Chapter 31

ZONING

Article I. Zoning Code

Division 1. In General

Sec. 31-001.	Short title.
Sec. 31-002.	Districts.
Sec. 31-003.	District map adopted.
Sec. 31-004.	Annexation.
Sec. 31-005.	Combined application for land use entitlements.
Sec. 31-006.	Interpretation, purpose and conflict.
Sec. 31-007.	Invalidity of a part.
Sec. 31-008.	Repeal.
Sec. 31-009.	Saving clause.
Sec. 31-010.	Definitions.
Sec. 31-011.	Right-of-ways zoning.
Sec. 31-012.	Medical marijuana facilities.
Secs. 31-013--31-014.	Reserved.

Division 2. District Regulations

Sec. 31-015.	General Requirements.
Sec. 31-016.	Reserved.
Sec. 31-017.	Reserved.
Sec. 31-018.	A-1 general agricultural district.
Sec. 31-019.	A-OR agricultural, outer residential district.
Sec. 31-020.	R-1SH single family/small house residential district.
Sec. 31-021.	District R-1A detached single-family residential district.
Sec. 31-022.	District R-1B detached single-family residential district.
Sec. 31-023.	District R-2 two-family residential district.
Sec. 31-024.	District R-3 garden apartment residential district.
Sec. 31-025.	District R-4 apartment residential district.
Sec. 31-026	District R-5 mobile home park and mobile home subdivision district.
Sec. 31-027.	Reserved.
Sec. 31-028.	C-0 nonretail commercial district.
Sec. 31-029.	C-1 neighborhood shopping district.
Sec. 31-030.	C-2 downtown business district.
Sec. 31-031	C-3 commercial district.
Sec. 31-032.	Reserved.
Sec. 31-033.	District B-P business park districts.
Sec. 31-034.	M-1 light manufacturing district.
Sec. 31-035.	M-2 heavy manufacturing district.
Sec. 31-036.	Planned unit development districts.
Sec. 31-037.	Planned community district (P district).
Secs. 31-038--31-049.	Reserved.

Division 3. Supplemental District Regulations

Sec. 31-050.	Accessory uses and buildings.
Sec. 31-051.	Home occupations.
Sec. 31-052.	Manufactured homes.
Sec. 31-053.	Off-street parking and loading.

Sec. 31-054. Fences and hedges.
Sec. 31-055. Height and area regulation exceptions.
Sec. 31-056. Nonconforming uses.
Sec. 31-057. Accessory utility uses and facilities; all districts.
Sec. 31-058. Shipping containers.
Secs. 31-059--31-069. Reserved.

Division 4. Administration, Enforcement and Review

Sec. 31-070. Conditional use permits.
Sec. 31-071. Procedure for amendments to the zoning code or rezoning.
Sec. 31-072. Limitation on applications for rezoning and conditional use permit.
Sec. 31-073. Enforcement, violations and penalty.
Sec. 31-074. Completion of buildings.
Sec. 31-075. Filing fees schedule
Secs. 31-076--31-089. Reserved.

Division 5. Board of Adjustment.

Sec. 31-090. Powers and duties of the board of adjustment.
Sec. 31-091. Appeals.
Sec. 31-092. Variances.
Sec. 31-093. Exceptions.
Secs. 31-094--31-099. Reserved.

Division 6. Downtown Review Board

Sec. 31-100. Purpose.
Sec. 31-101. Definitions.
Sec. 31-102. Rules and procedures and records of the commission.
Sec. 31-103. Certificates of appropriateness.
Sec. 31-104. Conformance with other codes and laws.
Sec. 31-105. Penalties.
Secs. 31-106--31-109. Reserved.

Article II. Signs.

Division 1. In General

Sec. 31-110. Purposes and findings.
Sec. 31-111. Applicability and message neutrality.
Sec. 31-112. Rules of interpretation.
Sec. 31-113. Definitions.
Sec. 31-114. Prohibited signs.
Sec. 31-115. Exempt signs.
Sec. 31-116. Temporary signs.
Secs. 31-117--31-129. Reserved.

Division 2. Sign Regulations

Sec. 31-130. Requirements for sign categories.
Sec. 31-131. Billboards.
Secs. 31-132--31-149. Reserved.

Division 3. Administration.

Sec. 31-150.	Sign permit requirements and procedures.
Sec. 31-151.	Unsafe and obsolete signs.
Sec. 31-152.	Sign exceptions.
Sec. 31-153.	Violations.
Sec. 31-154.	Enforcement and remedies.
Secs. 31-155--31-169.	Reserved.

Article III. Historic Preservation.

Division 1. In general

Sec. 31-170.	Purpose.
Sec. 31-171.	Definitions.
Sec. 31-172.	Creation of a commission.
Sec. 31-173.	Appointment, members, terms and qualifications.
Sec. 31-174.	Staff.
Sec. 31-175.	Powers and duties of the commission.
Sec. 31-176.	Rules of procedure and records of the commission.
Sec. 31-177.	Designation of historic landmarks and historic districts.
Sec. 31-178.	Procedure for designation of local historic landmarks and local historic districts.
Sec. 31-179.	Certificates of appropriateness.
Sec. 31-180.	Treatment of previously designated landmarks.
Sec. 31-181.	Severability.
Sec. 31-182.	Conformance with other codes and laws.
Sec. 31-183.	Penalties.
Sec. 31-184.	Conflicts of interest.
Secs. 31-185--31-189.	Reserved.

Division 2. Historic Landmarks

Sec. 31-190.	Historic Landmarks.
Secs. 31-191--31-194.	Reserved

Division 3. Historic Districts.

Sec. 31-195.	Historic district number one; hall street historic district; boundaries
Sec. 31-196.	Historic district number two; museum hill historic district; Boundaries.
Secs. 31-197--31-199.	Reserved.

Article IV. Flood Plain Management

Sec. 31-200.	Statutory authorization.
Sec. 31-201.	Findings of fact.
Sec. 31-202.	Statement of purpose.
Sec. 31-203.	Lands to which article applies.
Sec. 31-204.	Compliance.
Sec. 31-205.	Abrogation and greater restrictions.
Sec. 31-206.	Interpretation.
Sec. 31-207.	Warning and disclaimer of liability.

Sec. 31-208. Severability.
Sec. 31-209. Floodplain development permit required.
Sec. 31-210. Designation of floodplain administrator.
Sec. 31-211. Duties and responsibilities of floodplain administrator.
Sec. 31-212. Application for floodplain development permit.
Sec. 31-213. General standards.
Sec. 31-214. Specific standards.
Sec. 31-215. Manufactured homes.
Sec. 31-216. Areas of shallow flooding (AO and AH Zones).
Sec. 31-217. Floodways.
Sec. 31-218. Recreational vehicles.
Sec. 31-219. Establishment of variance procedures.
Sec. 31-220. Floodplain management variance and exception criteria.
Sec. 31-221. Conditions for approving floodplain management variances or exceptions.
Sec. 31-222. Conditions for approving exceptions for accessory structures.
Sec. 31-223. Penalties for violation.
Sec. 31-224. Definitions.
Sec. 31-225. Amendments.
Secs. 31-226--31-299. Reserved.

Article V. Telecommunications Towers and Facilities

Sec. 31-300. Purpose.
Sec. 31-301. Definitions.
Sec. 31-302. Application procedures; timing.
Sec. 31-303. General requirements.
Sec. 31-304. Permitted use.
Sec. 31-305. Administrative approval.
Sec. 31-306. Conditional use permit required.
Sec. 31-307. Special exceptions.
Sec. 31-308. Commercial operation of unlawful wireless communications facilities.
Sec. 31-309. Removal of support structure.
Sec. 31-310. Penalty.
Sec. 31-311. Appeals.
Secs. 31-312--31-349. Reserved.

Article VI. Alternative Energy Systems

Division 1. Wind Energy Conversion Systems

Sec. 31-350. Purpose.
Sec. 31-351. Definitions.
Sec. 31-352. Permitted uses.
Sec. 31-353. Administrative permit - small wind energy facilities.
Sec. 31-354. Planned unit development (PUD) district - large wind energy facilities.
Sec. 31-355. General standards for wind energy facilities.
Sec. 31-356. Nonfunctional or non-complying structures.
Sec. 31-357. Operation of unlawful wind energy facility.

Sec. 31-358 Penalty.
Secs. 31-359. Reserved.

Division 2. Solar Energy Systems (SES)

Sec. 31-360. Purpose.
Sec. 31-361. Definitions.
Sec. 31-362. Accessory Solar Energy Systems (ASES).
Sec. 31-363. Solar easements.
Sec. 31-364. Screening.
Sec. 31-365. Accessory solar energy system located in designated local historic districts.
Sec. 31-366. Solar readiness.
Sec. 31-367. Use for advertising.
Sec. 31-368. Permit requirements.
Sec. 31-369. Roof mounted and wall mounted accessory solar energy systems.
Sec. 31-370. Ground mounted accessory solar energy systems.
Sec. 31-371. Solar energy systems as principal uses.
Secs. 31-372--31-399. Reserved.

Article VII. Landscaping

Sec. 31-400. Purpose.
Sec. 31-401. Definitions.
Sec. 31-402. Applicability and conflicts.
Sec. 31-403. Enforcement.
Sec. 31-404. Landscape plans.
Sec. 31-405. Maintenance.
Sec. 31-406. General standards.
Sec. 31-407. Buffers.
Sec. 31-408. Buffer standards.
Sec. 31-409. Sight distance and visibility.
Sec. 31-410. Utility easements.
Sec. 31-411. Administrative remedies.
Sec. 31-412. Exceptions
Sec. 31-413. Penalties
Sec. 31-414. Appeals.
Sec. 31-415. Severability.

ARTICLE I: ZONING CODE

The following article is an ordinance to regulate and restrict the use of land and the location of buildings designed for specific uses; to regulate and limit the height of buildings hereafter erected or altered; to regulate and determine the size and area of yards, courts and other open spaces; to regulate and limit the density of population; to divide the municipality into districts and establish, by reference to a map, the boundaries of said districts for said purposes; to provide for off-street parking and loading; to provide for definitions; to provide for its interpretation and amendments hereto; to provide for its enforcement and providing penalties for violation of its provisions; to provide for a board of adjustment and defining its powers and duties; to provide for conditional use permits, variances, appeals and exceptions; to provide for invalidity of a part; and for repeal of all ordinances or parts thereof in conflict with this ordinance.
(Code 1969, Art. I; G.O. 1393, 4-22-96)

DIVISION 1. IN GENERAL

Sec. 31-001. Short Title.

These regulations contained in this Chapter 31 shall be known and may be cited as the "Zoning Ordinance of St. Joseph, Missouri."
(Code 1969, Sec. 26-020; [Sec. 31-020] G.O. 1393, 4-22-96)

Sec. 31-002. Districts.

For the purpose of promoting health, safety, morals and the general welfare of the community, the city council of the city of St. Joseph finds it necessary to adopt these regulations made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, flooding, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to preserve features of historical significance; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to implement the city comprehensive plan. In furtherance of these purposes, the entire area within the corporate limits of the City of St. Joseph is hereby divided into districts as follows:

(a) Agricultural districts:

(1)	District A-1	General Agricultural District
(2)	District A-OR	Agricultural, Outer Residential District

(b) Residential districts:

(1)	District R-1A	Detached Single-Family Residential District
(2)	District R-1B	Detached Single-Family Residential District
(3)	District R-2	Two-Family Residential District
(4)	District R-3	Garden Apartment Residential District
(5)	District R-4	Apartment Residential District
(6)	District R-5	Mobile Home Park and Mobile Home Subdivision District

(c) Commercial districts:

(1)	District C-0	Nonretail Commercial District
(2)	District C-1	Neighborhood Shopping District
(3)	District C-2	Downtown Business District
(4)	District C-3	Commercial District

(d) Business park districts:

(1)	District B-P(C)	Commercial District
(2)	District B-P(W)	Wholesale Trade and Business Services District
(3)	District B-P(D)	Distribution/Warehousing/Light Manufacturing District

(e) Manufacturing districts:

(1)	District M-1	Light Manufacturing District
(2)	District M-2	Heavy Manufacturing District

(f) Planned unit development districts:

(1)	District RP-1A	Planned Single-Family Residential District
(2)	District RP-1B	Planned Single-Family Residential District
(3)	District RP-2	Planned Two-Family

		Residential District
(4)	District RP-3	Planned Garden Apartment Residential District
(5)	District RP-4	Planned Apartment Residential District
(6)	District RP-5	Planned Mobile Home Residential District
(7)	District CP-0	Planned Non-retail Commercial District
(8)	District CP-1	Planned Neighborhood Shopping District
(9)	District CP-2	Planned General Business District
(10)	District CP-3	Planned Commercial District
(11)	District MP-1	Planned Light Manufacturing District
(12)	District MP-2	Planned Heavy Manufacturing District

(g) Precise plan districts:

(1)	P-1	Downtown Precise Plan District
(2)	P-2	Heartland Hospital Precise Use Plan District
(3)	P-3	North Land Development Precise Plan District
(4)	P-4	(Repealed)
(5)	P-5	Tuscany Precise Plan District
(6)	P-6	Whitehead Plaza Precise Plan District
(7)	P-7	EBR/HRMC Development Precise Plan District
(8)	P-8	Riverside Business Park Precise Plan District
(9)	P-9	Fountain Creek Precise Plan District
(10)	P-10	The Commons Precise Plan District

(h) Overlay districts:

(1) Frank L. Goetz Residence Landmark, 2902 Frederick Avenue
(2) Nelson/Pettis Farmstead Landmark, 4401 Ajax Road
(3) Second Presbyterian Church Landmark, 1122 S. 12th Street
(4) Albert and Flora Goetz Residence Landmark, 2603 Francis Street
(5) Historic District Number One (Hall Street Historic District)
(6) Historic District Number Two (Museum Hill Historic District)

(i) Floodplain and floodway districts:

(Code 1969, Sec. 26-030; [Sec. 31-030] G.O. 1393, 4-22-96; G.O. 2100, 6-6-05; G.O. 2408, 11-1-10)

Sec. 31-003. District map adopted.

Boundaries of the districts, as enumerated in Section 31-002 of this ordinance, are established as shown on a map prepared for that purpose. The map is attached and incorporated herein by reference as fully as if the same were set forth at length, which map is hereby designated as the zoning district map; and said map and all the notations, references and information thereon is hereby made a part of this ordinance. The commission shall keep on file in its office an authentic copy of said map, and all changes, amendments or additions thereto.

When definite distances in feet are not shown on the zoning district map, the district boundaries are intended to extend to existing street, alley or platted lot lines, or extensions of the same. Where the property has been or may hereafter be divided into blocks, and lots, the district boundaries shall be construed to be lot lines, and where the designation on the map accompanying and made a part of this ordinance indicating the various districts are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of such district unless said boundaries are otherwise indicated on the map. If the exact location of such lines is not clear, it shall be determined by the city planner, who will make a decision based on the scale of the zoning district map and/or applicable ordinances along with other means, which shall be at the discretion of the city planner.

When streets or alleys on the ground differ from the streets or alleys as shown on the zoning district map, the city planner may apply the district designations on the map to the streets or alleys on the ground in such a manner as to conform to the intent and purpose of this ordinance.

Whenever a street or alley is dedicated, such street or alley shall be zoned in accordance with Section 31-011automatically void.
(Code 1969, Sec. 26-040; [Sec. 31-040] G.O. 1393, 4-22-96; G.O. 2878, 8-27-18)

Sec. 31-004. Annexation.

Concurrently with the annexation of any land the city shall hold a public hearing to zone the land with an appropriate designation and in conformance with the adopted comprehensive plan. Noticing and hearing procedures shall be in conformance with Section 31-071.
(G.O. 1393, 4-22-96)

Sec. 31-005. Combined application for land use entitlements.

Notwithstanding any other provisions of this title to the contrary, applications for land use entitlements may be combined in one application for purpose of review and approval. In the event of such combination, the reviewing body having final approval over the combined application shall be the highest body in the city which must approve any element to the combined application. Combined applications shall not include appeals, variances or exceptions which must be heard by the board of adjustment.
(G.O. 1393, 4-22-96)

Sec. 31-006. Interpretation, purpose and conflict.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this ordinance to interfere with or annul any existing easements, covenants or other agreements between parties, or any statute, local ordinance or regulation, except that if this ordinance imposes a greater restriction, or higher standard, this ordinance shall control.
(Code 1969, Sec. 26-540; [Sec. 31-540] G.O. 1393, 4-22-96)

Sec. 31-007. Invalidity of a part.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

The city council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared invalid.

(Code 1969, Sec. 26-550; [Sec. 31-550] G.O. 1393, 4-22-96)

Sec. 31-008. Repeal.

All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed insofar as the same are in conflict with the provisions hereof.
(Code 1969, Sec. 26-560; [Sec. 31-560] G.O. 1393, 4-22-96)

Sec. 31-009. Saving clause.

All rights or remedies of the City of St. Joseph are expressly saved as to any and all violations of previous zoning regulations or amendments thereto, of said city that have accrued at the time of the effective date of this ordinance; and to a such accrued violations, the city and the courts shall have all the powers that existed prior to the effective date of this ordinance; and that all existing violations of previous zoning regulations which would otherwise become nonconforming uses under this ordinance shall not become legal nonconforming uses under this ordinance, but shall be violations of this ordinance in the same manner that they were violations of prior zoning regulations.
(Code 1969, Sec. 26-570; [Sec. 31-570] G.O. 1393, 4-22-96)

Sec. 31-010. Definitions.

(a) For the purpose of this ordinance, the following words and terms as used herein are defined to mean the following:

(1) *Accessory structure*: A structure that:

a. Is subordinate to and serves a principal structure;
b. Is subordinate in area, extent or purpose to the principal structure served;
c. Contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure; and
d. Is located on the same lot as the principal structure served.

(2) *Accessory use:* A use of land or of a building or portion thereof which:

a. Is subordinate to and serves a principal use;
b. Is subordinate in area, extent or purpose to the principal use served;
c. Contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal use;
d. Is related to the principal use of the property;
e. Is located on the same lot as the principal use served; and
f. Is not injurious, noxious or offensive to the neighborhood.

(3) *Adult entertainment*: Those uses or places of business which fall under the regulations contained in Chapter 8, Article 10 of the St. Joseph, Missouri Code of Ordinances.

(4) *Agriculture*: The growing of crops, raising of livestock or poultry, or nurseries for the growing of outdoor plants, trees or ornamental shrubs for transplanting or truck gardens for the growing of fruits or vegetables when such practice is carried out on plots of ground of three acres or more.

(5) *Alley*: A public way which is used primarily for vehicular access to the back or side of abutting properties.

(6) *Apartment*: A room or a suite of rooms within an apartment building arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

(7) *Apartment building*: A building arranged, intended or designed for more than two families, on a rental or lease basis.

(8) *Apartment, garden*: An apartment building located on a lot either singly or together with other similar apartment buildings, and which building does not exceed three stories.

(9) *Automobile wrecking*: The collecting and dismantling or wrecking of two or more used vehicles or trailers, or the storage, sale or dumping of two or more dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

(10) *Basement*: That portion of a building which is partially or completely below

grade. A basement shall be considered a story where the finish surface of the floor above the basement is:

a. More than six feet above the average finished grade around the building;
b. More than six feet above the finished ground level for more than 50% of the total building perimeter; or
c. More than 12 feet above the finished ground at any point.

(11) *Bed and Breakfast*: An owner-occupied dwelling or portion thereof, that contains guest rooms where short-term lodging, with or without meals, is provided for compensation.

(12) *Billboard Sign*: Any sign, the principal purpose of which is to convey a message which is neither conducted, rendered, or sold at the property on which the sign is placed.

(13) *Board*: Refers to the zoning board of adjustment of the City of St. Joseph, Missouri.

(14) *Boardinghouse*: A building, other than a hotel, in which are provided sleeping accommodations for rent to more than five persons on either a transient or permanent basis, with or without meals, but without providing kitchens for individual units.

(15) *Brew pub*: An eating and/or drinking establishment where alcoholic beverages are brewed or distilled on-site and served for on-site consumption or packaged retail sales.

(16) *Building*: A structure enclosed within exterior walls or firewalls, and covered by a roof.

(17) *Car lot*: A parcel of land on which automobiles in operable condition are regularly displayed for sale.

(18) *City*: The City of St. Joseph.

(19) *Club*: An association of persons for some common object, jointly supported and meeting periodically.

(20) *Commission*: Refers to the planning commission of the City of St. Joseph, Missouri.

(21) *Conceptual development plan*: A set of drawings and diagrams which depict a proposed development in concept, including site layout, landscaping and architectural themes.

(22) *Conditional use permit*: A discretionary permit approved by the Commission and City Council permitting, with or without additional conditions, a use which may have extraordinary characteristics which may have detrimental impacts to the street, neighborhood or commercial or industrial district.

(23) *Condominium*: Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, such as, yards, fountains, basements, floors, walls, hallways, stairways, elevators and all other related common elements. Each individual particular unit or apartment in such building is owned individually in fee. This kind of ownership is not confined to residential buildings such as apartments, but it also extends to offices and other types of space in commercial buildings.

(24) *Council*: Refers to the City Council of the City of St. Joseph, Missouri.

(25) *Day care home or day nursery home*: A "day care home or day nursery home" is a family home, occupied as a permanent residence by the day care provider, in which family-like care is given for any part of the twenty-four hour day, for compensation or otherwise, to children who are not related to the day care provider and which is licensed by the State of Missouri, except those operated by a school system or in connection with a business establishment as a convenience for its customers and except boarding homes for children.

a. Small day care home is a home which provides day care to four or fewer children under 16 years of age.

b. Large day care home is a home which provides day care to five to ten children under 16 years of age.

(26) *Day nursery center*: A house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than ten children during the daytime, for compensation or otherwise, except those establishments as a convenience for its customers, and except boarding homes for children.

(27) *Director*: Refers to the director of community services of the City of St. Joseph, Missouri.

(28) *Dwelling*: A building or portion thereof, designed exclusively for residential occupancy, but not motels, hotels or travel trailers.

(29) *Dwelling, one-family detached*: A building containing one detached dwelling unit.

(30) *Dwelling, two-family detached*: A building containing no more than two dwelling units.

(31) *Dwelling, multiple*: A building containing more than two dwelling units.

(32) *Easement*: A right-of-way granted, but not dedicated, for limited specific use of private land for a public, quasi-public or private purpose and within which the owner of the property shall not erect any permanent structures.

(33) *Exception*: A special permit granted by the board of adjustment or landmark commission, as the case may be, to deviate from certain specified standards and to allow certain specified uses of land following a hearing and making the required findings. Deviating from the specified standards and uses are generally not detrimental to a neighborhood or area by themselves but may be if uncontrolled.

(34) *Family*: One or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of unrelated persons of not more than eight (excluding servants) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities.

(35) *Farmers markets*: A regular periodic sales activity held within a building, structure or open area where groups or individual sellers offer the sale of fruits, vegetables or other goods commonly produced on farms or home gardens.

(36) *Flea markets*: Any place where two or more persons occupy individual stands for the purpose of buying, selling, trading or exchanging personal property, and not to include garage sales.

(37) *Foster care home*: A private residence licensed by the division of family services or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, adoption, or marriage.

(38) *Garage, commercial*: A building or portion thereof, other than a private garage, or car wash, designed or used for servicing, repairing or equipping motor-driven vehicles including major and minor mechanical repair, and excluding paint and body work. Overnight storage of vehicles to be worked on the next day is allowed.

(39) *Garage, private*: An enclosed building for the storage of motor vehicles with no provisions for repairing or servicing such vehicles for profit.

(40) *Garage sales*: A sale of personal property conducted at any resident dwelling or group of dwellings. Garage sales are regulated by the provisions contained in Chapter 23, Article I, of the St. Joseph, Missouri, Code of Ordinances.

(41) *Garage, storage*: A building or portion thereof, except those defined as a private or a commercial garage, providing storage for more than four motor vehicles.

(42) *Group home for mentally or physically handicapped*: A building or portion thereof designed or used for the purpose of providing twenty-four hour a day residential living accommodations pursuant to the adopted building, house and fire codes, in exchange for payment of money or other consideration, where the tenants are afflicted with a mental or physical handicap requiring monitored care.

(43) *Height of buildings or structures*: The vertical distance from the average finished grade adjoining the building to the average height of the highest roof surface (see Appendix, pp. 109-112, for illustration).

(44) *Heliport*: An area, either at ground level or elevated on a structure, to be used for the landing, takeoff, parking and maintenance of helicopters and is not limited to parking areas, maintenance facilities, fuel storage facilities and passenger waiting rooms.

(45) *Helistop*: A helistop is a heliport for the landing and take-off of helicopters, but without maintenance facilities, passenger waiting rooms and fuel storage facilities.

(46) *Home occupation*: An accessory use carried out by the occupants for compensation in a residential dwelling unit.

(47) *Hotel*: A facility offering transient lodging accommodations on a daily rate to the general public.

(48) *Household pets*: Small animals commonly found in residential areas such as chickens, ducks, geese, rabbits, dogs and cats, but excluding bovine or equine animals, goats, sheep, or swine. This code does not regulate the keeping of small household pets such as fish, birds or rodents. Other non-dangerous animals as specified in Sec. 5.3, Dangerous and prohibited animals, may be permitted pursuant to these regulations.

(49) *Indirect illumination*: The process of lighting a surface by use of electrical lights whereby the source of the light is not exposed to view.

(50) *Junk*: Means old, dilapidated, abandoned or scrap rubber metal, paper, plastic, glass, appliances, furniture, beds, debris, waste, dismantled or wrecked vehicles, or parts thereof.

(51) *Junkyard*: Means an establishment, area or place of business maintained, operated or used for the storing, keeping, buying or selling of junk or for the operation of a motor vehicle junkyard as defined in Chapter 23, Article IV, of the St. Joseph, Missouri, Code of Ordinances.

(52) *Landmark Commission*: Refers to the landmark commission of the City of St. Joseph.

(53) *Lodging house*: (Equivalent to "Boarding House".)

(54) *Lot*: A legal lot of record or a parcel of land approved in accordance with the procedures set forth in Chapter 26, Subdivision Regulations, of this Code of Ordinances, intended to be separately owned, developed and otherwise used in accordance with the provisions of this chapter (see Appendix, pp. 109-112, for illustration).

(55) *Lot, corner*: A lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an interior lot (see Appendix, pp. 109-112, for illustration).

(56) *Lot, depth*: The average distance from the front lot line to the rear lot line (see Appendix, pp. 109-112, for illustration).

