees that overhang rights-of-way of the City so as to prevent the branches of such trees from coming in contact with its facilities, at its own expense subject to the supervision and direction of the City. Nothing in this paragraph shall authorize the trimming of trees on private property without permission of the property owner. All cut materials shall be properly disposed.
- D. During ROW work by a ROW user, the City shall have the right to install, and to thereafter maintain, at its own cost in any excavation to or other applicable disturbance of the ROW any parallel facilities of its own that do not unreasonably interfere with the operations of other facilities.
- E. Nothing in this Chapter shall be in preference or hindrance to the right of the City and any board, authority, commission or public service corporation of the City to use or occupy the rights-of-way or to perform or carry on any public works or public improvements of any description. (Ord. No. 585 §3, 10-2-07)