(57) *Lot, flag*: A lot having access to a street by means of a private driveway or lot which does not meet the lot width requirements of this chapter.

(58) *Lot, interior*: A lot which is not a corner lot (see Appendix, pp. 109-112, for illustration).

(59) *Lot, reverse corner*: A corner lot whose front lot line faces at right angles to the

front lot lines of the interior lots or whose rear lot line abuts the side lot lines of adjacent interior lots (see Appendix, pp. 109-112, for illustration).

(60) *Lot, non-conforming*: A lot which does not comply with one or more requirements of the regulations contained in this Code of Ordinances.

(61) *Lot, through*: An interior lot having frontage on two streets (see Appendix, pp. 109-112, for illustration).

(62) *Lot lines*: The lines bounding a lot (see Appendix, pp. 109-112, for illustration).

(63) *Lot line, front*: On an interior lot, the lot line abutting a street; on a corner lot, the shorter lot line abutting a street; on a through lot, the lot line abutting the street providing primary access; or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained (see Appendix, pp. 109-112, for illustration).

(64) *Lot line, rear*: The boundary line which is opposite and most distant from the front lot line. A lot bounded by three lot lines will not have a rear lot line (see Appendix, pp. 109-112, for illustration).

(65) *Lot line, side*: Any lot line which is not a front or rear lot line (see Appendix, pp. 109-112, for illustration).

(66) *Lot of record*: A parcel of land shown with a separate and distinct number or letter on an official map in the office of the recorder of Buchanan County or a parcel of land shown as separate and distinct from contiguous property upon a map approved by the council, commission or director in the manner provided by ordinance, or a lot which is part of a subdivision, the plat of which has been duly recorded.

(67) *Lot width*: The horizontal distance between side lot lines measured at the minimum front setback line.

(68) *Main building*: A building in which the principal use or uses of the premises are contained.

(69) *Manufactured homes*: A factory-built structure that is manufactured or constructed under the authority of 42 United States Code Sec. 5401 and is to be used as a place for human habitation but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home.

(70) *Marijuana* or *Marihuana* means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. *Marijuana* or *Marihuana* do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

(71) *Marijuana-infused products* means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures, and concentrates.

(72) *Materials:* Any organic or inorganic item, either wholly or partially manufactured, fabricated, processed or raw, including but not limited to, animal, vegetative or earthen items; brick; concrete; glass, metal, plastic, porcelain, rock, steel and wood.

(73) *Medical marijuana cultivation facility* means a facility licensed by the State of Missouri, to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(74) *Medical marijuana dispensary facility* means a facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(75) *Medical marijuana-infused products manufacturing facility* means a facility licensed by the State of Missouri to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(76) *Medical marijuana facility* means any building or parcel of land on which a medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, or medical marijuana testing facility is located, or on which medical marijuana is grown, processed, or distributed for commercial purposes.

(77) *Medical marijuana testing facility* means a facility certified by the State of Missouri to acquire, test, certify, and transport marijuana.

(78) *Mobile homes (or trailers)*: A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

(79) *Mobile home park*: A parcel of land (zoned R-5) wherein two or more mobile homes as herein defined are located, whether for or without compensation and shall include all accessory buildings. Mobile home park shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for the purpose of inspection and sale.

(80) *Modular home*: Factory-built housing bearing the seal issued by the Missouri Public Service Commission indicating compliance with the State of Missouri Modular Standards and Regulations for modular homes.

(81) *Motel*: (Equivalent to "Hotel.")

(82) *Motor hotel*: (Equivalent to "Hotel.")

(83) *Nonconforming use or building*: A use or building which does not comply with the regulations of the district or districts in which it is situated at the time of the passage of this ordinance.

(84) *Nursing or convalescent home*: The term "nursing" or "convalescent" home means a private home, institution, building, residence or other place, whether operated for profit or not, which provides, through its ownership or management, maintenance, personal care or nursing for three or more individuals not related to the operator, who by reason of illness, physical infirmities or advanced age are unable to care completely for themselves; or provides sheltered care to three or more individuals not related to the operator, which includes treatment or services which meet some need of the individual beyond the basic requirements for food, shelter and laundry.

(85) *Off-heliport landing site*: A take-off and landing area intended for emergency or temporary helicopter use and having no auxiliary facilities.

(86) *Parking lot*: A parcel of land devoted to unenclosed parking spaces.

(87) *Place*: An open, unoccupied space other than a street or alley, at least 20 feet in width, permanently reserved or granted by a recorded instrument in writing as the principal means of access to all abutting or adjacent property.

(88) *Planned Unit Development*: An area to be planned, developed, and maintained

with a common architectural and landscaped theme.

(89) *Porch*: A roofed, open area usually attached to or part of and with direct access to or from a building. A porch becomes a room when the space enclosed is heated or air conditioned or if glazed.

(90) *Recreational vehicle*: A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. Recreational vehicle includes, but is not limited to, trailers, motor coach homes, converted trucks, busses or vans, and boats and boat trailers.

(91) *Recycling center*: A facility where post-consumer recyclable material, such as cans, bottles, etc., is collected, separated and/or processed and stored in containers or a building prior to shipment to other facilities.

(92) *Residential care facility*: A building or portion thereof designed or used for the purpose of providing twenty-four-hour-a-day residential living accommodations pursuant to the adopted building, housing and fire codes, in exchange for payment of money or other consideration, where the duration of tenancy is determined, in whole or in part, by the individual tenant's participation in group or individual activities such as counseling, recovery planning, medical or therapeutic assistance. Residential care facilities include, but are not limited to, residential care facilities for the elderly, alcoholism, or drug abuse recovery or treatment facilities, and other similar care facilities.

(93) *Ringelmann Chart*: A chart published and used by the United States Bureau of Mines to measure smoke and particulate matter emissions.

(94) *Row House*: (Equivalent to "Townhouse.")

(94) *Salvage yard*: An area used for the sale or storage of secondhand building materials and supplies and other secondhand merchandise and materials which are not housed in a building.

(96) *Setback*: The required minimum distance between the lot line and the nearest front, side or rear building line.

(97) *Shipping container*: An intermodal freight container or other large container, in whole or in part, designed and manufactured for the reusable storage and transport of materials and products across different modes of transportation – from ship to rail to truck – without unloading and reloading its cargo.

(98) *Sight-obscuring fence*: An assembly with pickets, balustrades, posts or other opaque members of a density greater than 50% of the total assembly.

(99) *Sign*: Any device, fixture, placard or structure that uses color, form, graphics, symbol, writing or illumination to advertise, announce the purpose of, identify, call attention to or communicate information of any kind to the public. Specific sign regulations are contained in Article II of this zoning ordinance.

(100) *Small house:* A structure not less than 128 square feet and not to exceed 900 square feet and not exceeding two stories in height and intended for use as a permanent, single family residence. The structure must be connected to public utilities (electric, water and sewer). A manufactured home, mobile home or travel unit as defined in this section are not considered a small house.

(101) *Small house development:* Any development, site, parcel or tract of land designated, maintained or intended to be used for the purpose, placement or construction of a small house, as defined in this section.

(102) *Stable, private*: An accessory building in which animals are kept for private use by the occupants of the premises and not for remuneration, hire or sale.

(103) *Stable, public*: A structure in which animals are housed, boarded, kept for

remuneration, or used for pleasure riding or driving.

(104) *Story*: That portion of a building included between a floor and the floor or ceiling next above it.

(105) *Street*: A public or private way which provides principal means of vehicular access to property abutting it.

(106) *Street line*: The property line between the street and the abutting property.

(107) *Street width*: The average distance across any street between intersections.

(108) *Structure*: Anything constructed or erected, including, but not limited to, signs and gasoline pumps, and excepting pavement and utility poles.

(109) *Structural alterations*: A modification of or addition to the supporting members of a building, such as bearing walls, columns, beams or girders.

(110) *Tiny house*: See "small house."

(111) *Townhouse*: A dwelling project consisting of three or more individual dwelling units arranged in a row where units share a common wall.

(112) *Trailer court*: (Equivalent to "Mobile Home Park.")

(113) *Transient*: Any individual who occupies or is entitled to occupancy for a period of 30 consecutive calendar days or less.

(114) *Travel trailer*: (Equivalent to "Recreational Vehicle").

(115) *Usable rear yard area*. That area bounded by the rear lot line(s) and the rear building lines extended to the side lot lines.

(116) *Variance*: Relief from or variation of the provisions of these regulations, other than use regulations, which shall be applied only to a specific piece of property. Use regulations may be altered only by amendment to the zoning ordinance. Variance procedures are contained in Section 31-092.

(117) *Vehicle*: Any mechanical device on wheels designed primarily for use, or used, on streets or highways, except motorized bicycles, vehicles propelled or drawn by horses, or human power, or vehicles used exclusively on fixed rails or tracks, cotton trailers or motorized wheelchairs operated by handicapped persons.

(118) *Vehicle storage lot*. A commercial establishment, place of business or area maintained and operated or used for the storage of vehicles in operable or non-operable condition, outside an enclosed building. Areas used for the sale of vehicles in operable condition are specifically exempt from this definition. Nothing in this definition shall be construed to prohibit an otherwise permitted accessory use defined in this code.

(119) *Yard*: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided.

(120) *Yard, front*: A yard across the full width of the lot from the front line of the main building to the front line of the lot (see Appendix, pp. 109-112, for illustration).

(121) *Yard, rear*: A yard across the full width of the lot from the rear line of the main building to the rear line of the lot (see Appendix, pp. 109-112, for illustration).

(122) *Yard, side*: A yard between the side line of the main building and the adjacent side line of the lot and extending entirely from the front yard to the rear yard (see Appendix, pp 109-112, for illustration). (b) In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.

(c) Words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; words in the masculine gender include the feminine gender; the word "building" includes

the word "structure"; the word "lot" includes the word "plot"; the word "shall" or the word "must" is mandatory; the term "used for" includes the meaning "designed for" or "intended for". Any terms not herein defined shall be construed as defined in the building code of the City of St. Joseph, Missouri.

(d) Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items or provisions shall apply;

(2) "Or" indicates that the connected items or provisions shall apply;

(3) "Either ... or" indicates that the connected items or provisions shall apply singly but not in combination.

(e) All public officials, bodies, and agencies to which reference is made are those of the City unless otherwise indicated.
(Code 1969, Sec. 26-010; G.O. 774, 3-19-90; G.O. 1061, 2-1-93; G.O. 1146, 1-31-94; G.O. 1393, 4-22-96; G.O. 1680, 3-22-99; G.O. 1692, 5-3-99; G.O. 2860, 7-2-18; G.O. 2910, 4-22-19)

Sec. 31-011. Right-of-ways zoning.

(a) Except as may be preempted by applicable law, all right-of-ways within the city are hereby zoned R-1A detached single-family residential district except for any right-of-ways that are not within property zoned residential. Right-of-ways not within property zoned residential are hereby zoned from their boundaries to the centerline of the right-of-ways with the zoning district designation as the lot, parcel, or tract abutting the one-half right-of-way. Provided that no use otherwise authorized in such zoned district shall be permitted in the right-of-ways that is not specifically authorized by the city's right-of-ways regulations.

(b) Whenever any right-of-way is vacated, the zoning designation adopted by subsection (a) shall not apply and the particular district in which the adjacent property lies shall be extended to the centerline of the vacated right-of-way.

(c) The director of planning and community development, or his or her designee, shall periodically update the zoning district map to reflect the zoning designations ascribed to the right-of-ways and vacated right-of-ways by this section.
(G.O. 2878, 8-27-18)

Sec. 31-012. Medical marijuana facilities.

(a) No medical marijuana facilities may be operated or maintained within 300 feet of any elementary or secondary school, child day-care center that is licensed by the State of Missouri, or church.

(b) No medical marijuana facilities may be operated or maintained within 500 feet of any establishment licensed under Article X of Chapter 8 of this code.

(c) No medical marijuana facilities may be operated or maintained within 500 feet of another medical marijuana facility with a like license except when medical marijuana sales represent less than 5% of the dollar volume of business in a state or federally licensed pharmacy or when the medical marijuana facilities share the same ownership.
(G.O. 2910, 4-22-19)

Secs. 31-013 - 31-014. Reserved.

DIVISION 2. DISTRICT REGULATIONS*

Sec. 31-015. General requirements*

(a) No building, structure or land shall be used for any purpose other than as permitted in the district in which such building, structure or land is situated.

(b) Except as otherwise provided by the board of adjustment:

(1) No building or structure shall be erected, constructed, reconstructed, moved or altered other than is permitted in the district in which such building or structure is situated.

Editor's note: G.O. 2086, passed 3-28-05 renumbered Sec. 31-020 "General requirements" to Sec. 31-015 and moved Div. 2 "District regulations" before Sec. 31-015 instead of 31-020.

(2) No building or structure shall be erected, constructed, reconstructed, moved or altered, to exceed the height or area limit, or diminish the yard or parking requirement herein established for the district in which such building or structure is located.

(3) No lot area shall be reduced or diminished so that the yards or other open space shall be smaller than prescribed by these requirements; nor shall the density of population be increased in any manner, except in conformity with the area regulations established herein.

(c) Every building hereafter erected or altered and every main use hereinafter permitted shall be located on a lot as herein defined, and in no case shall there be more than one main building or use and the accessory buildings or uses customarily incidental thereto on one lot in all zones except planned development zones for which a conceptual development plan has been approved.
(Code 1969, Sec. 26-050; G.O. 1147, 1-31-94; [Sec. 31-050] G.O. 1272, 3-27-95; G.O. 1393, 4-22-96]

Secs. 31-016 - 31-017. Reserved.

Sec. 31-018. A-1 general agricultural district.

USE REGULATIONS

(a) *Purpose.* The purpose of the A-1 General Agricultural District is to provide locations for the furtherance of agriculturally-oriented activities, and to prevent premature development of areas anticipated to be prime land for agricultural or other future uses.

(b) In A-1 districts, no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in A-1 districts:

(1) Agricultural operations, including, animal boarding (except for dog kennels); apiary farms; chicken and poultry farms; dairies and dairy farms; farms; fur farms; and pastures for grassland and livestock grazing.

(2) Airports and landing strips (private).

(3) Billboards.

(4) Broadcasting stations and studios, including radio and television.

(5) Circuses, carnivals or block parties may be permitted as a temporary use not to exceed four days only if it can be shown that appropriate parking exists.

(6) Single-family dwellings with a minimum lot size of 20.0 acres.

(7) Irrigation facilities, canals, and reservoirs.

(8) Lakes and ponds.

(9) Parks, parkways, boulevards, wildlife reserves, and passive recreation areas (public and private).

(10) Signs as provided in Article II of this chapter.

(d) Conditionally permitted uses. The following uses may be conditionally allowed provided they obtain a Conditional Use Permit in accordance with Section 31-070:

(1) Aviaries; feed yards or lots; animal pounds/dog pounds; animal humane societies; animal training services; and kennels. Kennels shall be located no closer than 200 feet to any lot line or 400 feet from any dwelling not located on the premises.

(2) Residential uses, including beds and breakfast; childcare centers for more than 10 children; and single-family dwellings with a lot size of from 3.0 to 19.99 acres.

(3) Group living facilities, including asylums; bunk houses; convalescent homes; convents; homes for the physically and mentally handicapped; juvenile detention, jails, and prisons; maternity homes; orphanages; and retirement, assisted living, and nursing homes.

(4) Religious, educational, and social facilities, including art museums; charities; houses of worship; colleges and universities (public and private); educational and scientific research services; libraries; meeting halls; museums; and schools (public and private) for primary, secondary, vocational, and higher education.

(5) Public health and safety facilities, including armed forces installations, armories, clinics, fire houses, health centers, hospitals, and police stations.

(6) Recreation and entertainment uses, including amphitheaters; archery ranges; athletic fields, play fields, and play grounds (public and private); baths (mineral springs); beaches; auditoriums; docks; drive-in theaters; fairgrounds; coliseums, fiestas; golf clubs and golf courses; gymnasiums; gun clubs; recreation centers; opera houses; and stadiums.

(7) Transportation, communication, and utility facilities, including public airports and landing strips, including heliports; comfort stations; electrical power plants (including atomic energy) and substations; landfills licensed by the State of Missouri; rail lines and spurs; postal services; sewage treatment plants; telephone exchange stations and relay towers; towers for communication transmission; and wharves.

(8) Other service uses, including ammunition shell reloading, but not ammunition manufacturing and storage; cemeteries, including pet cemeteries; crematoria, including pet crematoria; flea markets; funeral houses; sawmills and planing mills; storage outdoors of vehicles and equipment in operable condition and not

for salvage; and storage units for indoor storage rental.

(e) *Height and Area Regulations*. In A-1 districts, the maximum height of buildings, the minimum dimensions of lots and yards, and the minimum lot area permitted for any lot, shall be as follows. (For exceptions see Section 31-055.) Regardless of use, no building shall be constructed within any intersection visibility triangle as defined in the zoning ordinance appendix.

(1) *Height*. No maximum building height is required.

(2) *Front yard*. The minimum front yard setback for all buildings, including but not limited to dwellings, shall be 50 feet, except for farming structures in which case no minimum setback is required.

(3) *Side yard*. The minimum side yard setback from the property line or right-of-way line shall be 15 feet, except for farming structures in which case no minimum setback is required.

(4) *Rear yard*. The minimum rear yard setback from the property line or right-of-way line shall be 75 feet, except for farming structures in which case no minimum setback is required.

(5) *Minimum lot area*.

a. For permitted uses: farming and agricultural uses, 40.0 acres; dwellings, 20.0 acres; and other permitted uses, 3.0 acre.
b. For conditional uses: Schools, 5.0 acres; dwellings, 3.0 acres; and other conditional uses, 3.0 acre.

This regulation shall not prohibit the construction of a detached single-family dwelling with permitted accessory uses for any legal lot of record with less than 3.0 acres as of the effective date of this ordinance, provided that it meets the minimum lot requirements for permitted sanitary sewage disposal.

(6) *Minimum lot width*. The minimum lot width shall be 200 feet, except for lots used for farming activities in which case no minimum lot width is required. This regulation shall not prohibit the construction of a detached single-family dwelling with permitted accessory uses for any legal lot of record with a lot width of less than 200 feet as of the effective date of this ordinance.

(7) *Parking regulations*. (See Section 31-053 Off-street parking and loading.)

(G.O. 2086, 3-28-05; G.O. 2351, 11-2-09)

Sec. 31-019. A-OR agricultural, outer residential district.

USE REGULATIONS

(a) *Purpose*. The purpose of the A-OR Agricultural, Outer Residential District is to permit a combination of rural residential living with animal husbandry as defined in this section.

(b) In A-OR districts, no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in A-OR districts:

(1) Pastures for grassland and livestock grazing.

(2) Single-family dwellings, other than mobile homes.

(3) Animal husbandry in conjunction with a single-family dwelling and with the following limitations:

a. Animal husbandry in conjunction with a dwelling shall include the maintenance of no more than the following number of animals per acre: one horse; or one cow; or five hogs; or seven sheep; or ten dogs and cats; or one hundred poultry, rabbits, chinchillas, guinea pigs, or pigeons. For the purposes of this calculation, only the acreage above and beyond one acre for any residence shall be included.
b. The slaughter of animals, such as poultry, rabbits or beef cattle is permitted only where intended for

consumption by the resident family or to be gifted.

c. Animals other than household pets shall not be kept within a residence, nor within one hundred (100) feet of a residence or within sixty (60) feet of the front property line of the building site.

d. Housing or caging of animals shall be adequate and sanitary, and subject to all State health requirements for health and sanitation. All animal food except hay and straw shall be stored in rodent-proof containers.

Should any land zoned A-OR Agricultural, Outer Residential be rezoned to any other zoning classification in which animal husbandry is not a permitted use, any such use therein shall cease within one year from the effective date of the rezoning.

(4) Private, non commercial swimming pools, provided they meet the area requirements of Section 31-021(e).

(5) Parks and parkways, boulevards, wildlife areas, and passive recreation areas (public and private).

(d) Conditionally permitted uses. The following uses may be conditionally allowed provided they obtain a Conditional Use Permit in accordance with Section 31-070 of the Zoning Ordinance:

(1) Commercial animal boarding including dog kennels; animal humane societies; animal pounds/dog pounds; grain elevators; and lakes and ponds.

(2) Beds & breakfast.

(3) Group living facilities, including asylums; convents; homes for the physically and mentally handicapped; juvenile detention, jails, and prisons; and orphanages.

(4) Religious, educational, and social facilities, including art museums; charities; houses of worship; colleges and universities (public and private); libraries; meeting halls; music instructors; museums; and schools (public and private) for primary, secondary, vocational, and higher education.

(5) Public health and safety facilities, including armed forces installations, clinics, fire houses, health centers, hospitals, and police stations.

(6) Recreation and entertainment uses, including amphitheaters; athletic fields (public and private); auditoriums; beaches; community recreation centers; docks; drive-in theaters; fairgrounds; coliseums; fiestas; golf clubs and golf courses; gymnasiums; play grounds; opera houses; stadiums; and public swimming pools.

(7) Transportation, communication, and utility facilities, including public airports and landing strips, including heliports; electrical power plants and substations; landfills licensed by the State of Missouri; postal services; sewage treatment plants; telephone exchange stations and relay towers; towers for communication transmission; and public wharves.

(8) Other service uses, including architectural, engineering, and consulting firms; cemeteries, including pet cemeteries; crematoria, including pet crematoria; flea markets; and funeral homes.

(e) Height and Area Regulations. In A-OR districts, the maximum height of buildings, the minimum dimensions of lots and yards, and the minimum lot area permitted for any lot, shall be as follows. (For exceptions see Section 31-055.) Regardless of use, no building shall be constructed within any intersection visibility triangle as defined in the zoning ordinance appendix.

(1) *Height*. The maximum building height shall be 35 feet or two and a half stories.

(2) *Front yard*. The minimum front yard setback shall be 50 feet, except for accessory structures as provided for in Section 31-050 of the zoning ordinance.

(3) *Side yard*. The minimum side yard setback from the property line or right-of-way line shall be 15 feet, except for accessory structures as provided for in Section 31-050 of the zoning ordinance.

(4) *Rear yard*. The minimum rear yard setback from the property line or right-of-way line shall be 75 feet, except for accessory structures as provided for in Section 31-050 of the zoning ordinance.

(5) *Minimum lot area*.

a. For permitted uses: 3.0 acre.
b. For conditional uses: Schools, 5.0 acres; and other conditional uses, 3.0 acre.

This regulation shall not prohibit the construction of a detached single-family dwelling with permitted accessory uses for any legal lot of record with less than 3.0 acres as of the effective date of this ordinance, provided that it meets the minimum lot requirements for permitted sanitary sewage disposal.

(6) *Minimum lot width*. The minimum lot width shall be 200 feet. This regulation shall not prohibit the construction of a detached single-family dwelling with permitted accessory uses for any legal lot of record with a lot width of less than 200 feet as of the effective date of this ordinance.

(7) *Parking regulations*. (See Section 31-053 Off-street parking and loading.)

(G.O. 2086, 3-28-05; G.O. 2351, 11-2-09)

Sec. 31-020. R-1SH Single family/small house residential district.

(a) *Purpose.* This is a residential district intended for single-family small houses under 900 square feet. The principal use of the land is for single-family detached dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.

(b) *Permitted Uses*. The following uses shall be permitted in R-1SH single family/small house residential districts:

(1) Small house.

(c) Conditionally permitted uses are:

(1) The same as in a single family residential district.

(2) Construction or placement of a small house on an existing lot not meeting current minimum lot sizes. Compliance with all setbacks is required.

(d) New developments. Require platting or re-platting of the property under standard platting/re-platting guidelines for developments containing two or more lots.

(e) Height, setback, yard and area requirements are as follows:

(1) Minimum lot width is a lot 30 feet of street frontage and a corner lot 40 feet.

(2) Minimum lot depth 75 feet.

(3) Minimum lot area 2,250 square feet.

(4) Minimum yards.

a. Front yard. No building shall be located within 25 feet of the front property line. No building shall be located in the front yard between the primary building and the front property line.
b. Side yard.

1. Interior lots. No building shall be located within seven feet of any side property line. No accessory building shall be located within five feet of any side property line.
2. Corner lots. No building or accessory building shall be located within 15 feet of the side street right-of-way. No building

shall be located within seven feet of the interior side property line. No accessory building shall be located within five feet of the interior side property line.

c. Rear yard. No building shall be located within 25 feet of the rear property line. No accessory building shall be located within three feet of any rear property line.

(5) The following sections shall be the same as those listed in R-1A single family residential district

a. Intensity of use
b. Minimum open space
c. The combined area of detached accessory buildings shall not exceed the area of the first floor of the dwelling.

(f) *Minimum requirements*. The following are minimum requirements for small house construction and placement:

(1) *Height*. Maximum structure height two stories or 30 feet.

(2) *Living space*. Maximum square footage including all floors 900 square feet and minimum square footage including all floors 128 square feet.

(3) *Foundation*. Must be a continuous frost proof footing.

(4) *Anchor*. House must be anchored to withstand minimum 90 mph wind load.

(5) *Roof*. Must be pitched roof constructed of composite shingles.

(6) *Building code*. Storage buildings or sheds converted to small houses are not accepted and the units must have characteristics of a typical home.

(7) *Parking regulations*. (See Section 31-053 Off-street parking and loading.)

(G.O. 2861, 7-2-18)

Sec. 31-021. R-1A detached single-family residential district.

USE REGULATIONS

(a) *Purpose*. The R-1A districts are intended to create, preserve and enhance areas suitable for detached single family dwellings at low densities in order to:

(1) Enhance the identity of residential neighborhoods;

(2) Ensure provision of light and air to individual residential parcels;

(3) Maintain spatial relationships between structures and within neighborhoods; and

(4) Reinforce the predominantly low intensity setting of R-1A districts.

(b) In District R-1A no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in R-1A districts:

(1) Detached, single family dwellings.

(2) Accessory uses customarily incidental to permitted uses and otherwise conforming with the provisions contained in Section 31-050.

(3) Agricultural type uses provided that:

a. Horticulture, gardening and the growing of food products for retail or commercial purposes shall only take place on lots three acres or greater in size.
b. The raising or keeping of livestock shall be in conformance with the provisions contained in Chapter 5, Article III and shall only take place on lots greater than three acres in size.

(4) Circuses, carnivals or block parties may be permitted as a temporary use not to exceed four days only if it is associated with an otherwise permitted or

conditionally permitted use, and it can be shown that appropriate parking exists.

(5) Foster care home.

(6) Home occupations when accessory to permitted uses and as provided for in Section 31-051.

(7) Keeping of household pets.

(8) Manufactured homes in accordance with Section 31-052.

(9) Private stables which are in conformance with the provisions contained in Chapter 5, Article II and shall only take place on lots greater than three acres in size. Two horses may be permitted for the first three acres of lot area. One additional horse may be kept for each additional 2,500 square feet of lot area. Further, no horse barn or shed shall be closer than 100 feet from any habitable dwelling.

(10) Private swimming pools meeting the criteria established in this section.

(11) Publicly owned parks and playgrounds, including public recreation or service buildings and swimming pools within such parks, public administrative buildings, police and fire stations, provided no building shall be closer than 30 feet to a property line and no public swimming pool shall be closer than 100 feet to a property line.

(12) Signs as provided in Article II of this chapter.

(13) Small day care homes or small day nursery homes.

(14) Temporary real estate sales office, located on a subdivision, or property being sold and limited to period of sales not in excess of two years.

(15) Utility facilities essential to provision of utility services to the neighborhood but excluding business offices, construction and storage yards, maintenance facilities or corporate yards.

(16) Residential group homes for eight or fewer persons with a mental or physical handicap, related or unrelated to each other, and up to two additional houseparents or guardians, related or unrelated to each other or the residents, providing such residential group home is not located within 2,000 feet of another group home, and providing the exterior of the home is in general conformity with the exterior appearance of the adjacent neighborhood.

(d) *Conditionally permitted uses*. The following uses may be conditionally allowed provided they meet the provisions of and a Conditional Use Permit is issued in accordance with Section 31-070:

(1) Agricultural uses not otherwise permitted.

(2) Private athletic fields.

(3) Aviation fields and landing strips provided written approval shall first be received from the Federal Aviation Administration. Further provided written notice has been sent to all property owners within 300 feet of the centerline of each runway extended 1,000 feet beyond each end of the runway. Further, a minimum of 20 acres of land is required.

(4) Bed and breakfast establishments, boarding homes, fraternity and sorority houses.

(5) Cemeteries, mausoleums or crematories for the human dead, including accessory chapels and maintenance facilities.

(6) Churches, synagogues and temples.

(7) Clubs.

(8) Commercial picnic groves, campgrounds or fishing lakes, including incidental concession facilities for patrons only.

(9) Community buildings, museums, libraries, art galleries and art centers.

(10) Day nursery center serving more than ten children at one time.

(11) Golf courses and clubhouses appurtenant thereto, (except miniature golf courses,

driving ranges and other similar activities operated as a business), provided no clubhouse or swimming pool shall be closer than 100 feet to a property line.

(12) Group homes for the mentally or physically handicapped, where more than eight such residents, excluding caregivers, will reside, and residential group homes as defined in Subsection 31-021(c)(16) when located within 2,000 feet of another group home, provided the exterior of the home is in general conformity to the exterior appearance of the adjacent neighborhood.

(13) Helistops and off-heliport landing site in conjunction with a hospital, penal institution or other like use.

(14) Hospitals or penal or correctional institutions, provided such uses are located on a site of not less than 20 acres and provided no building or structure located on such site shall be closer than 150 feet to a property line.

(15) Kennels.

(16) Large day care home or day nursery home.

(17) Nursery sales. A sales office or greenhouse (wholesale or retail) may be permitted as an accessory use provided no such office or greenhouse shall be closer than 100 feet to a dwelling in other ownership at the time of the passage of this ordinance.

(18) Parking lots for permitted or conditionally permitted uses within this district on land with a more restrictive zone classification when such land is adjacent to and within 200 feet of the main lot.

(19) Public and private schools, day care centers, preschools, elementary schools, high schools, colleges and universities, and private schools with curriculum equivalent to that of a public school, including stadiums and dormitories in conjunction therewith, if located on the campus, provided no building shall be closer than 50 feet to a property line.

(20) Public service and public utility uses including telecommunication towers and related facilities, water reservoirs, water standpipes and elevated and ground level water storage tanks.

(21) Public stables and tracks.

(22) Radio, television and telecommunications towers and facilities pursuant to Article V of this chapter.

(23) Railroad rights-of-way, not including railroad yards.

(24) Reservoirs, water treatment plants or buildings, structures and premises for public utility purposes provided such use shall be fenced, landscaped and maintained, and shall be screened by planting from any adjoining property zoned for residential purposes.

(25) Swimming pools - Commercial, including swimming clubs, provided no portion of such use shall be closer than 200 feet to a dwelling or subdivision of record in the office of the Buchanan County Recorder of Deeds and further provided that no portion of such swimming pool shall be closer than 100 feet to a property line.

(26) Taxidermy (the art of lifelike representation of animals by means of their prepared skins).

(27) An existing building to be used for other than the use for which the district is zoned, provided, the permit shall be for a particular use only, and after the use is violated or discontinued, the building can again only be used for the class of uses for that district as shown on the official district zoning map; also, provided, that the exterior of the building may be altered but only to the extent that such alterations are specified in the permit.

(28) An existing building to be used for multi-unit housing provided; each unit, created or existing, shall meet the building codes of the City of St. Joseph; the prohibition against vacating shall not apply to permits granted to owners of such multi-unit housing who will regularly rent or lease such building for occupancy by residential tenants; and the said prohibition shall be in full force and

effect if the owner shall cease to rent or lease to residential tenants.

(e) *Height and Area Regulations*. In District R-1A the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per unit permitted on any lot, shall be as follows: (For exceptions see Section 31-055.)

(1) *Height*. Buildings or structures shall not exceed 35 feet, or two and one-half stories in height.

(2) *Front yard*. The minimum front yard area shall be measured from the centerline of the fronting street right-of-way as follows, but in no case shall the front yard setback be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. The minimum side yard setback shall be seven feet. On the street side of a corner lot, the minimum side yard area shall be measured from the centerline of the adjacent street as follows: (For reverse corner lots, see Section 31-055.)

Local street	32 ft.
Collector street	37 ft.
Arterial	49 ft.
Parkway or boulevard (not designated as collector or arterial	82 ft.
Expressway or Freeway	157 ft.

(4) *Rear yard*. The minimum rear yard setback shall be 30 feet.

(5) *Minimum lot area*. Except where the minimum lot area for certain conditional uses is specified as three acres, the minimum lot size shall be 8,000 square feet. This regulation shall not prohibit the construction of a detached single family dwelling with permitted accessory uses and/or structures for a legal lot of record as of the effective date of this ordinance with less than 8,000 square feet.

(6) *Minimum lot width*. The minimum width of a lot shall be 70 feet. This regulation shall not prohibit the erection of a detached single unit dwelling where a lot of record has less than 70 feet of lot width.

(7) *Parking regulations*. (See Section 31-053 Off-street parking and loading.)

(8) *Swimming Pools*. Private swimming pools having a water depth of two feet or more, must meet the following conditions:

a. Shall not be located less than ten feet from any rear or side lot line, and in the case of corner lots, not less than 15 feet from a side street line.
b. Shall not be less than 30 feet from the front property line, if located in the side yard.
c. Shall not extend forward of the established front building line.
d. If located in the side yard, it shall not be less than 30 feet from the front property line.
e. The swimming pool area shall be entirely enclosed and separated from the remainder of the property by a protective fence or other permanent structure at least four feet in height, and be maintained by locked gates or entrances.
f. Shall be located at least ten feet from overhead electrical conductors.

(Code 1969, Sec. 26-100; [Sec. 31-100] G.O. 1393, 4-22-96; G.O. 1619, 3-23-98; G.O. 1875, 4-1-02; G.O. 2351, 11-2-09)

Sec. 31-022. District R-1B detached single-family residential district.

USE REGULATIONS

(a) *Purpose*. The R-1B districts are intended to create, preserve and enhance areas suitable for detached single family dwellings at low densities in order to:

(1) Enhance the identity of residential neighborhoods;

(2) Increase the variety of detached single family dwelling types in the city;

(3) Ensure the provision of light and air to individual parcels;

(4) Maintain spacial relationships between structures and within neighborhoods; and

(5) Reinforce the predominantly low intensity setting of R-1B Districts.

(b) In District R-1B no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered other than in conformance with the provisions of this section.

(c) *Permitted uses*.

(1) Any permitted use in District R-1A shall be permitted in R-1B Districts.

(2) Normal family occupancy plus no more than four tenants provided that cooking facilities shall not be provided for the tenants. No signs advertising such rooms shall be displayed in this district and adequate off-street parking shall be provided.

(3) Accessory uses as provided in Section 31-050.

(d) *Conditionally Permitted Uses*. All conditionally permitted uses in District R-1A may be conditionally permitted uses in District R-1B provided they meet the provisions of and a Conditional Use Permit is issued in accordance with Section 31-070.

(e) *Height and Area Regulations*. In District R-1B, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per unit permitted on any lot shall be as follows: (For exceptions see Section 31-055).

(1) *Height*. Buildings and structures shall not exceed 35 feet or two and one-half stories.

(2) *Front yard*. The minimum front yard area shall be measured from the centerline of the fronting street as follows, but in no case shall the front yard setback be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. The minimum side yard setback shall be six feet. On the street side of a corner lot, the minimum side yard area shall be measured from the centerline of the adjacent street as follows:

Local street	31 ft.
Collector street	36 ft.
Arterial	48 ft.
Parkway or boulevard (not designated as collector or arterial	81 ft.
Expressway or Freeway	156 ft.

(4) *Rear yard setbacks*. The minimum rear yard setback shall be 25 feet.

(5) *Minimum lot area*. Except where the minimum lot area for certain conditional uses is specified as three acres, the minimum lot area shall be 6,000 square feet. This regulation shall not prohibit the construction of a detached single family dwelling with permitted accessory uses and/or structures on a lot of record as of the effective date of this ordinance with less than 6,000 square feet.

(6) *Minimum lot width*. The minimum width of a lot shall be 60 feet. This regulation shall not prohibit the construction of a detached single unit dwelling with appropriate accessory structures on a lot of record with less than 60 feet of lot width.

(7) *Parking regulations*. (See Section 31-053, Off-street parking and loading.)

(8) *Swimming pools*: (See swimming pool regulations contained in R-1A district, Section 31-021).

(Code 1969, Sec. 26-110; [Sec. 31-110] G.O. 1393, 4-22-96; G.O. 2351, 11-2-09)

Sec. 31-023. District R-2 two-family residential district.

USE REGULATIONS

(a) *Purpose*. The District R-2, two family residential, is intended to allow a second dwelling unit under the same ownership as the initial dwelling. The duplex zoning is intended to increase the variety of housing opportunities available within the community while maintaining a low intensity residential character.

(b) In District R-2 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in R-2 Districts:

(1) Any permitted use in the District R-1B.

(2) Dwellings, two-family.

(3) Accessory uses as provided in Section 31-050.

(d) *Conditionally Permitted Uses*. Unless permitted by right in this zone district, all conditionally permitted uses in District R-1A may be conditionally permitted uses in R-2 Districts provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(e) *Height and Area Regulations*: In District R-2 the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per unit permitted on any lot shall be as follows: (For exceptions see Section 31-055.)

(1) Height. Buildings and structures shall not exceed 35 feet or two and one-half stories.

(2) Front yard.: The minimum front yard area shall be measured from the centerline of the fronting street as follows, but in no case shall the front yard setback be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. The minimum side yard setback shall be six feet. On the street side of a corner lot, the minimum side yard area shall be measured from the centerline of the adjacent street as follows:

Local street	31 ft.
Collector street	36 ft.
Arterial	48 ft.
Parkway or boulevard (not designated as collector or arterial)	81 ft.
Expressway or Freeway	156 ft.

(4) *Rear yard setback*. The minimum rear yard setback shall be 25 feet.

(5) *Minimum lot area*. The minimum lot area shall be 6,000 square feet for a detached single-unit dwelling, or 3,000 square feet per living unit for a duplex unit. This regulation shall not prohibit the construction of a detached single unit dwelling with appropriate accessory structures on a lot of record with less than 6,000 square feet of lot size.

(6) *Minimum lot width*. The minimum width of a lot shall be 60 feet. This regulation shall not prohibit the construction of a detached single-unit dwelling with appropriate accessory structures on a lot of record with less than 60 feet of lot width.

(7) *Parking regulations*. (See Section 31-053, Off-street parking and loading.)

(8) *Swimming pools*. (See swimming pool regulations contained in R-1A district, Section 31-021).

(Code 1969, Sec. 26-120; [Sec. 31-120] G.O. 1393, 4-22-96; G.O. 2351, 11-2-09)

Sec. 31-024. District R-3 garden apartment residential district.

USE REGULATIONS

(a) *Purpose*. The R-3, Garden apartment residential district is intended to provide for multiple unit housing and to establish the

regulations pertaining thereto. These regulations are intended to guide future multiple unit residential development and ensure a healthy functional environment for future residents within the proposed development and for and between adjoining parcels.

(b) In District R-3, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*: The following uses shall be permitted in R-3 Districts:

(1) Any use permitted in District R-2.

(2) Garden apartment buildings or townhouse buildings.

(3) Accessory uses as provided in Section 31-050.

(d) *Conditionally permitted uses*. Unless permitted by right in this zone district, all conditionally permitted uses in District R-1A may be conditionally permitted uses in R-3 Districts, provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(e) *Height and area regulations*. Detached single-family dwellings in this district shall conform to the height and area regulations of District R-1B, and two-family dwellings shall conform to the height and area regulations, of District R-2. For all other buildings in District R-3 the height of buildings, the minimum dimensions of lots and yards and the minimum lot area permitted on any lot shall be as follows: (For exceptions see Section 31-055.)

(1) *Height*. Buildings or structures shall not exceed 45 feet or three stories in height.

(2) *Front yard*. The minimum front yard area shall be measured from the centerline of the fronting street as follows, but in no case shall the front yard setback be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. The minimum side yard setback shall be seven feet. On the street side of a corner lot, the minimum side yard area shall be measured from the centerline of the adjacent street as follows:

Local street	35 ft.
Collector street	40 ft.
Arterial	52 ft.
Parkway or boulevard (not designated as collector or arterial)	85 ft.
Expressway or Freeway	160 ft.

(4) *Rear yard setback*. The minimum rear yard setback shall be 25 feet.

(5) *Minimum lot area*. The minimum lot area for a multiple unit housing project developed under this section shall be 6,000 square feet for the first three units and 2,000 additional square feet for each additional living unit over three.

Where a lot of record contains less area than herein required at the time of passage of the ordinance, this regulation shall not prohibit the construction of a detached single-unit building.

(6) *Minimum lot width*. The minimum width of a lot shall be 100 feet. Where a lot of record has less width than required at the time of the passage of this ordinance, this regulation shall not prohibit the construction of a detached single-unit dwelling.

(7) *Parking regulations*. (See Section 31-053, Off-street parking and loading.)

(8) *Swimming pools*. (See swimming pool regulations contained in R-1A district, Section 31-021)

(Code 1969, Sec. 26-130; [Sec. 31-130] G.O. 1393, 4-22-96; G.O. 1826, 5-29-01; G.O. 2351, 11-2-09)

Sec. 31-025. District R-4 apartment residential district.

USE REGULATIONS

(a) *Purpose*. The R-4, Apartment residential district is intended to provide for higher density multiple unit housing and to establish the regulations pertaining thereto. These regulations are intended to guide future multiple unit residential development in this zoning district and to ensure a healthy functional environment for future residents within the proposed developments and for and between adjoining parcels.

(b) In District R-4 no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in District R-4.

(1) Any permitted use in District R-3.

(2) Apartment buildings, boarding and lodging houses, fraternity and sorority houses, residential condominiums, hospitals, nursing homes, and clinics.

(3) Bed and breakfast establishments.

(4) Buildings or premises and appurtenant facilities thereto regularly used by clubs or fraternal orders unless the primary activity is a business.

(5) Religious, educational, philanthropic or eleemosynary institutions, provided the same are nonprofit.

(6) Residential care facilities for the care of the mentally handicapped, developmentally disabled, mentally ill, alcoholics and drug addicts provided that said residential care facilities consist of fewer than 12 occupants and exclude all other penal and correctional institutions of any nature. Further provided that said residential care facilities are located no closer than 1,000 feet from any other permitted residential care facility, and the exterior appearance be in general conformance with the neighborhood.

(7) Accessory uses as provided in Section 31-050.

(d) *Conditionally permitted uses*. Unless permitted by right in this zone district, all conditionally permitted uses in District R-1A, and for which are not listed as a permitted use in this section, may be conditionally permitted uses in District R-4 provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(e) *Height and area regulations*. Detached single-family dwellings in this district shall conform to the height and area regulations of District R-1B and two-family dwellings shall conform to the height and area regulations of District R-2. Garden apartment buildings or townhouses buildings in this district shall conform to the height and area regulations of District R-3. For all other buildings in District R-4 the height of buildings, minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows: (For exceptions see Section 31-055.)

(1) *Height*. No maximum height.

(2) *Front yard setback*. The minimum front yard setback shall be 25 feet, provided that the front yard setback shall be increased by one foot for each additional two feet in building height in excess of six stories or in excess of 75 feet.

In addition, the front yard area shall be measured from the centerline of the fronting street as follows:

Local street	50 ft.
Collector street	55 ft.
Arterial	67 ft.
Parkway or boulevard (not designated as collector or arterial)	100 ft.
Expressway or Freeway	175 ft.

(3) *Side yard*. The minimum side yard setback on each side shall be seven feet, provided that the side yard setback regulation shall be increased by an additional two feet for each additional story in excess of two stories.

In addition, on the street side of a corner lot, the minimum side yard area shall be

measured from the centerline of the adjacent street as follows:

Local street	32 ft.
Collector street	37 ft.
Arterial	47 ft.
Parkway or boulevard (not designated as collector or arterial)	82 ft.
Expressway or Freeway	157 ft.

(4) *Rear yard setback*. The minimum rear yard setback shall be 25 feet, provided that the rear yard setback shall be further increased by one foot for each additional two feet in building heights above six stories or 75 feet.

(5) *Minimum building size*. All sanitariums, nursing homes and homes for the aged shall provide a minimum of 150 square feet of living floor area per person housed therein.

(6) *Minimum lot area*. The minimum lot area for multiple unit housing developed under this section shall provide a lot area of 12,000 square feet or 1,000 square feet per family whichever provides the greater area.

Where a lot of record contains less area than required at the time of the passage of this ordinance, this regulation shall not prohibit the construction of a detached single-family dwelling.

(7) *Minimum lot width*. The minimum width of a lot shall be 100 feet. Where a lot of record has less width than herein required at the time of the passage of this ordinance, this regulation shall not prohibit the construction of a detached single-unit dwelling.

(8) *Parking regulations*. See Section 31-053, Off-street parking and loading.)

(9) *Swimming pools*. (See swimming pool regulations contained in R-1A district, Section 31-021.)

(Code 1969, Sec. 26-140; [Sec. 31-140] G.O. 1393, 4-22-96; G.O. 2351, 11-2-09)

Sec. 31-026. District R-5 Mobile home park and mobile home subdivision district.

USE REGULATIONS

(a) *Purpose*. The R-5, Mobile home park and mobile home subdivision district, is intended to provide for a desirable residential environment in a low density setting while protecting from potentially adverse neighboring influences and protection of property values for other residential districts. This section is intended to regulate the location, and spacial relationships to and from adjoining parcels and to and from adjoining mobile home units, in order to meet these purposes. Mobile home parks are not intended to be subdivided into individual ownership lots.

(b) In District R-5, no building, structure, land or premises shall be used; and no building or structure shall hereafter be erected, constructed, reconstructed, moved or altered other than in conformance with the provisions of this section.

(1) Any use permitted in R-4.

(2) Mobile home parks (but excluding the sales of mobile homes).

(3) Mobile home subdivision.

(4) Accessory uses as provided in Section 31-050.

(c) *Conditionally permitted uses*. Unless permitted by right in this zone district, all conditionally permitted uses in District R-1A and for which are not listed as a permitted use in this section, may be conditionally permitted uses in District R-5 provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(d) *Height and Area Regulations - Mobile Home Parks*. Detached single-family dwellings in this district shall conform to the height and area regulations of District R-1B and two-family dwellings shall conform to the height and area regulations of District R-2. Garden apartment buildings or townhouse buildings in this district shall conform to the height and area regulations of District R-3. All permitted uses allowed in District R-4 in this district shall conform to the height and area regulations of District R-4. For all other buildings in District R-5 the height of

buildings, the minimum dimensions of mobile home spaces and yards and the minimum area per unit permitted on any mobile home space shall be as follows:

(1) *Height*: Buildings or structures shall not exceed 20 feet or two stories in height.

(2) *Front yard*. The minimum front yard area shall be measured from the centerline of the fronting street as follows, but in no case shall the front yard setback be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. The minimum side yard setback shall be 15 feet. On the street side of a corner lot, the minimum side yard area shall be measured from the centerline of the adjacent street as follows:

Local street	40 ft.
Collector street	45 ft.
Arterial	57 ft.
Parkway or boulevard (not designated as collector or arterial)	90 ft.
Expressway or Freeway	165 ft.

(4) *Rear yard setback*. The minimum rear yard setback shall be 15 feet.

(5) *Minimum space between units*. The minimum space between mobile home units shall be governed by the minimum requirements contained in the BOCA code.

(6) *Minimum area per unit*. The minimum space area for a single wide mobile home shall be 2,560 square feet, the minimum space area for a double wide mobile home shall be 3,080 square feet.

(7) *Minimum area*. The minimum area for a mobile home park in this district shall be one-half acre.

(8) *Parking regulations*. Parking spaces shall be provided at the rate of at least one and one-half car spaces for each mobile home space.

(9) *Swimming pools*. (See Swimming Pool Regulations contained in R-1A district, Section 31-021).

(e) *Height and area regulations - mobile home subdivisions*. Detached single-family dwellings in this district shall conform to the height and area regulations of District R-1B and two-family dwellings shall conform to the height and area regulations of District R-2. Garden apartment buildings or townhouse buildings in this district shall conform to the height and area regulations of District R-3. All permitted uses allowed in District R-4 shall conform to the height and area regulations of District R-4. For all other buildings in District R-5 the height of buildings, the minimum dimensions of mobile home spaces and yards and the minimum area per unit permitted on any mobile home space shall be as follows:

(1) *Height*. Buildings and structures shall not exceed 20 feet or two stories in height.

(2) *Front yard setbacks*. The minimum front yard set back shall be measured from the centerline of the fronting street as follows, but in no case shall the front yard set back be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. The minimum side yard set back shall be six feet. On the street side of a corner lot, the minimum side yard area shall be measured from the center-line of the adjacent street as follows:

Local street	31 ft.
Collector street	36 ft.
Arterial	48 ft.
Parkway or boulevard (not designated as collector or arterial)	81 ft.
Expressway or Freeway	156 ft.

(4) *Rear yard setback*. The minimum rear yard setback shall be 15 feet.

(5) *Minimum lot area*. The minimum lot area for a mobile home subdivision shall be 6,000 square feet.

Where a lot of record contains less area than required at the time of the passage of this ordinance, this regulation shall not prohibit the construction of a detached single unit dwelling.

(6) *Minimum lot width*. The minimum lot width for a mobile home subdivision shall be 60 feet.

(7) *Parking regulations*. (See Section 31-053, Off-street parking and loading.)

(8) *Note*. Mobile home subdivisions must also comply with the requirements of the Code of Ordinances, Chapter 26, Subdivisions.

(9) *Swimming Pools*. (See Swimming Pool Regulations contained in R-1A District, Section 31-021).

(Code 1969, Sec. 26-150; [Sec. 31-150] G.O. 1393, 4-22-96; G.O. 2351, 11-2-09)

Sec. 31-027. Reserved

Sec. 31-028. C-0 nonretail commercial district.

(a) *Purpose*. The C-O district is designed to accommodate a demonstrated need for development of office space adjacent to residential uses and which may be inappropriate for other commercial uses. It is intended that the appropriate building setback buffers and on-site parking facilities requirements will create a compatible transition of uses from adjacent residential neighborhoods.

(b) In District C-0 no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in C-O districts; provided that they are conducted entirely within buildings or enclosed patios, except parking, and provided a conditional use permit is not otherwise required for any portion of the business.

(1) Any use which is permitted in District R-4, except one-family dwellings and two-family dwellings.

(2) Office buildings to be used only for professional and administrative functions of companies, corporations, social or philanthropic organizations or societies including but not limited to:

Accountant.
Advertiser.
Architects, engineers, planners and landscape architects.
Artist.
Banks and other lending or financial institutions.
Clinic--dental, medical, chiropractic or osteopathic.
Employment agency.
Governmental office building.
Insurance office.
Lawyer.
Physician and others of the healing arts licensed as such by the State of Missouri.
Post office substation.
Real estate and property management.

(3) Trade schools, business colleges or other specialty schools.

(4) Accessory uses as provided in Section 31-050.

(5) Radio, television, broadcasting and recording studios. Associated broadcasting towers and antennae for radio and television studios shall not exceed 45 feet in height.

(6) Large day care home and day nurseries.

(d) *Conditionally permitted uses*. The following uses may be conditionally allowed provided they meet the provisions of and a Conditional Use Permit is issued in accordance with Section 31-070:

(1) All conditionally permitted uses in R-1A through R-5 zone districts.

(2) Helistops and off-heliport landing sites provided they conform to any ordinances regulating the same.

(3) Parking lots for multi-unit residential dwellings, hotels, clubs, motels, restaurants which are accessory thereto, hospitals and institutions when such land is adjacent to and within 300 feet of the main lot.

(4) Parking lots for stadiums and auditoriums when such land is adjacent to and within 1,000 feet of the main lot.

(5) Radio and television broadcasting towers and antennae in excess of 45 feet in height.

(6) Telecommunications towers and facilities as provided for in Article V of this chapter.

(e) *Performance standards*. The following standards shall not be exceeded by any permitted use in this district.

(1) No outside storage of equipment or material is permitted.

(2) Storage of vehicles used for business purposes is limited to a maximum of two or less. Storage of any vehicle with the following characteristics is not permitted during non-business hours.

a. An overall length of greater than 22 feet; and/or
b. A wheel base greater than 14.5 feet; and/or
c. An overall height greater than nine feet.

(3) No noise, smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash or gas that is toxic, caustic or injurious to humans or property shall be produced.

(4) Parking lot lighting shall be shielded or directed so that it produces no off-site glare.

(5) Retail merchandise may be handled or displayed provided the sale of merchandise is clearly incidental or subsidiary to the main office use and provided only for the convenience of employees or customers of the principle use.

(6) The following standards shall apply to all drive-through or drive-up services:

a. Sites which are currently deficient in parking shall not reduce the existing parking ratios due to the introduction of a drive-through facility;
b. All uses providing drive-through or drive-up services shall accommodate a minimum of five vehicle stacking spaces prior to the point at which all drive-through and drive-up traffic merges into a single line. This requirement may be modified by the director, or his or her designee, should the applicant provide substantial proof, demonstrating the requirement should be less than the stacking spaces required by this subsection;
c. Stacking spaces shall not disrupt access to required parking spaces, and shall function independently of parking aisles;
d. If stacking or overflow stacking extends beyond the property line into an adjoining parcel, the applicant shall provide written evidence indicating the consent of the affected property owner;
e. The required vehicle stacking spaces shall equal a minimum of 20 feet in length for each space; and
f. Noise from drive-through speakers shall not be audible from adjacent residentially used or zoned properties.
g. Stacking or overflow stacking shall not extend or interfere with vehicular travel in any dedicated public right-of-way, unless approved by the director or his or her designee.

(f) *Height and Area Regulations*. In District C-0, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows, provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of District R-4 (For exceptions see Section 31-055).

(1) *Height*. Buildings or structures shall not exceed 45 feet, or three stories in height.

(2) *Front yards*. The minimum front yard area shall be measured from the centerline of the fronting street to the front of the structure as follows, and in no case shall the front yard setback be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. The minimum side yard setback shall be seven feet. For corner lots, the street side yard area shall be measured from the centerline of the adjoining street as follows and in no case shall the side yard setback be less than seven feet.

Local street	32 ft.
Collector street	37 ft.
Arterial	49 ft.
Parkway or boulevard (not designated as collector or arterial)	82 ft.
Expressway or Freeway	157 ft.

(4) *Rear yards*. There shall be a rear yard of not less than 25 feet.

(5) *Minimum lot width*. No minimum width.

(6) *Lot area per family*. Same as District R-4.

(7) *Parking regulations*. (See Section 31-053, Off-street parking and loading.)

(Code 1969, Sec. 26-200; [Sec. 31-200] G.O. 1393, 4-22-96; G.O. 1499, 4-7-97; G.O. 1619, 3-23-98; G.O. 1824, 5-29-01; G.O. 1988, 11-24-03; G.O. 2351, 11-2-09; G.O. 2730, 5-27-14; G.O. 2915, 7-1-19)

Sec. 31-029. C-1 neighborhood shopping district.

(a) *Purpose*. The C-1 neighborhood shopping district is intended for uses that provide convenience goods or personal services primarily to people residing in adjacent residential areas. It also includes selected retail and service uses that are similar in land use intensity and physical impact to the neighborhood sales and service uses permitted in this district. This district is also intended to accommodate compact, freestanding commercial centers or to function as a transition between more intense commercial uses and residential neighborhoods.

(b) *Use Regulations*. In District C-1 no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in C-1 districts; provided that they are conducted entirely within buildings or enclosed patios, except parking, special temporary or seasonal displays, and outdoor seating, and provided a Conditional Use Permit is not otherwise required for any portion of the business.

(1) Any use permitted in District C-O.

(2) Accessory uses as provided in Section 31-050.

(3) Art studio and gallery.

(4) Bed and breakfast establishments, and boarding homes.

(5) Clubs, either for-profit or non-profit.

(6) Commercial picnic groves, campgrounds, or fishing lakes, including concessions.

(7) Health and athletic clubs, tanning salons, racquet and sports clubs, and commercial swimming pools.

(8) Limited repair services, such as jewelry, small appliance, and business machine repair shops.

(9) Medical marijuana dispensary facilities, provided the main public entrance and main employee entrance are both located at least 100 feet from the lot lines of property in a residentially zoned district.

(10) Museums, libraries, community buildings.

(11) Nurseries, garden shops, and greenhouses.

(12) Parking lots servicing adjacent uses only.

(13) Personal service establishments such as barber shops, beauty parlors, shoe repair, tailor shops, dance, music and drama schools, dry cleaning pick-up station, and self-service laundry.

(14) Restaurants, bakeries, coffee shops, cafes, delicatessen, ice cream parlors, and catering services. Food service establishments may serve alcoholic beverages as an incidental and accessory use only.

(15) Retail businesses, such as food and grocery stores, drugstores, apparel shops, variety stores, hardware stores, antique shops, florists, or book shops.

(d) *Conditionally permitted uses*. The following uses may be conditionally allowed provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070:

(1) All conditionally permitted uses in C-O district which are not otherwise permitted in this district.

(2) Bars, brew pubs, and other drinking establishments where the primary use is serving alcoholic beverages.

(3) Billiard halls, arcades, and bowling alleys.

(4) Gun clubs, skeet shoots or target ranges, provided no portion of such use shall be closer than 200 feet to a dwelling or public street.

(5) Hotels and motels.

(6) Medical marijuana dispensary facilities where either the main public entrance or main employee entrance is located 100 feet or less from the lot lines of property in a residentially zoned district.

(7) Service stations and commercial garages, subject to the performance standards.

(8) Theaters (excluding drive-ins).

(e) *Performance standards*. The following standards shall not be exceeded by any use in this district.

(1) No wholesale sales shall be conducted.

(2) Merchandise or equipment which is displayed outside of a building shall be for temporary sales or special events only not to exceed 14 calendar days once every quarter of a calendar year, shall be kept off the public sidewalk or street right-of-way, shall not reduce the capacity of a parking lot below that required by this ordinance and shall not occupy an area greater than 20% of the ground floor area of the building.

(3) No merchandise or equipment shall be stored outside of a building during non-business hours except licensed vehicles in working condition and used for business purposes which are limited to a maximum of two vehicles neither of which has:

a. An overall length of greater than 22 feet; and/or
b. A wheel base greater than 14.5 feet; and/or
c. An overall height greater than nine feet.

(4) No noise, smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash or gas that is toxic, caustic or injurious to humans or property shall be produced.

(5) Parking lot lighting shall be shielded or directed so it produces no off-site glare.

(6) Prior to issuance of permits for vehicle fueling or service stations, a site plan shall be provided by the petitioner, specifying design elements that assure that the intended use is aesthetically and functionally compatible with adjacent residential uses. The site plan must be approved by the Commission and must include the following information and/or comply with the following standards:

a. Not more than three hoses installed and not within 100 feet of any building used in whole or part for residential purposes, or from a hospital, school, church, theater or of any like building used regularly as a place of assembly, nor shall a permit

be granted for any building as described above on adjacent property closer than the prescribed distance.

b. Pumps are to be at least 50 feet from any parking area and to be in a protected location, at least 50 feet from points of entrance and exit from the street.

c. No more than two lights, not to exceed 400 watts, directed at the pumps and toward the ground.

d. Drive-through ability for fuel transports so as to minimize maneuvering and backing of fuel transport vehicles onto public streets.

e. Not more than two signs and not exceeding two square feet in area per sign. Located on the pumps or on separate standards.

(7) The following standards shall apply to all drive-through or drive-up services:

a. Sites which are currently deficient in parking shall not reduce the existing parking ratios due to the introduction of a drive-through facility;

b. All uses providing drive-through or drive-up services shall accommodate a minimum of five vehicle stacking spaces prior to the point at which all drive-through and drive-up traffic merges into a single line. This requirement may be modified by the director, or his or her designee, should the applicant provide substantial proof, demonstrating the requirement should be less than the stacking spaces required by this subsection;

c. Stacking spaces shall not disrupt access to required parking spaces, and shall function independently of parking aisles;

d. If stacking or overflow stacking extends beyond the property line into an adjoining parcel, the applicant shall provide written evidence indicating the consent of the affected property owner;

e. The required vehicle stacking spaces shall equal a minimum of 20 feet in length for each space; and

f. Noise from drive-through speakers shall not be audible from adjacent residentially used or zoned properties.

g. Stacking or overflow stacking shall not extend or interfere with vehicular travel in any dedicated public right-of-way, unless approved by the director or his or her designee.

(f) *Height and area regulations*. In District C-1 the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family on any lot shall be as follows, provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of District R-4: (For exceptions see Section 31-055)

(1) *Height*. Buildings or structures shall not exceed 45 feet and three stories in height.

(2) *Front yards*. The minimum front yard area shall be measured from the centerline of the fronting street to the front of the structure as follows, and in no case shall the front yard setback be less than 30 feet:

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yards*. No side yards are required for buildings in this district, unless the side of a lot abuts a lot on which there is a dwelling, in which event there shall be a side yard of not less than five feet on the side next to the lot on which there is a dwelling. On a corner lot, the street side yard shall be measured from the centerline of the adjoining street as follows, but in no case shall the side yard setback be less than five feet:

Local street	30 ft.
Collector street	35 ft.
Arterial	47 ft.
Parkway or boulevard (not designated as collector or arterial)	80 ft.
Expressway or Freeway	155 ft.

(4) *Rear yards*. No rear yard is required, except that when a rear lot line abuts a lot on which there is a dwelling, a rear yard of not less than ten feet shall be provided.

(5) *Lot area per unit*. Same as District R-4.

(6) *Lot width*. No minimum width.

(7) *Parking regulations*. See Section 31-053, Off-street parking and loading.

(Code 1969, Sec. 26-210; [Sec. 31-210] G.O. 1393, 4-22-96; G.O. 1500, 4-7-97; G.O. 2351, 11-2-09; G.O. 2730, 5-27-14; G.O. 2910, 4-22-19; G.O. 2915, 7-1-19)

Sec. 31-030. C-2 downtown business district.

(a) *Purpose*. The C-2, general business district, is intended to be a multi-use district that accommodates a variety of residential, commercial and office activities in a concentrated area primarily serving the "Downtown Business District". This area generally developed early in the city's history and has traditionally been the city's core business and trade area. This area has suffered due to continued development patterns on the outskirts of the city and decline in the residential areas adjacent to this district. These district regulations and use groupings are intended to strengthen the business level of the downtown business district and re-establish its contribution to the vitality of the city.

(b) *Use regulations*. In District C-2 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses and/or any combination thereof shall be permitted in C-2 districts, provided that they are conducted entirely within buildings or enclosed patios, except parking; special, temporary or seasonal displays and outdoor seating; and provided a Conditional Use Permit is not otherwise required for any portion of the business.

(1) Any use permitted in District C-1.

(2) Accessory uses allowed in C-2, general business district or as otherwise provided in Section 31-050.

(3) Bars, brew pubs and other drinking establishments.

(4) Billiard halls, arcades and bowling alleys.

(5) Bus depot passenger and freight unloading and loading.

(6) Department stores.

(7) Dwelling units which are built in conjunction with an otherwise permitted commercial use.

(8) Hotel, motel.

(9) Minor vehicle service establishments including tire sales and service, oil and lubrication services and vehicle stereo sales and service.

(10) Parking garages and lots.

(11) Pest control service, or other contractor services.

(12) Radio and television broadcasting studios.

(13) Radio and television broadcasting towers and antennae not exceeding 100 ft. in height.

(14) Recycling center for the collection of materials only.

(15) Service station and commercial garages.

(16) Storage garages.

(17) Theaters (excluding drive-ins).

(d) *Conditionally permitted uses*. The following uses may be conditionally allowed provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070:

(1) All conditionally permitted uses in C-1 district and not otherwise permitted in this district.

(2) Helistops and off-heliport landing sites for helicopters provided,

a. The minimum unobstructed landing area shall be not less than 125 by 125 feet on the ground, and not less than 40 by 40 feet on a roof top.
b. No landing area shall be developed or continued to be used within a horizontal distance of 200 feet from the nearest wall of any other building constructed to a height which exceeds that of the landing area.

(3) Train depots.

(4) Radio and television broadcasting towers and antennae exceeding 100 feet in height.

(5) Vehicle sales.

(6) Water or land based gaming or gambling casino operation as defined by referendum legislation House Bill No. 149, as amended, enacted by a vote of the people on November 3, 1992.

(e) *Performance standards.* The following standards shall not be exceeded by any use in this district:

(1) Merchandise which is displayed outside a building shall be kept off the public sidewalk or street right-of-way and shall not reduce the capacity of a parking lot below that required by this ordinance.

(2) No merchandise or equipment shall be stored outside of a building during non-business hours, except licensed vehicles in working condition and used for business purposes which are limited to a maximum of two vehicles neither of which has:

a. An overall length of greater than 22 feet; and/or
b. A wheel base greater than 14.5 feet; and/or
c. An overall height greater than nine feet.

(3) No noise, smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash or gas that is toxic, caustic or injurious to humans or property shall be produced.

(4) Parking lot lighting shall be shielded or directed so that it produces no off-site glare.

(5) Prior to issuance of permits for service stations, a site plan shall be provided by the petitioner, specifying design elements that assure that the intended use is aesthetically and functionally compatible with adjacent residential uses. Plan is to receive approval of the commission and includes:

a. The hoses installed shall not be within 100 feet of any building used in whole or part for residential purposes, or from a hospital, school, church, theater or of any like building used regularly as a place of assembly, nor shall a permit be granted for any building as described above on adjacent property closer than the prescribed distance.
b. Pumps are to be at least 50 feet from any parking area and to be in a protected location, at least 50 feet from points of entrance and exit from the street.
c. Drive-through ability for fuel transports so as to minimize maneuvering and backing of fuel transport vehicles onto public streets.

(6) The following standards shall apply to all drive-through or drive-up services:

a. Sites which are currently deficient in parking shall not reduce the existing parking ratios due to the introduction of a drive-through facility;
b. All uses providing drive-through or drive-up services shall accommodate a minimum of five vehicle stacking spaces prior to the point at which all drive-through and drive-up traffic merges into a single line. This requirement may be modified by the director, or his or her designee, should the applicant provide substantial proof, demonstrating the requirement should be less than the stacking spaces required by this subsection;
c. Stacking spaces shall not disrupt access to required parking spaces, and shall function independently of parking aisles;
d. If stacking or overflow stacking extends beyond the property line into an adjoining parcel, the applicant shall provide written evidence indicating the consent of the affected property owner;
e. The required vehicle stacking spaces shall equal a minimum of 20 feet in length for each space; and

f. Noise from drive-through speakers shall not be audible from adjacent residentially used or zoned properties.
g. Stacking or overflow stacking shall not extend or interfere with vehicular travel in any dedicated public right-of-way, unless approved by the director or his or her designee.

(f) *Height and area regulations*. In District C-2, the height of buildings, minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows, provided that buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of District R-4: (For exceptions see Section 31-055)

(1) *Height*. No maximum height.

(2) *Front, side and rear yards*. There shall not be any front, side or rear yard requirements for structures in the C-2 District which do not exceed 75 feet or five stories in height, whichever is less. For structures in the C-2 District which exceed 75 feet or five stories in height, there shall be a front, side and rear yard requirement of one foot for each additional two feet of building height.

(3) *Lot width*. No minimum width.

(4) *Lot area per dwelling unit*. Same as District R-4.

(5) *Parking and loading requirements*. (See Section 31-053, Off-street parking and loading).

(Code 1969, Sec. 26-220; G.O. 1140, 12-20-93; [Sec. 31-220] G.O. 1393, 4-22-96; G.O. 1501, 4-7-97; G.O. 1619, 3-23-98; G.O. 2730, 5-27-14; G.O. 2915, 7-1-19)

Sec. 31-031. C-3 commercial district.

(a) *Purpose*. The intent of the C-3, Commercial District, is to permit and regulate those businesses and commercial uses which are appropriately located on or near major traffic arterials. These uses include community wide retail or wholesale trade or services which tend to generate a high level of vehicular traffic and require a high level of visibility. These types of uses are generally not compatible in residential areas and should be appropriately screened and buffered from those areas.

(b) *Use regulations*. In District C-3 no building, structures, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in C-3 districts, provided a conditional use permit is not otherwise required for any portion of the business.

(1) Any permitted use in District C-2.

(2) Accessory uses as provided in Section 31-050.

(3) Agriculture feed stores.

(4) Agricultural implements and heavy equipment sales and service.

(5) Athletic fields.

(6) Auction sales at a permanent location (excluding livestock sales).

(7) Car washes.

(8) Driving ranges and miniature golf.

(9) Dwellings which are in conjunction with an otherwise permitted C-3 use.

(10) Equipment rental company.

(11) Food processing.

(12) Hotels and motels.

(13) Incidental light manufacturing in conjunction with an otherwise permitted use, including but not limited to, sign printing, cabinet and plumbing shops.

(14) Kennels and pet shops or veterinary hospital and clinics.

(15) Mini-storage.

(16) Recycling center for collection of materials only.

(17) Skating rinks.

(18) Travel trailer parks.

(19) Vehicle body shop.

(20) Vehicle sales and service, including tire re-capping or retread assembly businesses.

(21) Warehousing uses excluding the storage of hazardous materials in which the use is classified as a High Hazard Group H occupancy as determined by the International Building Code.

(22) Wholesale dealers.

(d) *Conditionally permitted uses.* The following uses may be conditionally allowed provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(1) Accessory uses as provided in Section 31-050.

(2) Adult entertainment businesses provided they are not within 1,000 feet of any property used for residences, schools, public buildings, parks, or churches, or any other adult entertainment business.

(3) All conditionally permitted uses in C-2 district and not otherwise permitted in this district.

(4) Amusement parks, fairgrounds and racetracks.

(5) Drive-in theaters.

(6) Dry cleaning plant.

(7) Signs as provided in Section 31-130.

(e) *Performance standards*. The following standards shall not be exceeded by any permitted use in this district.

(1) Any manufacturing or assembly of products as permitted above shall be entirely within a totally enclosed building.

(2) Automobiles, trucks, boats, large equipment and similar items in working and orderly condition may be stored or displayed outside a building but no closer than 15 feet to a street line. Other merchandise for sale which may appropriately be displayed or stored outside a building shall be kept off the public sidewalk or street right-of-way and shall not reduce the capacity of a parking lot below that required by this ordinance.

(3) No noise, smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash or gas that is toxic, caustic or injurious to humans or property shall be produced.

(4) Parking lot lighting shall be shielded or directed so that it produces no off-site glare.

(5) The following standards shall apply to all drive-through or drive-up services:

a. Sites which are currently deficient in parking shall not reduce the existing parking ratios due to the introduction of a drive-through facility;
b. All uses providing drive-through or drive-up services shall accommodate a minimum of five vehicle stacking spaces prior to the point at which all drive-through and drive-up traffic merges into a single line. This requirement may be modified by the director, or his or her designee, should the applicant provide substantial proof, demonstrating the requirement should be less than the stacking spaces required by this subsection;
c. Stacking spaces shall not disrupt access to required parking spaces, and shall function independently of parking aisles;
d. If stacking or overflow stacking extends beyond the property line into an adjoining parcel, the applicant shall provide written evidence indicating the consent of the affected property owner;
e. The required vehicle stacking spaces shall equal a minimum of 20 feet in length for each space; and
f. Noise from drive-through speakers shall not be audible from adjacent residentially used or zoned properties.
g. Stacking or overflow stacking shall not extend or interfere with vehicular travel in any dedicated public right-of-way, unless approved by the director or his or her designee.

(f) *Height and Area Regulations*. In District C-3 the height of buildings, the minimum dimension of lots and yards and the minimum lot area per family permitted on any lot shall be as follows, all buildings erected exclusively for dwelling purposes shall comply with the front, side and rear yard requirements of District R-4: (For exceptions see Section 31-055)

(1) *Height*. Buildings or structures shall not exceed 45 feet or three stories in height.

(2) *Front yards*. The minimum front yard area shall be measured from the centerline of the fronting street to the front of the structure as follows, and in no case shall the front yard setback be less than 30 feet.

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yards*. No side yards are required for buildings in this district, unless the side of a lot abuts a lot on which there is a dwelling, in which event there shall be a side yard of not less than five feet on the side next to the lot on which there is a dwelling. On a corner lot, the street side yard shall be measured from the centerline of the adjoining street as follows, but in no case shall the side yard setback be less than five feet.

Local street	30 ft.
Collector street	35 ft.
Arterial	47 ft.
Parkway or boulevard (not designated as collector or arterial)	80 ft.
Expressway or Freeway	155 ft.

(4) *Rear yards.* No rear yard required, except that when a rear lot line abuts a lot on

which there is a dwelling, a rear yard or not less than ten feet shall be provided.

(5) *Lot area per family*. Same as District R-4.

(6) *Lot width*. No minimum width.

(7) *Parking regulations.* See Section 31-053, Off-street parking and loading.

(Code 1969, Sec. 26-230; [Sec. 31-230] G.O. 1393, 4-22-96; G.O. 1502, 4-7-97; G.O. 2317, 1-26-09; G.O. 2351, 11-2-09; G.O. 2361, 11-30-09; G.O. 2915, 7-1-19)

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Editor's note: G.O. 1147, passed 1-31-94 repealed all references in the Code providing for mobile homes in districts other than R-5 "mobile home parks".

Sec. 31-032. Reserved.

Sec. 31-033. District B-P business park districts.

(a) *Purpose*. The purpose of the business park districts and subdistricts is to establish use regulations, performance standards, height and area regulations and design guidelines to regulate and control new development as well as the expansion of existing uses in older, mixed commercial/industrial areas of the City which have developed pursuant to cumulative use zones permitting a broad range of uses and economic additives, some of which are in conflict or which otherwise deter new investment and reinvestment in the area. The business park districts and subdistricts are, therefore, designed:

(1) To consolidate compatible uses within appropriate districts to ensure expansion opportunities for existing uses as well as to provide protection for new uses; and

(2) To regulate uses at the boundaries of such districts to control incompatibilities and adverse impacts on uses in adjacent zoning districts or subdistricts.

(b) *Districts and Subdistricts*. The business park districts and subdistricts (see Table B, page 104) include the following:

Commercial B-P(C)
Wholesale Trade and Business Services B-P(W)
Distribution/Warehousing/Light Manufacturing B-P(D)

(c) *Use regulations*. In District B-P, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed or moved, except for one or more of the following permitted or conditional uses as listed in Table A, Table of Permitted Uses, Special Permit Uses and Prohibited Uses (see page 101). Conditional uses may be allowed provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(d) *Height and area regulations*. In District B-P, the minimum parcel area, minimum parcel dimensions (width and depth), minimum yard dimensions (front, side and rear), maximum building height, maximum building coverage and maximum off-street parking ratio applicable to buildings or structures hereafter erected, constructed or moved and applicable to non-conforming uses and/or nonconforming buildings considered as a business entity and hereafter enlarged, extended or reconstructed, except as provided in Section 31-056(h) shall be as shown in Table B, Height and Area Regulations for Business Park Districts (see page 104).

(e) *Parking regulations*. The parking requirements for uses in the business park district shall be as required for the various uses in Section 31-053.

(f) *Design standards*. In District B-P, no building or structure shall be hereafter erected, constructed or moved and no conforming use and/or building considered as a business entity shall be enlarged, extended or reconstructed, except as provided in Section 31-056(h) unless such use conforms with the design standards as follows:

(1) Landscape Setback/Buffer Area and Screening Standards:

a. *Purpose and applicability*.

1. The purpose of the landscape setback/buffer area is to separate potentially conflicting land uses and to provide a visual buffer between such uses. The landscape

setback/buffer area is required for all new permitted and conditionally permitted uses in the business park zoning districts.

2. The purpose of the screening requirements is to shield certain accessory structures and uses associated with new permitted and special permit uses through the use of planting and/or structural screen walls. The screening requirements shall be applicable to the following (and any similar) accessory uses and structures:

   [a] outdoor storage areas;
   [b] outdoor service and loading areas;
   [c] refuse collection areas;
   [d] exterior mechanical and utility equipment;
   [e] exterior maintenance equipment; and
   [f] exterior communications apparatus.

3. The purpose of the street tree requirement is to create a more desirable visual image along streets in the business park zoning districts. The street tree requirement shall be applicable to all new permitted and special permit uses in the business park zoning districts.

b. *Landscape setback/buffer area requirements*. A landscape setback/buffer area is required along the common property line associated with the side and rear yard areas of new permitted and special permit uses pursuant to Table B (see page 104) and Chart I (see page 105).

c. *Landscape setback/buffer area design standards*.

1. The minimum quantity of trees and shrubs within the side and rear yard landscape setback /buffer area shall be as follows:

   [a] The ten foot landscape setback shall require one tree and two shrubs per 30 feet along the length of the buffer; and
   [b] The five foot landscape setback shall require one tree and two shrubs per 20 feet along the length of the buffer.

2. The required trees and shrubs may be clustered or grouped in a natural arrangement within the buffer area.
3. Ground cover shall have a minimum of 60% percent living grass or other ground cover type plant material; the remaining 40% percent may be nonliving, consisting of bark, wood chips, decorative rock or stone or other similar material.
4. Depending on the size and spacing of the selected palette of trees, trees may be located outside of, but adjacent to the buffer area.
5. All trees shall be a minimum diameter of two inch caliper, and all shrubs shall be a minimum container size of five gallons with a minimum mature height of four to six feet.
6. The required landscape setback/buffer area is a minimum width. Additional area adjacent to the required buffer area may be utilized for the location/ siting of required trees and/or to achieve a specific design intent.

d. *Landscape maintenance standards*.

1. Plant materials that have died or are no longer functional shall be replaced within one year.
2. Plant materials shall be maintained in such a manner as to preserve their functional and aesthetic integrity
3. All trees adjacent to pedestrian and vehicular spaces shall be maintained so that mature branching occurs a minimum of seven feet from the ground.
4. All shrubs and trees shall be planted so as to avoid obstructing visibility from a vehicle. A clear sight triangle of 25 feet from an intersection shall be established to ensure such visibility and safety.

e. *Screening requirements*: Each accessory use and structure listed in Table A (pp. 101-103) associated with new permitted and special permit uses shall be totally screened by a 100% opaque structure, including fences and walls, to a minimum six foot height such that the use or activity is not visible from adjacent uses or streets. The opaque structure shall be located as near as possible to the use or activity without interfering with the functional requirements of the use or activity.

f. *Preexisting uses*.

1. Existing principal uses or structures in the business park zoning districts with an accessory use or structure listed in Table A (pp. 101-103) shall, in the interest of furthering the public welfare and protecting the public health and safety, be required to comply with the screening requirement set forth in Table A (pp. 101-103) within five years after the effective date of this ordinance; provided however, that if the existing accessory use or structure is so situated that compliance with the screening requirement would necessitate removal or substantial alterations to the accessory use or structure, the required screening shall be reduced by the minimum amount necessary to accommodate the accessory use or structure without removal or substantial alteration.
2. The owners of existing principal uses or structures as defined above shall submit a screening plan to the director of community services for review and approval. There shall be no fee for city review and processing of the screening plan if submitted within five years after the effective date of this ordinance.
3. In cases where compliance with the screening requirement would present an unreasonable hardship on the property owner or present practical difficulties, the property owner may apply to the board of adjustment for a variance pursuant to Section 31-090 and 31-092 of the St. Joseph zoning ordinance.

(2) *Parking Lot Landscaping Design Standards*.

a. *Purpose and applicability*: The purpose of the parking lot screening and landscaping requirements is to provide relief from large, hard paved surfaces associated with parking lots necessary to meet the needs of nonresidential developments and to improve the visual appearance of the business park area.

The parking lot landscaping requirements shall be applicable to all new permitted and special permit uses with open parking lots providing spaces for ten or more automobiles. Two types of parking lot landscaping are required:

1. Screening or buffering between the parking lot and adjoining land uses and adjacent streets; and
2. Trees for shading within parking lots.

b. *Parking lot screening*.

1. The perimeter area of all on-site, open parking areas shall be screened from the view of adjacent properties and streets to an eventual minimum height of three feet by the use of berms, walls and/or plantings.
2. Parking lot screening shall be designed so as to avoid obstructing visibility from vehicles in the parking lot or on adjacent streets. A clear sight triangle of 25 feet from an intersection shall be established to ensure visibility and safety.
3. The parking lot screening requirement does not apply to internal parking lots which do not directly front adjacent properties or streets.

4. One hundred percent of the affected street frontage or property boundary, excluding intersecting driveways, must have the required screening.
5. Structures such as decorative walls or fences may be approved if:

   [a] The structure avoids a blank and monotonous appearance by such means as architectural articulation and/or the planting of vines, shrubs or trees; or
   [b] The total use of berms and/or plantings is not physically feasible; or
   [c] The structures complement the use of berms and/or plantings.

6. The reference elevation for the base of the required screen shall be the surface of the parking area that is to be screened.
7. The following maximum grades shall be conformed to in the parking lot screen area:

   [a] Grass sod or seeded berms: 3:1 (three feet horizontal:one foot vertical); and
   [b] Planting beds: 2:1

8. Where a parking lot is located adjacent to or comes in direct contact with a side or rear yard setback, the side and rear yard landscape setback/buffer area requirements shall apply and the above parking lot screening requirements shall be waived.

c. *Parking lot landscaping*.

1. One tree shall be provided for every ten vehicular parking spaces, or increment thereof.
2. The required trees shall be located within the parking lot so as to divide and break up expanses of paving and long rows of parking stalls and to create a canopy effect. In general, a minimum of one tree should be located within 80 feet of any parking stall when measured from the trunk.
3. The required parking lot trees should be located within the "parking lot area" where vehicles park and maneuver and not in designated landscape areas. "Within the parking lot area" means the trees must be located in planting areas bounded on at least two sides by parking lot paving. Only trees in landscape "islands," "dividers" or "fingers" shall count toward meeting the parking lot tree requirement.
4. In cases where the size, location or design of parking lots may not significantly benefit from trees within the parking lot area, the required parking lot trees may be provided adjacent to the parking area.
5. The design and size of the landscape planter (islands, dividers and fingers) shall be sufficient to accommodate the growth of the tree and prevent damage to the tree by vehicles.

d. *Parking lot paving and design requirement*.

1. All parking lots shall be hard-surfaced (dustless) with concrete, asphalt or similar material, except for parking lots containing 50 or less spaces in Subdistrict "Distribution/Warehousing/Light Manufacturing District B-P(D)", which may be loose gravel. Dirt and loose gravel shall be prohibited except as herein provided.
2. All parking lots shall be striped for definitive automobile spaces in the number, size and design as required by Section 26-450 of the St. Joseph zoning ordinance.
3. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the principal use. No motor vehicle repair work, except emergency service, shall

be permitted in association with any required off-street parking.

4. All off-street parking spaces shall be provided with safe and convenient access to a public street.
5. All off-street parking areas shall comply with geometric design standards as established by the director of community services which may include, but which shall not be limited to: angle of parking; direction of parking; width of parking space; depth of parking space; and width of aisles.
6. All lighting fixtures used to illuminate off-street parking areas shall be designed to minimize glare.

(Code 1969, Sec. 26-250; G.O. 1271, 3-13-95; [Sec. 31-250] G.O. 1393, 4-22-96)

Sec. 31-034. M-1 light manufacturing district.

(a) *Purpose*. The M-1 light manufacturing district is intended for business uses conducting light manufacturing, assembling and fabrication, warehousing, wholesaling and service operations which conduct activities which do not have the impacts of heavy manufacturing or industrial uses. This district is also intended to serve as a transition between more intense industrial development and commercial, office or multi-family residential development.

(b) *Use regulations*. In District M-1 no buildings, structure, land or premises shall be used; and no building shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in M-1, light manufacturing districts:

(1) Accessory uses, as provided in Section 31-050.

(2) Administrative, business, finance and professional offices.

(3) Any establishment which provides supplies and/or services primarily to commercial and industrial customers, such as janitorial services, sign shops, packaging or shipping service, locksmith or printing, lithographing, engraving, photocopying, blueprinting, publishing and binding establishments.

(4) Any manufacturing, production, processing, cleaning, servicing, testing, repair or storage of materials, (excluding the storage of hazardous materials in which the use is classified as a High-Hazard Group H occupancy as determined by the International Building Code), goods, products or food products and business and sales offices accessory thereto.

(5) Athletic clubs, fitness centers and indoor sports facilities.

(6) Auction sales, flea markets and swap meets.

(7) Awning and canvas sales and rental.

(8) Bakeries, retail or wholesale.

(9) Bars, brew pubs and other drinking establishments.

(10) Building material supply stores.

(11) Bus terminals or bus barns.

(12) Cemeteries.

(13) Day care centers, provided an approved safety evacuation plan is made available to the city and displayed appropriately in all classrooms.

(14) Funeral homes, mortuaries and crematoriums.

(15) Governmental buildings and uses.

(16) Heating and plumbing sales and service.

(17) Heavy machinery and equipment sales, rental and service.

(18) Medical marijuana cultivation facilities, provided the main public entrance and main employee entrance are both located at least 100 feet from the lot lines of property in a residentially zoned district.

(19) Medical marijuana-infused products manufacturing facilities, provided the main public entrance and main employee entrance are both located at least 100 feet from the lot lines of property in a residentially zoned district.

(20) Medical marijuana testing products manufacturing facilities, provided the main public entrance and main employee entrance are both located at least 100 feet from the lot lines of property in a residentially zoned district.

(21) Office/retail/warehouse combinations, provided not more than 25% of the gross building floor area shall be used for retail activities.

(22) Parking lots and parking garages for permitted and conditionally [permitted] uses in all other zones.

(23) Pest control services.

(24) Police and fire stations.

(25) Public and private parks, playgrounds, golf courses, including miniature golf courses and driving ranges, athletic fields, drive-in theaters, archery and gun clubs, go-cart tracks and other outdoor entertainment facilities.

(26) Public service and public utility uses, as follows:

a. Telecommunication towers, less than 100 feet in height, and related facilities; and
b. Water reservoirs, water standpipes and elevated and ground-level water storage tanks.

(27) Recording studios.

(28) Recycling centers, provided they are screened from all residential districts and public right-of-ways, and all materials are either stored in an enclosed container or building.

(29) Restaurants, excluding drive-through restaurants, bakeries, coffee shops, cafes, delicatessens and catering services.

(30) Retail sales of products customarily produced by the principal use provided that the gross amount of floor area devoted to sales and display does not exceed 25% of the gross floor area of the structure.

(31) Schools, industrial and trade.

(32) Self-service storage facilities.

(33) Service station and commercial garages including vehicle repair, vehicle body shop and car washes.

(34) Storage of any manufactured materials or products outside an enclosed structure provided all outside storage is screened from any public right-of-way.

(35) Storage garages.

(36) Swimming pool sales and display.

(37) Taxidermists.

(38) Television and radio studios, and associated broadcasting towers and antennae not exceeding 100 feet in height.

(39) Temporary uses, provided written permission is given by the director of planning and community development or designated representative, the use does not exceed four months, and the temporary use is directly associated with the primary use.

(40) Veterinary clinics, animal hospitals and kennels.

(d) *Conditionally permitted uses*. The following uses may be conditionally allowed provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(1) Correctional institutions.

(2) Junk yards, salvage yards and vehicle storage lots, provided they are completely screened from all public right-of-ways and adjoining properties, and shall be located at least 300 feet from any residential properties.

(3) Medical marijuana cultivation facilities where either the main public entrance or main employee entrance is located 100 feet or less from the lot lines of property in a residentially zoned district.

(4) Medical marijuana-infused products manufacturing facilities where either the main public entrance or main employee entrance is located 100 feet or less from the lot lines of property in a residentially zoned district.

(5) Motor freight terminals.

(6) Radio and television broadcasting towers and antennae exceeding 100 feet in height.

(7) Telecommunications towers and facilities as provided for in Article V of this chapter.

(8) Train depots.

(9) Water or land based gaming or gambling casino operations as defined by referendum legislation House Bill No. 149, as amended, enacted by a vote of the people on November 3, 1992.

(e) *Performance Standards*. No use shall be permitted or so operated as to produce or emit the following:

(1) Dust, fly ash, radiation, gases, heat, glare or other effects which are injurious to humans or damaging to property at the property line.

(2) Outdoor storage shall be enclosed on all sides by a sight obscuring and protective fence or wall not less than eight feet high, such fence to be chain link, wood, painted metal or masonry, or any combination of the above. Such fence shall comply with the front yard requirements of District M-1.

(3) Parking lot lighting shall be shielded or directed so that no off-site glare is produced.

(4) Smoke or particulate matter of a number two or darker on the Ringelmann Chart except: For a period or periods aggregating four minutes in any 30 minutes when number two, but not darker is allowed; and except for a period or periods aggregating three minutes in any 15 minutes of number three, but not darker when building a new fire or when breakdown of equipment occurs.

(5) Storage or parking of equipment or material which will support harmful bacteria, rodents or other disease carrying media shall be permitted only after approval by the council after report by the city health department.

(6) Vibration or concussion perceptible without instruments at the property line.

(7) The following standards shall apply to all drive-through or drive-up services:

a. Sites which are currently deficient in parking shall not reduce the existing parking ratios due to the introduction of a drive-through facility;
b. All uses providing drive-through or drive-up services shall accommodate a minimum of five vehicle stacking spaces prior to the point at which all drive-through and drive-up traffic merges into a single line. This requirement may be modified by the director, or his or her designee, should the applicant provide substantial proof, demonstrating the requirement should be less than the stacking spaces required by this subsection;
c. Stacking spaces shall not disrupt access to required parking spaces, and shall function independently of parking aisles;
d. If stacking or overflow stacking extends beyond the property line into an adjoining parcel, the applicant shall provide written evidence indicating the consent of the affected property owner;
e. The required vehicle stacking spaces shall equal a minimum of 20 feet in length for each space; and
f. Noise from drive-through speakers shall not be audible from adjacent residentially used or zoned properties.

g. Stacking or overflow stacking shall not extend or interfere with vehicular travel in any dedicated public right-of-way, unless approved by the director or his or her designee.

(f) *Height and Area Regulations*.

(1) *Height*. No maximum height.

(2) *Front yard*. The minimum front yard area shall be measured from the centerline of the fronting street as follows, but in no case shall the front yard setback be less than 30 feet:

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. A side yard is not required.

(4) *Rear yard*. A rear yard is not required.

(5) *Lot width*. No minimum width.

(6) *Parking and loading regulations*. (See Section 31-053, Off-street parking and loading).

(Code 1969, Sec. 26-300; [Sec. 31-300] G.O. 1393, 4-22-96; G.O. 1503, 4-7-97; G.O. 1619, 3-23-98; G.O. 1989, 11-24-03; G.O. 2351, 11-2-09; G.O. 2361, 11-30-09; G.O. 2910, 4-22-19; G.O. 2915, 7-1-19)

Editor's note: G.O. 1147, passed 1-31-94 repealed all references in the Code providing for mobile homes in districts other than R-5 "mobile home parks".

Sec. 31-035. M-2 heavy manufacturing district.

(a) *Purpose*. The M-2 Heavy manufacturing district is intended for heavy industrial uses and other uses not otherwise provided for in the M-1 district. The intensity of uses in this district makes it necessary to separate it from all residential districts wherever possible with good accessibility provided to major rail and air facilities and highways.

(b) *Use regulations*. In District M-2 no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, other than in conformance with the provisions of this section.

(c) *Permitted uses*. The following uses shall be permitted in M-2, heavy manufacturing districts.

(1) Any use permitted in M-1 districts.

(2) Accessory uses as provided in Section 31-050.

(3) Any of the following uses unless they are within 300 feet of any residential properties, in such event a conditional use permit shall be required.

a. Manufacturing and storage of products including, but not limited to; gas, solid or liquid flammable or corrosive materials; fertilizers; glass; roofing and other construction materials; vehicle, aircraft or other heavy equipment; cement, asphalt or other paving materials; or food products including uses classified as a High-Hazard Group H occupancy as determined by the International Building Code.
b. Manufacturing of products using hazardous substances.
c. Metal, wire and metal or wire products manufacturing
d. Recycling or reprocessing of plastics, glass, metals, batteries.
e. Stock yards, slaughter house or meat processing.
f. Water or sewage treatment facilities.

(d) *Conditionally permitted uses.* All conditionally permitted uses enumerated in Sec. 31-034, District M-1, may be conditionally permitted in District M-2, provided they meet the provisions of and a conditional use permit is issued in accordance with Section 31-070.

(e) *Performance standards*. No use shall be permitted or so operated as to produce or emit the following:

(1) Smoke or particulate matter of a number two or darker on the Ringelmann Chart except: For a period or periods aggregating four minutes in any 30 minutes when number two, but not darker is allowed; and except for a period or periods aggregating three minutes in any 15 minutes of number three, but not darker when building a new fire or when breakdown of equipment occurs.

(2) Dust, fly ash, radiation, gases, heat, glare or other effects which are injurious to humans or damaging to property at the property line.

(3) Vibration or concussion perceptible without instruments at the property line.

(4) Outdoor storage shall be enclosed on all sides by a sight obscuring and protective fence or wall not less than eight feet high, such fence or wall to be chain link, wood, painted metal or masonry or any combination of the above. Such fence shall comply with the front yard requirements of District M-2.

(5) Storage or parking of equipment or material which will support harmful bacteria, rodents or other disease carrying media shall be permitted only after approval by the council after report by the city health department.

(6) Parking lot lighting shall be shielded or directed so no off-site glare is produced.

(7) The following standards shall apply to all drive-through or drive-up services:

a. Sites which are currently deficient in parking shall not reduce the existing parking ratios due to the introduction of a drive-through facility;
b. All uses providing drive-through or drive-up services shall accommodate a minimum of five vehicle stacking spaces prior to the point at which all drive-through and drive-up traffic merges into a single line. This requirement may be modified by the director, or his or her designee, should the applicant provide substantial proof, demonstrating the requirement should be less than the stacking spaces required by this subsection;

c. Stacking spaces shall not disrupt access to required parking spaces, and shall function independently of parking aisles;
d. If stacking or overflow stacking extends beyond the property line into an adjoining parcel, the applicant shall provide written evidence indicating the consent of the affected property owner;
e. The required vehicle stacking spaces shall equal a minimum of 20 feet in length for each space; and
f. Noise from drive-through speakers shall not be audible from adjacent residentially used or zoned properties.
g. Stacking or overflow stacking shall not extend or interfere with vehicular travel in any dedicated public right-of-way, unless approved by the director or his or her designee.

(f) *Height and Area Regulations*.

(1) *Height*. No maximum height.

(2) *Front yard*. The minimum front yard area shall be measured from the centerline of the fronting street as follows, but in no case shall the front yard setback be less than 30 feet:

Local street	55 ft.
Collector street	60 ft.
Arterial	72 ft.
Parkway or boulevard (not designated as collector or arterial)	105 ft.
Expressway or Freeway	180 ft.

(3) *Side yard*. No side yard is required.

(4) *Rear yard*. No rear yard is required.

(5) *Lot width*. No minimum width.

(6) *Parking and loading regulations*. See Section 31-053, Off-street parking and loading.

(Code 1969, Sec. 26-310; [Sec. 31-310] G.O. 1393, 4-22-96; G.O. 1504, 4-7-97; G.O. 2351, 11-2-09; G.O. 2361, 11-30-09; G.O. 2915, 7-1-19)

Editor's note: G.O. 1147, passed 1-31-94 repealed all references in the Code providing for mobile homes in districts other than R-5 "mobile home parks".

Sec. 31-036. Planned unit development districts.

(a) *Statement of intent*. Each of the zoning districts hereinbefore set forth shall have a separate and distinct counterpart known and herein referred to as a planned district. A planned district shall be for the purpose of permitting and regulating the uses permitted in the equivalent district or in the case of a wind energy conversion system planned unit development shall conform to the regulations set forth in Section 31-354 and further provide for and encourage latitude and flexibility in the location of buildings, structures, roads, drives, variations in yards, open spaces, etc., subsequent to approval of the plan by local officials. The result is to allow development of tracts of land to their fullest extent and at the same time observe the general intent and spirit of these regulations. The purpose of this district is to also provide for and encourage the appropriate grouping of buildings to reduce vehicle trips, maximize open space and for the beautification of the district.

In general, the height and bulk of buildings, the amount of open space, the concentration of people and traffic and the parking and loading requirements shall be equal to those in the corresponding district. The uses permitted shall be the same as in the equivalent district.

Variations and departures from normal requirements may, however, be permitted. Each building need not face on a public street and more than one main building may be located on a lot. Buildings may be constructed on platted tracts which are smaller than the minimum lot size requirements where other adjacent permanent open space is provided. Buildings may be grouped in clusters or around courts and may be served by private drives in lieu of public streets. Buildings may be located closer to lot lines than otherwise permitted provided such

buildings are architecturally suitable for such a relationship to adjoining buildings or property.

The Planned Unit Development Districts shall be as follows:

Planned District	Equivalent District
RP-1A	R-1A
RP-1B	R-1B
RP-2	R-2
RP-3	R-3
RP-4	R-4
RP-5	R-5
CP-O	C-O
CP-1	C-1
CP-2	C-2
CP-3	C-3
MP-1	M-1
MP-2	M-2
WECSP-1	None

(b) Procedure for rezoning property to a planned unit development.

(1) A tract of land may be zoned to a planned unit development by the city as provided in Section 31-071, or upon application by the owner or his/her agent with approval of a conceptual development plan for the tract. A city initiated planned unit development zone need not be accompanied by a conceptual development plan. The applicants, other than the city, for a planned unit development zone change, or a developer intending to build on a tract of land zoned as a planned unit development shall prepare and submit to the commission a conceptual development plan containing the following elements:

a. The boundaries of the tract to be zoned and the area adjacent for a distance of not less than 500 feet.
b. The existing and proposed topography. Contours shall not exceed ten foot intervals and shall be on a plan at a scale of one inch equals 200 feet or larger. The proposed topography shall be clearly delineated on the plan.
c. The proposed location and arrangements of buildings, structures, parking areas, existing and proposed streets, drives and other public ways, public property, drainage, landscaping and other features of the proposed development.
d. Sufficient approximate dimensions to indicate the relationship between buildings, streets, drives and property lines.
e. A draft of conditions, covenants and restrictions (CC & Rs), easements, associations and maintenance agreements as well as specifications for ingress/egress to the property and any other legal requirements which will run with the property.
f. Preliminary elevation and plan drawings of proposed buildings which sufficiently depict the architectural theme of the development.
g. Preliminary sign program identifying common materials, sizes, heights and locations to be used on signs within the development. The materials used shall be consistent with the architectural theme of the buildings.

(2) The commission shall hold a public hearing on the conceptual development plan and after such public hearing shall either approve, approve with conditions, or disapprove the conceptual development plan. At such time as the conceptual development plan is approved, approved with conditions or disapproved by the commission, the same shall be duly endorsed and forwarded to the council for final action. The procedures for noticing and holding a public hearing for a conceptual development plan shall be the same as specified in Section 31-071 of this code. The conceptual development plan is in addition to, not in substitution of, the required statutory rezoning process.

(3) In reviewing conceptual development plans for a planned unit development district, the commission shall consider the following:

a. Topography; to ensure the site is suitable for development, and buildings are located and arranged in appropriate areas.
b. Parking; to ensure the proposed development contains an adequate amount of parking and is located in

an appropriate area. Generally, the parking should conform to the required number of parking appropriate to the development type as contained in Section 31-053. The commission may allow a deviation from these parking requirements should the applicant show an adequate amount of parking exists.

c. Setbacks; to ensure buildings provide for adequate light, air, and privacy protection by providing appropriate proportion between buildings, and adequate separation between buildings and adjoining properties.

d. Architecture; to ensure the architectural theme is compatible and consistent throughout the project and is reasonably compatible with surrounding developments.

e. Landscaping; to ensure the development provides adequate landscaping to provide a pleasant environment, to enhance the building's appearance and to ensure existing significant trees are adequately protected.

f. Site plan; to ensure the location and arrangement of buildings, signs and other structures are appropriate for the site, existing and proposed streets, drives and public ways are arranged appropriately and to ensure site drainage has been adequately addressed.

g. Any other feature or issue associated with the state zoning and planning enabling legislation or the comprehensive plan for the City of St. Joseph for which the commission feels is appropriate and relevant to the development of the site.

(4) Prior to approving a conceptual development plan for the purposes of this section, the commission shall make the following findings:

a. That the commission has reviewed the conceptual development plan with consideration of the issues contained in Subsection (3) of this section; and

b. That the conceptual development plan is in conformance with the comprehensive land use plan and other appropriate sections of the Code of Ordinances; and

c. That the conceptual development plan provides for an organized and unified system of land use intensities which are compatible with the surrounding areas; and

d. That the proposed development adequately protects the health, safety and general welfare of future and existing residents and property owners in and around the development.

(5) Upon final approval of the plan and the zoning or rezoning of the tract as required by law, building permits may be issued and conformance with the plan and all supporting documentation is mandatory. Substantial deviation from the plan shall require resubmittal to the commission and council in the same manner as the original zoning procedure.

(6) The wind energy conversion system planned unit development (WECSP-1) is an intended land use that is in harmony with Section 31-350 and the city's land use plan. It is not exclusive to one land owner. A group of land owners in any zoning district, except residential and commercial zoning districts, may submit a plan for a group wind energy conversion system (WECS). The plan will be reviewed by staff and when available with assistance from a specialist in the industry. If the submitted WECS meets with sound requirements of no more than 45dba at full capacity at the property line of the parcel boundary containing the WECS and also meets the height requirement or is granted an exception from the board of adjustment, the application for the proposed WECSP-1 shall proceed to the commission.

(Code 1969, Secs. 26-160, 26-240 & 26-320; [Secs. 31-160, 31-240 & 31-320] G.O. 1393, 4-22-96; G.O. 2362, 11-30-09)

Sec. 31-037. Planned community district or P-district

(a) *Purpose.* This district is designed to provide for those uses or combinations of uses which may be appropriately developed as a planned area development. It is intended to be

applied only to those areas which by reason of their proximity to other zoning districts, topography, geographic location, historic significance, size, shape or existing development require special consideration in order to be properly integrated into the community and adjacent developed districts, and to further the planned circulation patterns, residential densities, use definition, individual property rights, planned coverage limitations and in furtherance of the preservation of open space, public spaces and the general welfare of the neighborhood and City as required by modern land planning and zoning concepts and techniques.

(b) *Use regulations.* In a P-district no building, structure, land or premises shall be used; and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered other than in conformance with the plan as adopted by council.

(c) *Permitted uses.* Any use permitted in any other zoning district may be permitted in a P-district, either alone or in combination with other uses, after it has first been determined that the area to be so zoned requires the special consideration herein mentioned.

(d) *Conditionally permitted uses.* Any conditionally permitted use listed in any other zoning district may be conditionally permitted in a P-district, either alone or in combination with other uses, after it has first been determined that the area to be so zoned requires the special consideration herein mentioned.

(e) *Area requirement.* Planned community zoning shall not be applied to an area that contains less than five acres.

(f) *Height, area and yard requirements.* None, except as may be imposed by the precise plan or as a condition upon the granting of a planned community permit

(g) *Signs.* All signs shall be in accordance with Article II of this chapter based on the use of the property for which the sign is to be erected and subject to the height limitations of the precise plan, unless otherwise defined in the precise plan.

(h) *Permit required.* A planned community permit shall be required except as specified in subsection (i) prior to the development of any use within the P-district. Said permit shall set forth with particularity the nature of each use to be permitted, and shall define the location and extent of each such permitted use by reference to a map or maps attached to said permit. The application for such permit may be considered concurrently with, or subsequent to, the consideration of P-districts zoning.

(i) *Precise plan.* The city may adopt a precise plan to delineate uses, relationships to other areas, intensity of use, circulation, design criteria, procedures for development review and special conditions. A precise plan may authorize issuance of a planned community permit by the commission. The commission shall consider the application for a planned community permit approval at a regularly scheduled public hearing within 45 days from the date of the filing of an approved application packet. Notice of such application shall be given by publication in an official newspaper or a paper of general circulation indicating the time and the place of the public hearing on said application at least 15 days prior to the public hearing. Simultaneous to such notice, the commission shall, to the extent practicable, provide notice by certified mail to property owners within 185 feet of the property for which the planned community permit application has been filed. At the public hearing, parties in interest and citizens shall have an opportunity to be heard. Permitted uses and associated buildings unless otherwise noted in the plan, use changes provided they are permitted uses as defined in the precise plan, signs in conformance with the plan, minor site and building alterations may be approved administratively without need to go before the commission provided the precise plan contains reasonable and adequate standards for the granting of such administrative approvals. The process for initiating a precise plan zoning district is as follows:

(1) The adoption of a precise plan or amendment of a precise plan can be initiated by the city council, the commission or any interested party. Initiation by an interested party shall require payment of a filing fee as set out in Section 31-075 for amendments, revisions or change of the zoning district and an application shall be accompanied by materials supportive of the application and showing the exact nature of a proposed plan or amendment. Submitted materials should include statements

justifying why the proper functioning of the community requires adoption of the plan, why the plan is more suitable for the area than the existing zoning, and in the case of an amendment, why the proposed plan is more suitable for the area than the existing plan.

(2) The commission shall hold at least one public hearing thereon and shall give notice thereof as provided in subsection (i) above. Within 60 days of said public hearing, the commission shall make its recommendation to the city council.

(3) The city council shall hold at least one public hearing thereon after having given notice of such hearing as provided in Section 31-071 and may thereafter by ordinance, adopt, amend or decline to adopt such precise plan. Any substantial amendment to the precise plan proposed by the council shall be referred back to the commission for comment.

(j) *Application for planned community permit.* An application for a planned community permit may be made by the owner of the property affected, or an agent of the owner authorized in writing, or an application prescribed by the commission or city council. Said application shall be filed with the planning and community development department and shall be accompanied by the following:

(1) A filing fee as set out in Section 31-075 for amendments, revisions or change of the zoning district.

(2) A complete legal description of the property which is the subject of the application.

(3) A site development plan, indicating generally the location of each proposed building or structure, the location and extent of each portion of the land or buildings proposed to be set aside for each proposed use, the proposed or existing location of public and private roadways, driveways, walkways, other elements of internal and external circulation and all areas proposed to be landscaped, paved or otherwise treated.

(4) Preliminary architectural drawings or sketches of each proposed building or structure. Such drawings or sketches need not be final or detailed, but shall indicate with reasonable accuracy the height of proposed buildings and structures, their general appearance and their relationship to adjacent existing or proposed building(s) or structures.

(5) Such other information as may be required by the planning and community development director or his/her designee concerning the proposed development and use of the property or materials which the applicant may deem necessary for full consideration of the proposal.

(k) Action by the commission on an application for a planned community permit shall be as follows:

(1) Following the hearing and within 45 days of the commission meeting the commission shall approve, approve with conditions or disapprove the planned community permit. In order to recommend approval of any such permit, the commission must find that the establishment, maintenance or operation of the use or uses applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals or general welfare of persons residing or working in the neighborhood of said proposed use, or be injurious to property and improvements in the neighborhood, or to the general welfare of the city.

(2) The planning and community development director or his/her designee may recommend conditions in connection with the permit as deemed necessary to secure the purpose of the precise plan and this chapter.

(3) In such event, the planning and community development director or his/her designee shall make the findings, and may impose conditions as set forth in subsection (k)(2). Any precise plan making such authorization shall contain reasonable and adequate standards for the guidance of the planning and community

development director or his/her designee in issuing permits.
(G.O. 1743, 1-24-00; G.O. 2362, 11-30-09)

Secs. 31-038 - 31-049. Reserved.

DIVISION 3. SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 31-050. Accessory uses and buildings.

(a) Buildings and structures may be erected and used and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging or unhealthful to adjacent property or the uses thereof and shall be on the premises of the main use.

(b) Every accessory building requires a building permit. Application for such a permit shall be made to the chief building official. The building permit for the accessory building may be included on the permit for the main building or main land use if constructed or established simultaneously, otherwise a separate permit will be required.

(c) The city planner shall determine whether a proposed accessory use, or in the case of an enforcement action, an existing accessory use is permitted under this ordinance. In reviewing and approving an accessory use, the city planner shall find that the proposed use meets the following criteria:

(1) Is subordinate to and serves a principal use;

(2) Is subordinate in area, extent or purpose to the principal use served;

(3) Contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal use;

(4) Is related to the principal use of the property;

(5) Is located on the same lot as the principal use served;

(6) Is not injurious, noxious or offensive to the neighborhood;

(7) Does not exceed 30% of the rear yard area inclusive of that area occupied by accessory structures in residential districts; and

(8) Accessory uses of a storage nature are not located in the front yard area.

In the event the chief building official denies the accessory building, or the city planner denies the accessory use, the applicant may appeal to the board of adjustment as provided in Sections 31-090 and 31-091, or seek a special exception as allowed in Subsection 31-050(e).

Any accessory use to a use requiring a conditional use permit is prohibited unless specifically allowed by the conditional use permit.

(d) Unless otherwise specified in this section or Section 31-055, "Height and area regulation exceptions", all attached and detached accessory structures shall conform to the same height and area regulations required of the main use or structure.

(e) Accessory uses and buildings include, but are not limited to, the following list of examples, provided that each accessory use or building shall comply with all the provisions of this chapter.

(1) Drop-off boxes at all commercial establishments in C-O through M-2 zone districts provided the drop-off box:

a. Is located behind the minimum setbacks required in the respective zones;
b. Does not eliminate any required parking spaces or is not located in any parking aisle; and
c. Is located so to preclude blocking any driveway entrance or exit, blocking pass through traffic in the parking aisles and blocking pedestrian access to the main entrance.

(2) Employee restaurants and cafeterias when located in a permitted business or manufacturing building. (The size of these accessory uses may be no more than

10% of the gross square footage of the business.)

(3) Home occupations in accordance with Section 31-051.

(4) Management offices for multi-tenant properties.

(5) The operation of service facilities and equipment in connection with schools, hospitals and other similar institutions or uses.

(6) The overnight parking of any vehicle, other than those specifically allowed in Subsection 31-050(g)(1), in a residential district with:

a. An overall length of less than 22 feet; and/or
b. A wheel base less than 14.5 feet; and/or
c. An overall height less than nine feet.

(7) Recreational uses and structures for the use and convenience of occupants, employees or guests of a principal use or facility.

(8) Refreshment and service facilities in parks and playgrounds, and in permitted public or private recreation facilities or schools.

(9) Repair or construction of power boats or racing vehicles may be allowed only in zone districts for which repair or construction of vehicles as a commercial business is permitted. Minor engine tune-ups of personal vehicles or recreational vehicles which are legally stored on a lot may be permitted in residential districts provided the vehicles are owned by the occupants of the dwelling and all repair must take place within a private garage.

(10) *Residential accessory buildings*. Garages, carports, parking facilities, tool/storage sheds in residential zoning districts and for residential uses in all other zoning districts, provided:

a. *Attached accessory structures*. Garages, carports, parking facilities or tool/storage sheds attached to the main structure shall conform to the same height, area and setback regulations required for the main use or structure, except:

1. That on a corner lot, a private garage not exceeding the height of the main building may extend into the required rear yard to a point not less than 18 feet from the rear lot line; and
2. Shall not occupy more than 30% of the required rear yard.

b. *Detached accessory structures*. Garages, carports, gazebos, parking facilities or tool/storage sheds detached from the main structure shall:

1. Be located not less than 50 feet from the front property line;
2. Be not less than three feet from any side lot line not abutting a street. In the case of a corner lot, detached accessory structures shall be located no closer to the street side yard property line than the minimum distance required for the primary structure;
3. Be not less than one foot from any alley line, except that when the rear lot line is common to a lot line of another lot, such detached structure must be located a minimum of three feet from said rear lot line;
4. Occupy an area no greater than 30% of the rear yard area behind the principal structure; and
5. Be at least seven feet from the main dwelling.

c. Detached accessory structures located in the R-1 through R-4 residential zoning districts shall meet the following standards as approved by city staff:

1. Galvanized metal is prohibited as an exterior building material;
2. All accessory structures shall have enclosed eaves at a minimum length or depth of twelve inches unless it is a pre-manufactured and/or a pre-

assembled wood storage building and under 250 square feet in gross floor area.

3. Freestanding metal carports and arched steel structures (aka Quonset huts) are prohibited.
4. All accessory structures shall have a maximum eave height of fourteen feet, and minimum roof slope of a 3:12 ratio.
5. Structures larger than 1000 square feet in ground floor area shall meet the following additional requirements:

   i. Exterior materials shall consist of the same or similar materials as the principal structure unless the structure is of a post-frame construction utilizing metal exterior material. In post-frame applications where metal exterior materials are used the exterior must be as follows:

      (A) All building facades that can be viewed from the adjacent or abutting street right-of-way shall at a minimum have exterior decorative accents in the form of brick/stone veneer or other acceptable decorative paneling on the lower portion of the structure.
      (B) The decorative accents shall be a minimum of 36 inches in height as measured from the finished floor elevation.
      (C) The city planner shall determine the acceptability of decorative paneling to be allowed.

   ii. In order to prevent an institutional or uncharacteristic appearance, any wall or facade with a square footage greater than 400 sq. ft. shall have at least one window with a minimum measurement of two foot six inches by three feet six inches or a typical thirty six inch wide walk-in door.

   d. Detached accessary structures located in the R-5 zoning district shall meet the following standards as approved by city staff:

      i. All accessory structures shall have a maximum eave height of 14 feet.

   The requirements of this subsection shall not apply to agricultural operations in residential zoning districts.

(11) Storage of one boat, travel trailer, RV or pick-up camper in residential districts, but not in the front yard or the street side yard of a corner lot, and provided they are not used as living quarters.

(12) Telecommunications facilities or antennae support structures as provided for in Article V, Section 31-316 of this chapter.

(13) Temporary construction trailers used for offices and/or storage, located on a lot for which building permits have been issued, provided the trailer meets the setbacks for an accessory structure and is limited to the duration of construction, not to exceed one year.

(14) Temporary real estate sales offices, located on a subdivision or property being sold, and limited to the period of sale, but not exceeding two years without a conditional use permit.

(15) The storage of building materials including, but not limited to, bricks, blocks, cement, concrete, electrical materials, glass, linoleum, lumber, plumbing materials, rocks and tile provided that these materials are to be used for construction on the premises and, if stored for more than 24 consecutive hours in a 30 day period, that they are screened from view of

neighboring properties and adjacent streets and alleys, and provided that the storage use is in accordance with the provisions of Subsection (c). In no case shall building materials be stored outside of a building on residentially zoned property for a period of time exceeding 90 days.

(16) *Utilities*. Public and private utility lines and structures, including, but not limited to, sanitary sewers, storm sewers, water, natural gas, electric, cable television and telephone, subject to the requirements of Section 31-057 "Accessory utility uses and facilities; all districts" and the following additional requirements: Local utilities and utility easements of any non-governmental entity not running perpendicular to the public right-of-way, street, highway or roadway shall be located at a minimum of 15 feet from rights-of-way, provided that such utilities may be authorized in such 15 foot corridor by the city for good cause pursuant to city code Section 29-357 within an exclusive easement granted to the city for utility purposes over which no additional utility easements may be granted or effective. Existing utilities or easements contrary to this provision shall be subject to the provisions for nonconformities to the extent otherwise in compliance with applicable laws.

(f) *Special exceptions*: A special exception permit may be granted by the board of adjustment in accordance with the procedures contained in Sections 31-090 and 31-093 for the following accessory uses:

(1) The parking of any vehicle, other than those specifically allowed in Subsection 31-050(g)(1), for more than one night in a residential district with:

a. An overall length of greater than 22 feet; and/or
b. A wheel base greater than 14.5 feet; and/or
c. An overall height greater than nine feet.

(2) The repair or construction of power boats, racing vehicles or other recreational type vehicle in residential districts.

(3) The storage of one boat, travel trailer, RV or pick-up camper in the front yard of any residential district.

(4) Telecommunications facilities or antennae support structures as provided for in Article V, Section 31-318 of this chapter.

(g) None of the following shall be permitted as an accessory use:

(1) Equipment, material or vehicles, other than a registered motor vehicle in operable condition, boat, travel trailer, recreational vehicle or pick-up camper as permitted above, for more than 24 hours in a 30 day period in a residential district.

(2) Storage of any materials not directly related to the principal use of the property and located outside of a building in a residentially zoned district is specifically prohibited except for building materials as provided in Subsection (e)(15) and materials customarily associated with a residential use such as, but not limited to, above ground swimming pools and associated equipment buildings, arbors, barbecue pits and grills, firewood neatly stacked, gazebos, operational and licensed vehicles, planters, play structures, toys, trash cans used for normal on-site garbage collection and trellises attached to a building.

(h) *Use limitations.* All accessory structures and uses shall comply with the use limitations applicable in the zoning district in which they are located and with the following additional limitations:

(1) No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is accessory.

(2) No accessory use shall be permitted in any required front yard unless it is permitted by Section 31-055 or pursuant to Subsection 31-050(e)(16) and Section 31-057.

(Code 1969, Sec. 26-420; [Sec. 31-420] G.O. 1393, 4-22-96; G.O. 1505, 4-7-97; G.O. 1619, 3-23-98; G.O. 1692, 5-3-99; G.O. 1874, 4-1-02;

G.O. 1968, 9-29-03; G.O. 2007, 2-2-04; G.O. 2178, 7-3-06; G.O. 2265, 1-14-08; G.O. 2420, 3-7-11; G.O. 2730, 5-27-14; G.O. 2783, 7-20-15)

Sec. 31-051. Home occupations.

(a) *Purpose*. The purpose of this section is to permit and regulate the conduct of home occupations as an accessory use in a residence, whether owner or renter occupied, and to ensure that such home occupations are compatible with the neighborhoods in which they are located. The intent is to protect residential areas from adverse effects of activities associated with home occupations, while allowing residents of the community to utilize their homes as a work place and a source of livelihood under certain conditions.

(b) *Home occupations permitted*. Home occupations include, but are not limited to, the following example occupations.

(1) Artists, sculptors, authors, photographers and composers.

(2) Computer programming, personal computer data processing and home computer bulletin board services.

(3) Direct sale product distribution (Amway, Avon, Tupperware, etc.) provided parties for the purpose of selling merchandise or taking orders shall not be held more than once a month, shall be limited to ten customers and shall be held between the hours of 9:00 a.m. and 10:00 p.m.

(4) Dressmakers, seamstresses, and tailors.

(5) Hairdresser/barber provided only one person may conduct such activity.

(6) Home crafts, such as model making, rug weaving, woodworking, ceramics (with a kiln up to six cubic feet) and similar activities, provided that no machinery or equipment shall be used or employed other than that which would customarily be found in the home, including machinery or equipment that would ordinarily be employed in connection with a hobby or avocation not conducted for gain or profit.

(7) Home offices for architects, engineers, lawyers, realtors, insurance agents, brokers, ministers, rabbis, priests, salesmen, sales representatives, manufacturers representatives, home builders, home repair contractors, trash haulers and similar occupations.

(8) Mail order, not including retail sales from site.

(9) Music and art teachers or other tutoring services on an individual basis.

(10) Telephone answering.

(11) Washing and ironing.

(12) Work at home" activities where employees of a business, located at another location, perform work for the business in their own residence, provided all physical contact between the business and the employee occurs at the place of business and not the residence, other than the initial installation of any equipment or other work facilities. The work activities of the employee shall conform with all other requirements of this section.

(c) *Use limitations.*

(1) Home occupations shall be carried out by members of the household occupying the dwelling only.

(2) The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory building.

(3) No manufacturing or processing of any sort whatsoever shall be done, except as permitted by Section 31-051(b)(6).

(4) One wall mounted sign not exceeding one square foot in area is permitted.

(5) No stock in trade shall be displayed or sold on the premises except for delivery of orders.

(6) No stock in trade, except articles produced by residents of the premises, shall be stored on the premises.

(7) No alteration of the principal residential building shall be made which changes the character thereof as a dwelling.

(8) The home occupation shall not produce offensive noise, vibration, smoke, electrical interference, dust, odors or heat. Any noise, vibration, smoke, electrical interference, dust odors, or heat detectable beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multi-family structure, shall constitute a violation of this section.

(9) No mechanical or electrical equipment other than normal domestic or household equipment shall be used.

(10) There shall be no outdoor storage of equipment or materials used in the home occupation.

(11) The receipt or delivery of merchandise, goods or supplies for use in a home occupation shall be limited to the United States mail, similar parcel delivery service, or private vehicles with a gross vehicle weight rating of 10,000 pounds or less.

(12) Not more than one vehicle shall be utilized for business purposes.

(13) No customer waiting areas shall be provided.

(14) No vehicles shall be parked and no equipment or materials shall be stored for trash haulers, home builders, home repair contractors and similar occupations.

(15) A business license shall be obtained, if required by other ordinances.

(d) *Particular home occupations prohibited*. Permitted home occupations shall not in any event be deemed to include the following types of activities and uses.

(1) Animal hospitals.

(2) Auto repairing and painting.

(3) Massage parlors or massage therapy establishments.

(4) Medical offices for doctors, dentists and veterinarians.

(5) Palm reading or fortune telling.

(6) Shops for contractors and tradesmen, such as electricians, plumbers and carpenters.

(7) Tanning salons.

(8) Trash hauler operations other than a home office.

(Code 1969, Sec. 26-100; [Sec. 31-100(a)(11)] G.O. 1393, 4-22-96)

Sec. 31-052. Manufactured homes.

(a) *Purpose*. The purpose of this section is to set forth standards for the placement, construction and architectural appearance of manufactured homes within the city. The intent of this section is to ensure that manufactured homes are compatible with other dwellings in residential neighborhoods and meet a minimum construction, placement and architectural standard while providing an alternative means of affordable home ownership for the residents of the community.

(b) *Occupancy restrictions*. Manufactured homes shall not be placed or occupied on an individual lot without a building permit issued under these regulations.

(c) These regulations do not apply to modular homes, which shall be subject to the same zoning standards as site built houses (See Sec. 31-010 "Definitions").

(d) *Siting requirements*. Each manufactured home placed on an individual lot shall:

(1) Be occupied only as a single-family dwelling and be permitted in the same districts as single family dwellings.

(2) Be placed in conformance with all zoning and setback requirements established for the district in which located.

(3) Accessory structures, which are limited to a garage and a shed, shall be placed in conformance with the setback and dimensional requirements established for the district in which located. The exterior covering and roofing material of the garage or carport must be the same as that of the dwelling unit.

(4) Have a minimum width of not less than 22 feet as measured at all points perpendicular to the length of the manufactured home. This standard is intended to restrict units to the type which are brought to the site in parts, typically two halves.

(5) Have been manufactured after June 15, 1976.

(6) Roof must be gable or hip roof of at least three in 12 or greater and covered with material that is residential in appearance, including, but not limited to, approved wood, asphalt composition or fiberglass shingles, but excluding corrugated aluminum, corrugated fiberglass or metal roofs. Except for permitted deck areas, all roof structures shall provide an eave projection of no less than six (6) inches and no greater than thirty (30) inches.

(7) Have the main entry door facing the street on which the manufactured home is located. A sidewalk shall be installed from the street, driveway or sidewalk adjoining neighboring lots to the front door. The unit must be oriented on the lot so that its long axis is parallel with the street. A perpendicular or diagonal placement may be permitted if there is a building addition or substantial landscaping so the narrow dimension of the unit, as so modified and facing the street, is no less than 50% of the unit's long dimension.

(8) Have exterior surface and window treatments that to the maximum extent

possible are architecturally compatible with those of neighboring properties, excluding smooth, ribbed or corrugated metal or plastic panels.

(9) Be placed on a parcel according to a presubmitted and approved plot plan as described on the permit. In addition, a manufacturer's installation manual and an illustration of the finished appearance of the unit shall be provided.

(10) Units shall be attached to a continuous permanent foundation, which manner of placement shall be as stated on the building permit, and meet all manufacturer's specifications for support.

(11) The exterior foundation material shall consist of continuous concrete or masonry suitable for the outer portion of a finished residence.

(12) Have the tongue and running gear including axles removed.

(13) Maintain a minimum of 18 inches of crawl space under the entire manufactured home.

(14) Have permanent steps set at all exits.

(15) Be served by a water supply and sewage disposal system meeting the established city requirements.

(16) Underground public utilities shall be required.

(17) Property owner shall declare the manufactured home as real property and must so record with the Buchanan County assessor.

(e) *Inspections*. Each manufactured home approved for placement on a parcel shall be subject to the following inspections:

(1) Siting to insure zoning requirements. Foundations prior to placement of a manufactured home.

(2) Foundation anchors and utility connections or landings.

(3) Steps at all doors.

(4) The permittee shall give the chief building official notice when the premises are ready for inspection and shall not proceed further until approval has been given by the official pursuant to each inspection.

(f) *Nonconformity*. All legal existing occupied mobile and/or manufactured homes located on an individual lot shall be permitted to remain in place so long as occupied, but provided that they may not be replaced unless made to conform with the requirements of this ordinance. Previously established special use permit renewal requirements shall no longer be required of owners of such mobile and/or manufactured homes. Any such existing mobile and/or manufactured home shall be removed when unoccupied for a period in excess of 12 months.

(g) *Temporary Accessory Use - Act of God*. In the event of destruction of an existing single family residence by accident or act of God, it shall be permitted to have a mobile and/or manufactured home placed on site where there is sufficient room to accommodate the mobile and/or manufactured home and still permit safe reconstruction of the single family dwelling. Such a mobile and/or manufactured home shall not be required to conform to the site, placement, width, setback or "consistency with neighborhood appearance" requirements of this ordinance, but shall be permitted only so long as good faith efforts are underway to complete reconstruction of the original dwelling, not to exceed 12 months, at which time the mobile and/or manufactured home shall be removed.

(h) *Violations*. Violators of this section shall be subject to the usual penalties for violation of the zoning ordinance specified in Sec. 31-073.

(i) Mobile homes by definition shall be allowed in R-5 zoning district only.
(Code 1969, Sec. 26-050; G.O. 1147, 1-31-94; G.O. 1272, 3-27-95; [Sec. 31-050] G.O. 1393, 4-22-96; G.O. 1808, 12-27-00)

Sec. 31-053. Off-street parking and loading.

(a) *Purpose*. The purpose of this section is to establish regulations pertaining to the design and number of off-street parking for land use activities located in the various zone districts and to provide for the safety and convenience of property owners, occupants of dwellings, employees and customers.

(b) *General regulations*.

(1) For all buildings or structures hereafter erected, constructed, reconstructed, moved or altered, except those located in District C-2, off-street parking in the form of garages, carports or open areas made available exclusively for that purpose shall be provided as specified in this section.

(2) Handicapped accessible parking spaces as specified below shall be provided when parking lots are resurfaced or restriped.

(3) Prior to surfacing, resurfacing or restriping any parking lot in any zone district, except for single family and two-family dwellings, a permit must be obtained from the Chief Building Official. A parking layout plan identifying parking stalls, handicapped accessible stalls, and aisles must accompany any permit application.

(4) Parking areas shall be dimensioned as follows:

a. The parking area provided for each standard size car space shall be at least nine feet in width by 30 feet in length.
b. In parking lots, the minimum striped parking stall length for standard parking spaces shall be 18 feet, the remaining 12 feet shall be for back-up space.
c. In the case of parallel parking, the minimum standard size parking area shall be at least nine feet in width by 22 feet in length.
d. The parking area provided for each compact size car space shall be at least eight feet in width by 28 feet in length.
e. In parking lots, the minimum striped parking stall length for compact parking spaces shall be 16 feet, the remaining 12 feet shall be for back-up space.
f. In the case of parallel parking, the minimum compact size parking area shall be at least eight feet in width by 18 feet in length.
g. In no case, for either standard parking lot aisles or compact parking lot aisles, shall the minimum aisle width be less than 18 feet.
h. A two foot overhang over landscaped areas or sidewalks, as long as it does not cause disruption to pedestrian traffic, may be permitted.
i. Compact spaces shall be designated as such by informational signs or the letter "C" marked at the entrance of the parking space.
j. The maximum number of compact parking spaces shall not exceed 30% of the total number of parking spaces, except for single family dwellings and two-family dwellings where no compact spaces are permitted.
k. Other parking requirements: For any uses or structures not provided for in Table 31-053 (see page 106), the director of community services shall determine the necessary number of parking spaces, the maximum distance of the parking area from the main building and the maximum width of parking entrances and exits based on all parking generating factors involved and likely future uses of the property. The applicant may seek relief from the director's determination regarding this subsection by applying to the Board of Adjustment in accordance with Section 31-091.
l. *Computation*. When determination of the number of off-street parking spaces required by this Chapter results in a requirement of a fractional space, the fraction shall be rounded to the nearest whole number.

(5) For projects in planned development districts, the parking requirements contained in Table 31-053 (see page 106) function as guidelines. Within such districts, the commission or city council

may approve a development plan which deviates from these requirements if an applicant provides a parking study which supports such deviation.

The parking study required by this subsection shall contain the following information:

a. The hours of operation of each building, structure and/or use which is to be part of the deviation.
b. The projected parking demand for each building, structure and/or use during each hour of the day. Hourly parking demand may be averaged for weekdays, but shall be separately stated for Saturday and Sunday.

(6) No portion of a parking area, except the necessary drives, shall extend into a public street or alley.

(7) Any lights used to illuminate parking areas in any zone district shall be shielded or directed so to preclude the light source from being visible from off the site as measured at a height of five feet at the property line.

(8) All parking spaces shall be maintained at all times so that striping, and signs and markings for handicapped parking stalls are clearly identifiable and visible.

(9) All parking areas in all districts shall be paved with an impervious surface such as concrete, asphalt or other such material, with the exception of:

a. Parking areas with 50 or less spaces in subdistrict "Distribution/ Warehousing/ Light Manufacturing District B-P(D)", which may have loose gravel; and
b. Parking in the rear yards of properties that are zoned for single-family use.

In the case of either a. or b. where gravel is intended to be used, it must be contained within a defined area created by railroad ties, landscape timbers, masonry block or other method that is approved by the city planner.

(10) All parking spaces must be clearly striped as definitive automobile spaces.

(11) All parking aisles must have a circular access. No dead end parking aisles are permitted, unless approved as part of a planned unit development plan or through a variance as provided in Section 31-071.

(12) All required off-site parking shall be provided on the same lot as the main building(s) or within a designated distance from the site as shown on Table 31-053 (see page 106).

(13) Table 31-053 (see page 106) defines the required number of parking spaces for uses within the zone districts.

(14) Loading space for commercial and industry: Any commercial or industrial building, hospital, institution or hotel hereafter erected, constructed, reconstructed or altered, in any district, shall provide off-street facilities on the lots for the loading and unloading of merchandise and goods within or adjacent to the building in such a manner as not to obstruct pedestrian or traffic movement on the public walks, streets or alleys.

(15) Except for single family and two family dwellings,

a. Accessible off-street parking spaces shall be provided for all other uses.
b. Each accessible parking space shall be at least eight feet by 30 feet, each stall shall have a minimum 60 inch demarcated aisle adjacent to the parking space, the demarcated aisle must be as long as the parking space or universal parking spaces (16 feet by 30 feet) may be provided instead of separate standard and van spaces; (designated van spaces are not required under this design) and each shall be identified by a pole or wall sign (12 inches by 18 inches), 48 to 60 inches above the ground inscribed with the international symbol of accessibility in white on a blue background, and the requirements for each space shall not be modified by the board of adjustment;

c. Said accessible space may be included in the total number of off-street parking spaces to be computed.
d. Parking spaces for persons with disabilities shall be located as close as possible to elevators, ramps, walkways and entrances.
e. Parking spaces should be located so that persons with disabilities are not compelled to wheel or walk behind parked cars to reach entrances, ramps, walkways and elevators.
f. The number of accessible parking spaces shall be calculated as follows:

Total Parking in lot	Required Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2.5% of total
over 1000	30 plus 1 for each 100

g. For every eight or fraction of eight accessible parking spaces, at least one shall be a van-accessible parking space. This space(s) must have a minimum of a 96 inch wide accessible aisle and a minimum of 98 inches vertical clearance. Signage designating the space as "van accessible" must be provided below the symbol of accessibility.
h. *Medical facilities*: Ten percent of parking spaces provided for medical outpatient facilities shall be accessible. Twenty percent of parking spaces provided for medical facilities that specialize in treatment or services for persons with mobility impairments shall be accessible.

(16) *Shared parking areas*. The parking spaces required of two or more uses located on the same lot may be combined and used jointly, provided, however:

a. Where off-street parking space is combined and used jointly by two or more uses having different standards for determining the amount of off-street parking space required, the parking space shall be adequate in area to provide the aggregate number of off-street parking spaces required for all such uses.
b. Where off-street parking space is combined and used jointly by two or more uses having the same standard for determining the amount of off-street parking space required, all such uses, for the purposes of this section, shall be considered as a single use and the gross floor area of all such uses in all structures on the same lot or the number of seats, beds or other applicable standard of all uses in all structures, on the same lot, shall be taken as a single total for the purpose of determining the number of off-street parking spaces required.

(17) *Exceptions*.

a. The off-street parking requirements in this section shall not apply to structural changes in existing buildings which do not expand the building horizontally or vertically or increase the usable floor space or to changes in occupancy of a building unless the use is changed.
b. Buildings and structures in a zone that has been designated as a historic district that do not have the number of off-street parking spaces required by this section shall not be required to provide any additional parking that would otherwise be required by a change in use, an expansion of the building or structure, or reconstruction after the building or structure has been destroyed or damaged by fire or other casualty, provided:

1. The number of existing off-street parking spaces is not diminished;
2. An attempt has been made to provide all required spaces, but more parking would significantly change the character of the site as

viewed from the street or another historical perspective; and

3. A certificate of appropriateness is issued by the landmark commission pursuant to Section 31-179 of this chapter.

c. The number of off-street parking spaces required in this section may be deferred and, in lieu thereof, be set aside as a landscaped area, upon approval of the community services director provided that:

1. Acceptable proof of a reduced parking need based on the proposed use, number of employees, number of company vehicles and the number of expected visitor trips to the property is submitted to and approved by the director of community services, and;
2. A site plan which shows the building location(s), existing and proposed parking spaces, the area of deferred parking showing the parking space layout if the parking were to be installed and a landscape plan is submitted and approved by the community services director; and
3. A parking deferral agreement provided by the city is signed and executed by the person wishing to obtain the deferral.

(18) *Special exception for off-street parking*. The board of adjustment may grant a special exception from the minimum off-street parking requirements as provided in Sections 31-090 and 31-093. The board of adjustment may place conditions upon the granting of a special exception, and may require that the parking area not required upon the granting of the special exception be landscaped.

(Code 1969, Sec. 26-450; G.O. 760, 2-20-90; [Sec. 31-450] G.O. 1393, 4-22-96; G.O. 1685, 4-5-99; G.O. 2176, 6-19-06; G.O. 2196, 9-25-06; G.O. 2706, 10-14-13)

Editor's note: G.O. 1870, passed 2-4-02, amended Table 31-053 located on Page 106 of this Chapter.

Sec. 31-054. Fences and hedges.

(a) *Purpose*. The purpose of these fences and hedges regulations is to establish criteria for the location, maintenance and appearance of privacy fences and hedges. The intent is to limit the amount of privacy fencing in order to promote the open, unencumbered characteristics St. Joseph has established over the years and ensure the safe visibility of pedestrian and vehicular traffic.

(b) *Permit required*. Except as provided for single strand electrical wires, a fence permit shall be obtained and the required fee paid as set out in Section 7-400(11) before installation of any fence. A diagram indicating the location of the proposed fence, property lines, setbacks and buildings, and a typical detail of the fence showing the material and general appearance of the fence shall be submitted with the permit request.

(c) For all property within the city, no person or business shall erect or maintain a sight-obscuring fence forward from the front building line, excluding any and all porches, decks, patios or similar appurtenances, except where otherwise authorized by this code.

(d) Fences over three feet in height and with more than 50% obscured shall be deemed to be a sight-obscuring fence.

(e) In no case shall a sight-obscuring fence, hedge, tree or other visual barrier be placed or maintained in excess of three feet high within a street or driveway intersection sight visibility triangle as defined in Section 31-113 of this code of ordinances. Trees within a street or driveway intersection sight visibility triangle shall be kept trimmed so the tree canopy is no less than ten feet high.

(f) Fences shall not exceed four feet in height in any front yard area, six feet in height in any side yard area and eight feet in height in any rear yard area of any property used for residential purposes. In addition:

(1) No person shall erect a fence over four feet high or more than 50% sight obscured between two primary structures in a residential area on adjoining parcels if the total distance between the primary structures on adjoining parcels is less than 12 feet.

(g) Commercial or industrial buildings adjacent to residential properties shall install a six foot high sight-obscuring fence constructed of a consistent solid material such as wood or block. The fence shall be so constructed so that the finished side is facing the residential properties.

(h) Fences or hedges/landscape materials shall be required to screen storage areas allowed in all commercial and industrial districts and shall be of sufficient height to screen the storage from adjacent public right-of-way and adjacent properties. If screening is required to exceed eight feet in height, then landscaping material shall be utilized to soften the impact and add to the screening. Trees that will grow to a sufficient height to screen storage from adjacent properties shall be utilized where the terrain is such that a screen exceeding ten feet in height is needed.

(i) The height of a fence shall be measured from the highest adjoining finished grade.

(j) No person shall erect or maintain any barbed wire fence except under the following circumstances:

(1) When the barbed wire fence is erected and maintained as an integral part of the security fence for nonresidential properties only, provided that the barbed wire is not maintained within five feet of the ground; or

(2) When the barbed wire fence is erected or maintained around a tract of land used for agricultural purposes as defined by the zoning laws of the city of St. Joseph.

(3) In no case shall razor wire be permitted in any zone within city limits except as used by official governmental agencies.

(k) No person shall erect or maintain any electrical fence unless in conformance with the following provisions:

(1) All electric fences shall comply with minimum specifications of the Underwriters' Laboratory, and shall be installed in accordance with the National Electric Code adopted by the city.

(2) Fences which may continuously conduct electric current may be allowed only on agricultural land to be used to raise livestock.

(3) Single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed only along the interior base line of an other-wise permitted fence. No permit shall be required for the erection and maintenance of such single-strand electric wires.

(l) No fence shall be constructed within any drainage easement or floodway unless the city engineer has advised the chief building official that the fence shall, in all probability, not interfere with or impair the natural flow of water across the drainage easement or floodway.

(m) All fences shall be designed, erected and maintained in accordance with the following:

(1) All fences shall be maintained in good repair and in their original upright position.

(2) No fence shall be maintained with protruding nails, boards, wires or other similar materials.

(3) All fences shall be constructed of a consistent material such as chain link, wood, concrete block, brick, stone, wrought iron or other like material.

(4) Missing boards, pickets or posts shall be replaced in a timely manner with material of the same type and quality.

(5) All fences shall be constructed with the finished side facing outward from the property or with both sides finished. The post and support beams shall not be on the outside.

(6) Wood fences shall be constructed of material which is naturally resistant to insects and decay or has been treated to resist insects and decay underground.

(7) All posts used for any type of fencing shall be set in a concrete base.

(n) Any swimming pool area, where the pool depth is two feet or more, shall be entirely enclosed and separated from the remainder of the property by a protective fence or other permanent structure at least four feet in height, with locked gates or entrances. A permanent fence shall be in place during construction of any pool. Arrangements may be made with the chief building official to provide a temporary section of fence during pool construction to allow for ingress and egress. A sight-obscuring or other approved fence constructed on the property lines adjacent to the pool may be considered a protective fence meeting this requirement.

(o) Violations of this section shall be remedied in accordance with Section 31-073 of this code of ordinances.

(Code 1969, Sec. 26-470; G.O. 775, 3-19-90; [Sec. 31-470] G.O. 1393, 4-22-96; G.O. 1447, 8-26-96; G.O. 1990, 11-24-03; G.O. 2116, 8-1-05; G.O. 2899, 2-25-19)

Sec. 31-055. Height and area regulation exceptions.

(a) The regulations and requirements as to height of buildings and area of lots which may be occupied by buildings, front yards, side yards, rear yards and other regulations and requirements in the foregoing sections of this ordinance, shall be subject to the following exceptions and additional regulations:

(b) *Height.*

(1) In any district having height restrictions, public or semipublic buildings, such as hospitals, hotels, churches, sanitariums, or schools, either public or private, where permitted, may be erected to a height not exceeding 100 feet, provided that such buildings shall have yards which shall be increased one foot on all side for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.

(2) Dwellings in Districts R-1A, R-1B, R-2, or R-3 may be increased in height not exceeding ten feet in addition to the limitations prescribed in such districts, provided that two side yards of not less than 20 feet in width each are provided. In no case shall such dwellings, however, exceed three stories in height.

(3) Parapet walls and false mansards may extend up to six feet above the height limit. Flagpoles, chimneys, cooling

towers, elevator bulkheads, penthouses, finials, gas tanks, grain elevators, stacks, storage towers, radio towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and necessary mechanical appurtenances may be erected as to height in accordance with existing or hereafter enacted laws affecting the same.

(c) *Yard exceptions*:

(1) Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves, provided, however, that none of the above projections shall extend into a required yard more than 30 inches, and provided further that canopies or open porches may project a maximum of ten feet into the required front or rear yard; and existing open porches extending into the required yard shall not be enclosed.

(2) Required front yards in all districts shall apply unless 40% or more of the frontage on that side of the street between two intersecting streets is improved with buildings that have observed a front yard having a variation in depth of not more than six feet, in which case no building shall project beyond the average front yard so established, but this regulation shall not be interpreted to require a front yard of more than 50 feet.

(3) On corner lots where the rear yard of the subject lot abuts the side yard of an adjacent lot, the street side yard setback shall not be less than 50% of the front yard required on the lots in the rear of such corner lot. In addition, no accessory building on said corner lot shall project beyond the front yard line of lots in the rear.

Further this regulation shall not be interpreted as to reduce the buildable width of the lot, to less than 28 feet, nor to prohibit the construction of an accessory building where this regulation cannot reasonably be complied with.

(4) An open fire escape may project into a required side yard not more than one-half the width of such yard, but not more than four feet from the building.

(5) Fire escapes, solid floored balconies and enclosed outside stairways may project not more than four feet into a required rear yard.

(6) A terrace garage shall be allowed in a front or side yard, provided it is completely recessed into said terrace, and that the height of the terrace is sufficient to cover and conceal from above such structures, and provided further that the doors, when open, shall not project beyond the property line.

(7) In computing the depth of a rear yard for any building, where such yard opens onto an alley, one-half of such alley may be assumed to be a portion of the rear yard.

(8) The front, side and rear yard requirements for dwellings shall be waived where dwellings are erected above or attached behind stores.

(9) In computing the side yard for an addition to an existing building, where such addition would violate the zoning district minimum side yard requirements, the side yard of the existing building shall be used as a minimum distance thereof, provided, written permission, evidenced by the notarized signature, of the adjacent property owners approving this building line is obtained prior to the application of a building permit.

(10) In the event that the usable rear yard area equals, or exceeds, 30 times the lot width, the minimum rear yard setback may be 20 feet.

(11) Gasoline service stations may erect a canopy of at least 15 feet in height above the gasoline pumps within the front yard setback area, provided the minimum setback from the front property line is one foot. This yard exception shall not apply to any service station located along any of the city's designated parkway systems or any street designated as a boulevard as

identified in the City's land use plan and within the boulevard system master plan.

(Code 1969, Sec. 26-440; [Sec. 31-440] G.O. 1393, 4-22-96; G.O. 2351, 11-2-09)

Sec. 31-056. Nonconforming uses.

(a) *Nonconforming uses continued or changed*. The lawful use of a building or land existing at the time of the effective date of this ordinance or any amendments thereto may be continued even though such use does not conform to the provisions or amendments of this chapter.

(b) *Nonconforming use due to change in zoning*. Whenever the use of a building or land becomes nonconforming through revision, change or amendment to the zoning ordinance or zoning district map such nonconforming use shall be subject to all of the provisions of this section just as if such nonconforming use had existed at the passage of this ordinance.

(c) *Nonconforming use discontinued*. In the event that a nonconforming use of any building or land is discontinued for a period of two years or more, the use of the same shall thereafter conform to all regulations of the district in which it is located.

(d) *Nonconforming use enlarged*. A nonconforming building or a nonconforming use may not be enlarged, extended, reconstructed or altered unless such use is made to conform to the regulations of the district in which it is located.

(e) *Nonconforming use destroyed or damaged*.

(1) *Residential areas.* When a nonconforming residential structure is damaged by fire, explosion, or other casualty, act of God or the public enemy, it may be restored, rebuilt or repaired to its approximate original size, provided such restoration is completed within 12 months of the date of damage or the conclusion of litigation to resolve conflicts related to such damage.

(2) *Commercial or manufacturing.* Except as set forth in Section 31-056(e)(1), when a nonconforming building or a nonconforming use is damaged by fire, explosion, or other casualty, act of God, or the public enemy to the extent of more than 50% of its reasonable value, not including the value of foundations, it shall not be restored, rebuilt or repaired unless it is made to conform to the regulations of the district in which it is located. Except as set forth in Section 31-056(e)(1), if a nonconforming building or a nonconforming use is damaged by fire, explosion, or other casualty, act of God or the public enemy to the extent of 50% or less of its reasonable value, not including the value of foundations, it may be restored, rebuilt, or repaired to its approximate original size, provided such restoration is completed within 12 months of the date of damage or the conclusion of litigation to resolve conflicts related to such damage.

(f) Whenever a nonconforming use has been changed to a conforming use, or to a use of higher zoning classification, such use shall not thereafter be changed to a nonconforming use of lower classification.

This section shall not require any change in any existing building or structure, or in the plan, construction or designated use of a proposed building for which a building permit has been issued and construction has been commenced in good faith prior to the passage of this ordinance, and the construction has been diligently prosecuted to its completion.

(g) Notwithstanding anything to the contrary herein, a nonconforming use in the business park zoning district, except residential uses, may be extended, enlarged or reconstructed by up to 25% of its gross floor area and/or ground area on the same lot or on an adjacent lot provided that:

(1) Such extension, enlargement or reconstruction is subject to site plan review and approval and issuance of a conditional permit as set forth in Section 31-070 hereof;

(2) The extension, enlargement or reconstruction of the nonconforming use conforms with the height and area regulations and the design standards for the business park zoning subdistrict in which the use is located; and

(3) The nonconforming use is subject to site plan review and approval to ensure

conformance of such use as extended, enlarged or reconstructed, with the landscape setback/buffer area design standards and parking lot landscaping design standards for the business park zoning subdistrict in which the use is located.

(h) Notwithstanding anything to the contrary herein, a nonconforming building in the business park zoning district, except buildings used for residential purposes, may be extended, enlarged or reconstructed by up to 50% of its gross floor area on the same lot or on an adjacent lot provided that:

(1) Such extension, enlargement or reconstruction conforms with the height and area regulations for the business park zoning subdistrict in which the building is located or the height and area standards of the existing nonconforming building, whichever is less restrictive;

(2) Such extension, enlargement or reconstruction conforms with the landscape setback/buffer area and screening standards and the parking lot landscaping design standards for the business park zoning subdistrict in which the building is located; and

(3) A nonconforming building shall in no event be required to conform with any regulation or standard which would necessitate a structural alteration to such building.

(Code 1969, Sec. 26-430; G.O. 758, 2-20-90; G.O. 770, 3-5-90; [Sec. 31-430] G.O. 1393, 4-22-96; G.O. 2967, 9-10-20)

Sec. 31-057. Accessory utility uses and facilities; all districts

Every public utility, cable company, video service provider and other users of the city rights-of-way or adjacent easements to provide services shall comply with the supplemental regulations in this section regarding the placement of accessory utility facilities on public or private property. For purposes of this section, "accessory utility facilities" shall mean such facilities, including pedestals, boxes, vaults, cabinets, or other ground-mounted or below-ground facilities that directly serve the property or local area in which the facility is placed, are not primarily for transmission or distribution to other locations, do not materially alter the character of the neighborhood or area, and otherwise are customarily found in such areas. Except where limited by other provisions of city ordinance, accessory utility facilities shall be subject to the following supplementary regulations:

(1) *Approval; design; location; application; notice.* The design, location, and nature of all accessory utility facilities on private or public property shall require approval of the city, which approval shall be considered in a nondiscriminatory manner, in conformance with this section, and subject to reasonable permit conditions as may be necessary to meet the requirements of this section. To that end, prior to any construction, excavation, installation, expansion or other work on any accessory utility facility, the facility owner shall apply to the city and submit detailed plans for the city's review and approval. Contemporaneous with such application, the facility owner shall provide notice to all private property owners within 185 feet of the location of the proposed construction, excavation or other work. Notice shall include detailed description of the proposed work to be done, the exact location of proposed work and the anticipated time and duration when the proposed work will be undertaken. Notice shall be given at least five business days prior to the commencement of any such work. In considering individual applications or multiple location applications, the city shall review the request to ensure the proposed facilities do not impair public safety, harm property values or significant sight-lines, or degrade the aesthetics of the adjoining properties or neighborhood, and taking into consideration reasonable alternatives. Any material changes or extensions to such facilities or the construction of any additional structures shall be subject to the requirements and approvals as set forth herein. Unless otherwise prohibited, utility facilities subject to this subsection may be located in minimum setback areas provided that all other requirements are met. To the extent permitted by Section 67.2707.1(3) RSMo., the time, method, manner or

location of facilities to be located in the rights-of-way may be established or conditioned by the city to protect the rights-of-way or to ensure public safety. An inspection fee shall be required as may be established by the city to reimburse the city for the costs of review and inspection of accessory utility facilities as may be permitted by applicable law.

(2) *General regulations.* The following general regulations apply to all accessory utility facilities:

a. All such facilities shall be placed underground, except as otherwise provided in subsections (c) and (d) herein or as approved by conditional use permit.

b. All such facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise.

c. All facilities and utility boxes shall be deemed abandoned after six continuous months of non-use, and shall therefore be removed within 30 days thereafter at the cost of the utility. Land from which abandoned facilities or utility boxes are removed, whether on private or public property, shall be restored within 30 days of removal by the facility owner or have costs of such remedies charged to the facility owner. The facility owner shall restore the land using similar plantings or sod of the same type of grass immediately surrounding the land and shall replace all existing plantings damaged by the removal work with like plantings and shall replace all damaged existing grass areas with sod of the same type of grass as was damaged.

d. Unless otherwise restricted, utility poles for authorized above ground lines or facilities shall be permitted up to 45 feet in height where utilities are not otherwise required to be placed underground; provided that such poles shall be no higher than necessary, maintained so as to avoid leaning from upright position, and without use of guy wires crossing rights-of-way or pedestrian routes except where approved by the city as necessary due to the lack of feasible alternatives.

e. Utility facilities placed in designated historic areas may be subject to additional requirements regarding the placement and appearance of facilities as may be necessary to reasonably avoid or reduce any negative impact of such placement.

f. Any damage to landscaping or vegetation on private or public property during installation or maintenance of facilities shall be remedied by the facility owner within 30 days of such damage.

g. No facilities may be located so as to interfere, or be likely to interfere, with any public facilities or use of public property.

h. All such facilities proposed to be located within a Historic district shall be required to obtain a certificate of appropriateness in accordance with the provisions set forth in Article III of this Chapter 31 of the city code.

i. All utility facilities not authorized by this subsection or specifically addressed elsewhere in this Code shall be authorized only by a conditional use permit pursuant to Article I of this Chapter 31 of the city code.

(3) *Residential districts.* In residential districts and rights-of-way adjacent thereto, accessory utility facilities less than three and one-half feet in height and covering less than eight square feet in area may be installed above ground with the prior approval of the city. Except as otherwise may be authorized herein, any larger utility facility shall be installed underground or authorized to be installed above ground only by conditional use permit. All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical, then such facilities may be located in the side yard. Such facilities shall not be located in the front yard or within the public right-of-way unless otherwise approved by the city upon a determination that all other alternatives are not feasible.

(4) *Non-residential districts*. In non-residential districts and rights-of-way adjacent thereto, accessory utility facilities with a height of less than five feet and covering less than 16 square feet in area may be installed above ground with the prior approval of the city. Except as otherwise may be authorized herein, any larger utility facility shall be installed underground or authorized to be installed above ground only by conditional use permit. All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical, then such facilities may be located in the side yard. Such facilities shall not be located in the front yard or within the public rights-of-way unless otherwise approved by the city upon a determination that all other alternatives are not feasible.

(5) *Landscape screening*. A sight-proof landscape screen shall be provided for all authorized above ground facilities taller than three feet in height or covering in excess of four square feet in size. Such screen shall be required to sufficiently conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be submitted by the utility and approved by the city prior to installation of any facility requiring landscape screening. The utility shall be responsible for the installation, repair, or replacement of screening materials. Alternative screening or concealment may be approved by the city to the extent it meets or exceeds the purposes of these requirements. Facilities located in rear yards may be exempted from screening where located so as not to be visible from any public property and more than two residential dwelling units. Any required screening shall be completed within the timeframe set forth in the permit required under this section, or not less than 30 days from issuance of the permit, if not otherwise stated.

(6) *Compliance with other laws*. All accessory utility facilities shall be subject to all other applicable regulations and standards as established as part of the city code, including but not limited to building codes, zoning requirements and rights-of-way management regulations in addition to the supplementary regulations herein. The provisions of this section shall not apply to any circumstance or entity in which application under such circumstances is preempted or otherwise precluded by superseding law.

(G.O. 2265, 1-14-08)

Sec. 31- 058. Shipping containers.

(a) Shipping containers, up to three, are permitted on building sites in residential, commercial or manufacturing zoning districts. If a contractor, builder, owner or other individual associated with the construction at any given property within a residential, commercial, or manufacturing zoning district has a need for more than three shipping containers at one time for building materials they must request a permit for additional storage containers from the planning and community development director. Storage containers on the above-mentioned construction sites will be allowed 15 days prior to the commencement of construction and must be removed within 15 days after the completion of construction on the property.

(b) Shipping containers may be used as storage units on property that is zoned M-1 or M-2 (light manufacturing and heavy manufacturing) and the owner of the property shall inform the city if hazardous waste or chemicals are stored in these shipping containers.

(c) Shipping containers cannot be used on land that is zoned C-0, C-1, C-2 and C-3 commercial districts. Businesses located in a C-3 zoning district can request a conditional use permit (CUP) for the use of shipping containers for storage. No business will be allowed more than 10 shipping containers on their property.

(d) Shipping containers are not allowed in a residential zoning district or property that is residential in character for purposes of storage. The use of shipping containers for the construction of a residential dwelling unit in any residential zoning district or property that is residential in character may be allowed by the granting of a variance or exception through the board of zoning adjustment.

(G.O. 2862, 7-2-18

Secs. 31-059 - 31-069. Reserved.

DIVISION 4. ADMINISTRATION, ENFORCEMENT AND REVIEW

Sec. 31-070. Conditional Use Permits.

(a) *Applicability*. Conditional uses, as listed in each zoning district have been determined to have a unique, special or potentially adverse impact upon the use or enjoyment of neighboring properties and, therefore, require site plan review by the commission and the city council to assure that the proposed use and site plan meet the standards established herein and the purpose and intent of each of the zoning districts. Said conditional use permits are granted solely for the benefit of the persons specified therein or their immediate family and automatically cease when said person sublets, vacates or sells the land specified therein or discontinues the conditional use granted herein.

(b) *Site and landscape plan required*. Each application for conditional use permit approval shall be accompanied by a site and landscape plan (collectively, the "site plan") including the following data and information:

(1) The location, dimension, material and configuration of all buildings, structures and other improvements;

(2) The location and extent of usable open space;

(3) The location, access and other dimensions of proposed off-street parking and loading facilities and the number and configuration of spaces to be provided;

(4) The location, dimensions and materials of sidewalks, driveways and other impervious surfaces;

(5) The location and intensity of illumination of any illuminated areas;

(6) The proposed use of open space;

(7) A landscaping plan, which shall include existing and proposed landscaping on both the subject property and adjacent public areas and including an installation schedule;

(8) The location of all utilities, including electric lines, storm drainage, sanitary sewers and water service;

(9) The location and extent of required setbacks and yards;

(10) The elevation of all buildings and structures to depict height;

(11) The lot size in square feet and the dimensions thereof;

(12) Any areas proposed for outdoor storage, refuse collection, exterior mechanical equipment, exterior communication devices and utility apparatus;

(13) The dimensions, location and landscaping of required landscape/buffer setbacks and screening; and

(14) The land uses surrounding the lot(s) for which site plan approval is being sought.

(15) The zoning on the lots and parcels surrounding the lot(s) for which site plan approval is being sought.

(16) Such additional information as the city planner may deem pertinent and essential to the application.

(c) *Request for conditional use permit approval*. A request for conditional use permit approval shall be made by the applicant in writing, on forms provided by the city, shall be accompanied by the site plan, and shall be filed with the city planner. Each request shall be accompanied by payment of the non-refundable fee as set out in Subsection 31-075(2). After the completed application, site plan, non-refundable filing fee and all supporting documentation have been submitted, the city planner shall review the application and site plan for purposes of determining:

(1) Whether the proposed use is an allowed conditional use in the applicable zoning district; and
(2) Whether the application for conditional use permit approval and the site plan are complete and in conformance with the requirements as set forth herein.

The city planner shall note the date the application was filed and the date the filing fee was paid and make a permanent record thereof.

If the proposed use is not an allowed conditional use in the applicable zoning district, or if the application or site plan is determined to be incomplete, the city planner shall notify the applicant in writing within ten working days of the date of filing. Thereafter, the applicant may resubmit the application and site plan to the city planner for review. If it is again rejected by the city planner, the applicant may appeal pursuant to Subsection (f) hereof.

If the proposed use is an allowed conditional use in the applicable zoning district and the application and site plan are determined to be complete, the city planner shall concurrently forward the application and site plan to the commission.

Failure of the city planner to forward the application to the commission as set forth above shall constitute a determination that the proposed use is not permitted in the applicable zoning district or that the application or site plan is incomplete. The application and site plan shall not be "deemed approved" by a failure to forward the application to the planning commission.

(d) *Review by commission*. The commission shall consider the application for conditional use permit approval and the site plan at a regularly-scheduled or a special commission public hearing within 45 days from the date of filing of the application and site plan. Notice of such application shall be given by publication in an official newspaper or a paper of general circulation in the city indicating the time and place of the commission public hearing on said application, at least 15 days prior to the public hearing. Additionally, the commission shall make a special effort to inform by certified mail the owners of all property within 185 feet of the property for which the conditional use permit application has been filed. At the public hearing, parties in interest and citizens shall have an opportunity to be heard.

(e) *Procedure for commission recommendation to city council*. After the close of the public hearing, the commission shall consider the application for conditional use permit approval, the site plan, relevant supporting data and documentation submitted by the applicant and all relevant testimony and evidence submitted at the public hearing, and shall determine whether the use as proposed conforms to the requirements of this article by considering the factors set forth in Subsection (f) hereof. The commission shall make its recommendation to the city council not more than 20 days after the close of the public hearing. If a recommendation is not made within the 20 day period, the commission shall be deemed to have recommended denial.

If such proposed use conforms to the general standards and specific requirements of this article, the commission shall recommend approval of the application for conditional use permit and the site plan. If such proposed use does not conform with one or more of the general standards and specific requirements of this article, the commission shall recommend denial of the application for conditional use permit approval and the site plan or recommend approval of the application of conditional use permit approval and the site plan with conditions, pursuant to Subsection (g) hereof, to ameliorate the lack of conformance with the general standard or specific requirement. If the commission recommends denial of the application for conditional use permit approval and the site plan, the applicant shall be given 75 days to resubmit the application and site plan with modifications. Site plan approval by the city council is required in order to obtain a conditional use permit from the director of planning and community development and to apply for and receive a building permit from the chief building official.

(f) *Consideration of factors*. The commission shall consider the following factors based on the application for conditional use permit approval and the site plan for the proposed conditional use:

(1) Whether the proposed conditional use permit is in harmony with the general purpose, goals, objectives and standards of the adopted city land use plan;

(2) Whether the proposed conditional use permit is detrimental to existing adjacent uses or to uses permitted generally in the zoning district in which the proposed conditional use is to be located;

(3) Whether the proposed conditional use will generate volumes and/or types of vehicular traffic that will be hazardous to

or conflict with the existing or anticipated traffic in the surrounding area;

(4) Whether the proposed conditional use meets the height, area and design standards established in the zoning district; and

(5) Whether the site plan for the proposed conditional use illustrates a project design which will be compatible with existing and future permitted uses in the surrounding area.

(g) *Imposition of conditions*. Based on the commission's consideration of the factors listed in Subsection (f) hereof, the applicant or the commission may recommend the attachment of specific conditions to the application for a conditional use permit approval and/or to the site plan to ameliorate the adverse impact of the proposed conditional use permit on the zoning district or on adjacent uses. Such conditions may include, but are not necessarily limited to the following:

(1) A time limit on the effective period of the conditional use permit;

(2) Mitigation of adverse impacts by additional on-site buffer, landscaping, setback or open space requirements;

(3) Mitigation of adverse impacts by restrictions on density, floor area ratio, height or percentage of lot coverage;

(4) Mitigation of adverse impacts by the provision of off-site public facilities or improvements;

(5) Limitations on hours of operation of the conditional use;

(6) Limitations on noise, odor, vibrations, glare or dust emanating from the conditional use;

(7) Limitations on the number of employees of the conditional use;

(8) Limitations on the materials stored or used on the site;

(9) Limitations on the height of structures; and

(10) Requirements for a larger minimum lot area.

(h) *City council action on site plan and conditional use permit.* No application for site plan and conditional use permit approval shall be granted without action by the city council within 90 days of receipt of the site plan, application for conditional use permit approval and the recommendation of the commission and first reading by the city clerk at a regular meeting of the city council. The failure of the city council to act within 90 days shall be deemed to constitute denial of the site plan and application for conditional use permit approval.

(i) *Appeals*. Any action by the city council on an application for conditional use permit approval and for site plan approval may be appealable to the circuit court.

(j) *Time limit on site plan and conditional use permit approval.* Approval of a site plan and issuance of a conditional use permit pursuant to this article shall become null and void unless used within one year from the date of council approval unless a shorter time has been prescribed by the conditions of the permit. A permit shall be deemed "used" when actual substantial and continuous activity has taken place upon the land pursuant to the permit or in the event of the erection of a structure(s) when sufficient building activity has occurred and continues to occur in a diligent manner.

(k) *Issuance of building, occupancy or use permits*. No building, occupancy or use permit shall be issued with respect to a conditional use permit until the site plan has been approved, all applicable conditions imposed through the site plan have been met and a conditional use permit has been issued by the director of planning and community development; provided, however, that when weather or other restrictions preclude the provision of required landscaping or other improvement requirements, the city may allow the issuance of the requested building, occupancy or use permit upon submission by the applicant of a bond or other surety approved by the city attorney and in an amount equal to not less than one and one-half times the estimated cost of said improvements as approved by the department of planning and community development. The bond or surety shall remain in effect until all required improvements have been completed.

(l) *Revocation of permits*.

(1) Any building, occupancy or use permits issued pursuant to an approved site plan and conditional use permit or in conjunction therewith may be revoked by the city for failure to comply with the conditions of approval or for intentionally providing false or misleading information regarding any part of the conditional use permit or site plan. To revoke the conditional use permit and site plan, the city planner shall set a date for a public hearing before the city council and notice a public hearing in accordance with subsection (d) herein. Following such hearing, the city council shall make findings of whether the conditions of the permit have not been or are not complied with and render a decision to revoke or modify the permit.

(2) In any case where, in the judgment of the city planner, substantial evidence indicates that the use conducted pursuant to a conditional use permit is being conducted in a manner detrimental to the public health, safety or welfare, the city planner shall set a date for the public hearing before the city council and notice the public hearing in accordance with subsection (d) herein. Following such hearing, the city council shall make findings of whether the use has been conducted in a manner detrimental with the public health, safety or welfare, and render a decision whether or not to revoke or modify the conditional use permit and site plan.

(m) *Extensions*. The city council may, without public hearing, extend such time for a maximum of one additional year only, upon application filed with the city planner before the expiration of the one year limit, or the expiration of such limit as may be specified by the conditions of the conditional use permit.

(n) *Duration*. A conditional use permit shall be granted solely for the benefit of the person(s) specified therein or their immediate family and automatically ceases when said person(s) sublets, vacates or sells the land specified therein or discontinues the conditional use granted herein. If the use for which the conditional use permit was granted and utilized has ceased or has been suspended for one year or more, it becomes null and void and of no effect.

(o) *Amendments to an approved site plan or conditional use permit*. Should the city planner find substantial or significant deviation from the approved site plan or conditional use permit, the city planner shall notify the applicant of such and direct the applicant to modify or apply for an amendment to the conditional use permit. The procedure for amendment of a site plan already approved or for a request for a change of conditions attached to the issuance of a conditional use permit shall be the same as for a new application for site plan approval or conditional use permit issuance.

(p) *Grandfather clause*. No applications for a conditional use permit shall be necessary for the existing uses which were lawful conforming uses and which were rendered conditionally permitted uses by reason of change to this chapter or rezoning, or for uses which have existing valid special use permits as approved prior to the change in this chapter, provided that any expansion in the building site area of such use shall be subject to the issuance of a conditional use permit in accordance with this section. However, a previously approved special use permit shall be subject to the time limits, revocation procedures, extension and duration provisions and amendment provisions as contained in this section.

(Code 1969, Sec. 26-250; [Sec. 31-250] G.O. 1271, 3-13-95; G.O. 1393, 4-22-96; G.O. 2082, 3-14-05; G.O. 2162, 5-8-06; G.O. 2322, 5-4-09)

Sec. 31-071. Procedure for amendments to the zoning code or rezoning.

(a) Applications for amendment, revision or change of the zoning district map of St. Joseph or any of the rules, regulations or provisions of the text of the zoning ordinances of St. Joseph, may be made by any person, or his agent, who owns the land sought to be rezoned. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner. The application shall be made on forms prescribed by the director of planning and community development and duly filed with the director of planning and community development accompanied by a receipt from the director of financial service showing payment of the nonrefundable filing fee in accordance with Section 31-075, Filing fee schedule.

(b) Applications for amendment to the zoning code or revision or change of the zoning district map of St. Joseph may be made by any city council member of St. Joseph. If such application is made by a single council member, the required filing fee is not applicable. Applications made by single council members will be subject to the procedures and safeguards applicable to any application for amendment, revision or change of the zoning district map of St. Joseph as set forth below.

The council as a single body, may direct the director of planning and community development to process any amendment, revision or changes of the zoning district map of St. Joseph or any of the rules, regulations or provisions of the text of the zoning ordinances of St. Joseph in accordance with the procedures set forth herein (any of the rules, regulations or provisions of the text of the zoning ordinances of St. Joseph.)

(c) Any application received pursuant to this section, except when directed by the council, shall be accompanied by an explanation and reasons for the proposed changes. Rezoning applications shall also be accompanied with a zoning plat map which contains the following information:

(1) The boundaries and lot line dimensions of land to be rezoned;

(2) Identification of the adjacent streets and alleys;

(3) A north arrow and scale of the zoning plat map;

(4) Identification of existing zoning and proposed zoning;

(5) Existing, and proposed land uses; and

(6) Existing adjacent land uses.

(d) After the application, explanation and zoning plat map along with the required fees as provided in Section 31-075, have been submitted, the director of planning and community development shall note the date of filing and shall review the documents for completeness. If the documentation is incomplete, the director of planning and community development shall notify the applicant in writing within ten working days. Thereafter, the applicant may resubmit the application and supporting documents and the director of planning and community development shall treat the application as a new matter. If it is again rejected, the applicant may appeal pursuant to Subsection (l) hereof.

(e) Once a complete application is submitted, the director of planning and community development shall then forward such application to the commission. The commission shall consider the application within 30 days from the receipt of such application. Notice of such application shall be given by publication in an official paper or a paper of general circulation in the city of the time and place of the commission's hearing thereon, at least 15 days prior to said hearing. Additionally, the commission shall make a special effort, by certified mail, to inform the owners of all property within 185 feet of the property in question of the proposed amendment, revision or change of the zoning district map. Said notice shall be made at least 15 days prior to the commission hearing in relation thereto. At the public hearing, parties in interest and citizens shall have an opportunity to be heard. The commission shall advise such property owners that the form for filing a valid protest with the commission may be obtained therefor from the office of the director of planning and community development upon request by any such property owner.

(f) In case a protest against such revision, change or amendment is presented to the commission for consideration at the hearing relating thereto, duly signed and acknowledged

by the owners of 30% or more either of the areas of the land (exclusive of streets and alleys) included in such proposed change, or within an area determined by lines drawn parallel to and 185 feet distant from the boundaries of the district proposed to be changed, such protest and whether it is sufficient or insufficient shall be made of record by the commission.

(g) The protest, or none thereof, shall be noted in the commission's recommendations which shall be forwarded to the director of planning and community development who shall cause such amendment to be drafted into proper ordinance form. The subject ordinance proposing the amendment and the recommendations of the commission shall be forwarded to the city attorney, who shall review and approve its form.

(h) The city manager within 15 days shall review the proposed amendment and the supporting information heretofore enumerated from the commission prior to filing with the office of the city clerk. Before acting upon any application for amendment, revision or change of the zoning district map, the city clerk on behalf of the council shall set a time and place for a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in an official paper of general circulation in the city of St. Joseph.

Thereafter, the ordinance containing the proposed amendment shall be considered for passage in the manner required by Section 3.9 of the City Charter.

(i) In the instance of a sufficient valid protest such amendment, revision or change shall not become effective except by the favorable vote of two-thirds of all of the members of the council.

(j) In order to accommodate the maximum number of interested persons who desire to attend the meetings of the commission, all meetings shall be held on the day set by the commission at 7:00 p.m., unless a different time is designated by the commission. Adequate notice of the date, time and place of each meeting (hearing) shall be given in the manner required by law.

(k) *Consideration of factors*. The commission shall consider the following factors based on the application for amendment, revision or changes of the zoning district map or any of the rules, regulations or provisions of the text of the zoning code:

(1) Whether the proposal is in conformance with the goals and policies contained in all elements of the comprehensive plan;

(2) Whether the proposal is in keeping with the purpose of the zoning districts;

(3) Whether the proposal is detrimental to the public health, safety and welfare;

(4) Whether the proposal is detrimental to existing or potential adjacent land uses;

(5) Whether the proposal will generate traffic levels inappropriate, hazardous or detrimental to the existing or potential nearby land uses.

(l) *Appeals*. Any action by the City Council on an application for rezoning or zoning code amendment may be appealed to the Circuit Court.
(Code 1969, Sec. 26-410; G.O. 1065, 2-16-93; [Sec. 31-410] G.O. 1393, 4-22-96; G.O. 2082, 3-14-05)

Sec. 31-072. Limitation on applications for rezoning and conditional use permit.

No application for rezoning or for conditional use permit of any tract, lot or parcel of land consistent with the original application within the City of St. Joseph, Missouri, as provided for in Section 31-070 and 31-071 of the code of ordinances, shall be filed or allowed prior to the expiration of six months from the time that the city council of the City of St. Joseph, Missouri, shall have finally acted on any application for rezoning or conditional use permit of all or any part of the same lot, tract or parcel of ground.
(Code 1969, Sec. 26-411; [Sec. 31-411] G.O. 1393, 4-22-96)

Sec. 31-073. Enforcement, violations and penalty.

(a) The chief building official, or duly authorized representative shall have the power to enforce the provisions of this ordinance. No building or other structure shall be erected, constructed, reconstructed, moved, nor shall it be

altered without first obtaining a building permit from the chief building official.

A building permit shall be issued for any building, structure or construction when the chief building official finds the same to be in conformity in every respect with all the provisions of this zoning ordinance.

The chief building official shall be empowered to act within the provisions of this ordinance upon all applications for building permits and the same shall be approved or denied within 15 days. In the event of refusal to issue a permit upon application, as herein provided, the applicant may perfect an appeal to the board of adjustment as provided in Section 31-090.

For each building permit issued there shall be charged and collected from the applicant a fee in accordance with ordinances governing the same.

There shall be a separate permit for each building or structure to be erected, constructed, reconstructed, moved, altered or established except accessory buildings or uses which may be included in the permit for the main building when construction or establishment is simultaneous.

(b) A permit may be revoked by the chief building official at any time prior to the completion or establishment of the building or structure for which the permit was issued for the following reasons.

(1) When there is departure from the specifics set forth in the application for the permit;

(2) When the permit was procured by false representation or was issued by mistake; or

(3) When any of the provisions of the zoning ordinance are being violated.

Upon the failure of any owner, his agent, contractor or duly authorized representative to secure such permit and pay the prescribed fee therefor, as herein provided, the chief building official may issue a stop-work order. The chief building official shall give 24 hours written notice of such revocation or stop order prior to revoking the permit or issuance of a stop order. Such written notice will be served upon the owner, his agent or contractor or upon the owner's duly authorized representative.

(c) *Occupation permits*. No occupation license or other such license or permit to operate or conduct any business in this city shall be issued by the city license inspector unless and until the applicant therefor shall first have secured a zoning certificate from the department of community services that such business is not prohibited at the designated address or location of such business under the provisions of this ordinance. This certificate shall be presented to the city license inspector when the applicant applies for the occupation license or other license or permit to operate or conduct any business. Only one such certificate need be obtained for each type of business at any one address or location and shall be shown each time a license or permit is requested. A new certificate shall be obtained whenever a business is moved to a new location or the type of business is changed.

(d) *Violation and Penalty*. In case any building or structure is erected, constructed, reconstructed, moved or altered in violation of this ordinance, the chief building official, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, moving or alteration, and to restrain, correct or abate such violation or to prevent the occupancy of said building, structure or land, or to prevent any violation of the zoning ordinance.

The owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of any entire building or entire premises where such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part in or assists in any violation or who maintains any building or premises in which any violation shall exist shall be guilty of a misdemeanor. The violation shall be punishable by a fine of not less than $10.00 and not more than $100.00 for each and every day that such violation continues. If the offenses are deemed willful on conviction thereof, the punishment shall be a fine of not less than one hundred ($100.00) dollars nor more than $250.00 for each and every day that such violation shall continue or by imprisonment for up to ten days for each and every day such violation shall

continue or by both such fine and imprisonment in the discretion of the court.
(Code 1969, Sec. 26-500; [Sec. 31-500] G.O. 1219, 9-26-94; G.O. 1334, 10-9-95; G.O. 1393, 4-22-96)

Sec. 31-074. Completion of buildings.

Nothing herein contained shall require any change in the plans, construction or designated use of a building of which construction has been started at the time of the adoption of this ordinance. In addition, any building or structure for which a permit has been approved by the city of St. Joseph not more than six months prior to the adoption of this ordinance, may be constructed according to the terms of that permit.
(Code 1969, Sec. 26-510; [Sec. 31-510] G.O. 1393, 4-22-96)

Sec. 31-075. Filing fee schedule.

The following is the filing fee schedule for applications, appeals or renewals of:

(1) Amendment, revision or change of the zoning district map..... $1,365.00

(2) Conditional use permit:

a. All uses except large day care home and day nursery home uses..... $1,110.00
b. Large day care home and day nursery home uses in a residential zone district..... $160.00

(3) Appeal to the board of adjustment $630.00

(4) Variance or exception filed with the board of adjustment:

a. Single and two-family residential $250.00
b. Signs..... $500.00
c. Commercial buildings under 20,000 square feet $920.00
d. Commercial buildings over 20,000 square feet..... $1,210.00

(5) Flood plain permit..... $470.00

The above nonrefundable filing fees shall be paid to the director of administrative services and a receipt showing payment of said fees will be provided.
(Code 1969, Sec. 26-535; [Sec. 31-535] G.O. 1393, 4-22-96; G.O. 1573, 11-3-97; G.O. 1795, 10-2-00; G.O. 1825, 5-29-01; G.O. 1930, 4-28-03; G.O. 2117, 8-1-05; G.O. 2263, 12-3-07; G.O. 2286, 4-21-08; G.O. 2830, 4-24-17; G.O. 2947, 4-6-20)

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Editor's note: G.O. 1147, passed 1-31-94 repealed all references in the Code providing for mobile homes in districts other than R-5 "mobile home parks".

Secs. 31-076 - 31-089. Reserved.

DIVISION 5. BOARD OF ADJUSTMENT

Sec. 31-090. Powers and duties of the board of adjustment.

(a) *Authority*. The board of adjustment is established and its members are appointed by the city council in accordance with the provisions of the Revised Statutes of Missouri, 1969, Section 89.010 to 89.140 as amended.

(b) *Membership*. The board of adjustment shall consist of five members, who are residents of the City of St. Joseph and who shall be appointed for terms of five years each. Three alternate members may be appointed to serve in the absence of or the disqualification of the regular members. All members and alternates shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairman who shall serve for one year.

(c) *Proceedings*. The board shall adopt rules and regulations to govern its proceeding. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations

and other official actions all of which shall be immediately filed in the office of the board and shall be a public record. All testimony, objections thereto and rulings thereon shall be taken down by a reporter employed by the board for that purpose.

(d) *Powers and duties.* The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the chief building official or city planner in the enforcement of this ordinance. In this capacity, the board exercises appellate jurisdiction as a quasi-judicial body and its task is to determine what the ordinance means and how the ordinance applies to a particular fact situation.

(2) To hear and decide all requests for variances from the strict and literal enforcement of the provisions of this ordinance. A variance is the remedy created by this power and is part of the Board's appellate jurisdiction. It is a discretionary privilege which is granted because strict and literal enforcement of the provisions of this ordinance would, due to special conditions peculiar to a particular property, result in unusual difficulty or hardship.

(3) To hear and decide on all requests for exceptions as provided by this ordinance.

(4) To hear and decide all matters referred to it or upon which it is required to pass under this ordinance.

(5) Further, the board shall have the power when passing upon appeals, variances or exceptions where the specified standards for granting such have been met, to vary or modify the application of any of the regulations or provisions of this ordinance relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.

(e) *Hearings before the board of adjustment.* In carrying out the powers and duties of the board, the board shall hold a hearing on all items before it. The board shall fix a time for the hearing within 30 days following receipt of an appeal, variance or exception request, give public notice of such hearing, by publication, one time in an official newspaper or a newspaper of general circulation in the city at least 15 days prior to the date of said hearing. Additionally, the board shall make a special effort, by certified mail, to inform the owners of all property within 185 feet of the property for which the appeal, variance or exception has been filed.

At the hearing, parties in interest and citizens shall have an opportunity to be heard. Any party may appear at the hearing in person or by agent or by attorney.

Following the hearing, the board shall decide on the appeal, variance or exception within 60 days following receipt of the appeal, variance or exception.

(f) *Burden on applicant.* The applicant for an appeal, variance or exception shall bear the burden of producing evidence establishing the grounds of the appeal.

(g) *Appeal from decision of the board.* Persons aggrieved by any decision of the board may present to the circuit court of the County of Buchanan, Missouri, a petition, duly verified, setting forth that such decision is illegal, in whole or in part and specifying the grounds of the illegality. Such petition must be presented to the court within 30 days after the filing of the decision in the office of the board.

Upon the presentation of such petition the court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe therein the time within which a return thereto must be made, and served upon the realtor’s attorney, which shall be not less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with

gross negligence, or in bad faith or with malice in making the decision appealed from. All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

(h) *Fees for filing appeal, variance or exception.* At the time of the filing of an appeal, variance or exception to the board of adjustment or landmark commission, as the case may be, the appellant shall pay to the city a filing fee in an amount as set out in Section 31-075 which said fee shall be collected by the chief building official or the city planner and no appeal, variance or exception shall be heard or considered until said fee is paid.

All fees as collected shall be paid into the city treasury and credited to the general fund.
(Code 1969, Sec. 26-520; [Sec. 31-520] G.O. 1393, 4-22-96; G.O. 1457, 9-23-96; G.O. 1574, 11-3-97; G.O. 2082, 3-14-05; G.O. 2118, 8-1-05)

Sec. 31-091. Appeals.

(a) *When appeals may be taken.* Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the chief building official or city planner. Such appeal shall be taken within five days from the date of the decision by the chief building official, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officers from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(b) *Extent of the Board's appeal powers.* In exercising its powers, the board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the chief building official, or to decide in favor of the applicant, or to effect any variation to the zoning code. A concurring vote of three members of the board is necessary to affirm wholly the order, requirement or determination of the chief building official.

(c) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the actions appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

(d) *Decisions on appeals.* The board shall render decisions only on appeals from an action of the chief building official or city planner. The board shall take action only when it has determined that a permit has been incorrectly issued or denied, or when it has determined that the ordinance has been incorrectly interpreted, or when the appellant proves that the standards for a variance contained in Section 31-092(b) as applied to a specific lot or tract of land or building have been met. In case the standards for granting variances have been met, the board may issue a variance signed by the chairman, setting out any conditions to be met. A copy of the variance shall be sent to the chief building official who shall issue a building permit setting out the terms of the variance. In no case shall the board decide an appeal from an action of the city council or commission, nor shall it render decisions or rulings which have the effect of repealing or amending this ordinance. In all cases, the spirit and intent of this ordinance shall be observed, public safety and welfare secured and substantial justice done.
(Code 1969, Sec. 26-520; [Sec. 31-520] G.O. 1393, 4-22-96)

Sec. 31-092. Variances.

(a) *Extent of the boards variance powers.* In exercising its powers, the board may grant a variance in the following instances.

(1) Permitting the erection of a building or portion of a building to a height in excess of the limits prescribed for the district or districts in which the building or portion of the building is located.

(2) Permitting such modifications of a yard, lot area or lot width requirements as may be necessary to secure appropriate improvements of a parcel of land where such parcel was separately owned on the date of the passage of the ordinance and is not adjacent to another parcel of the same ownership and where such parcel is of such size that it cannot be improved without such modification.

(3) Permitting the extension of a district where the boundary line of a district divides a lot in a single ownership at the time of the passage of this ordinance.

(4) From the applicable bulk regulations for buildings and structures, including maximum height, lot coverage, required yard areas and other required open space.

(5) From the applicable minimum requirements for lot size, width and depth and setbacks from lot lines.

(6) From the applicable off-street parking and off-street loading requirements and ratios.

(7) Permitting the reconstruction of a non-conforming building which has been destroyed or damaged by fire or other casualty, or act of God or the public enemy, to the extent that the cost of restoration of the building to its condition prior to the destruction or damage does not exceed 75% of completely reconstructing the building.

In all cases, the board may, in conformity with the provisions of this ordinance, approve or deny the variance request in whole or part as deemed necessary to conform with the standards for variances.

(b) *Standards for variances*. The board of adjustment shall not vary the regulations of this article as authorized above unless and until the board shall make written findings based upon the particular evidence presented to it in each specific case that:

(1) The particular physical surroundings, shape or topographical condition of the specific property involved would result in an unnecessary hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were carried out; and

(2) The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same zoning classification; and

(3) The alleged hardship has not been created by any person presently having an interest in the property; and

(4) The granting of the variance will not be detrimental to the public health, safety or welfare, or to other property, improvements or the character in the neighborhood which the property is located; and

(5) The granting of the variance is in keeping with the purpose of the zoning district for which the property is located and in keeping with the City's comprehensive plan.

(c) *Use variance not authorized*. The board of adjustment shall not be empowered to vary any of the provisions of this ordinance relating to the permitted or conditional use of land, buildings or structures in specific zoning districts.

(d) *Application requirements*. Any person seeking a variance shall submit an application to the chief building official. The application shall be made on a form prescribed by the chief building official and accompanied by a non-refundable filing fee prescribed in Section 31-075. The application shall be accompanied by the following information:

(1) The particular provisions or requirements of this ordinance which prevent the proposed construction on, or use of, the property.

(2) The existing zoning district classification.

(3) The special conditions, circumstances or characteristics of the land, building or structure that prevent compliance with this ordinance.

(4) The particular hardship which would result if the specified provisions or requirements were to be applied to the subject property.

(5) The extent to which it would be necessary to vary the requirements of this ordinance in order to permit the proposed construction on, or use of, the property.

(6) An explanation of how the requested variance conforms to each of the standards set out in Subsection 31-092(b).

(7) A site plan describing the property boundaries, the existing and proposed structures and setbacks.

(8) Any other information as directed by the board or the chief building official to be deemed necessary for the board to make an appropriate decision.

(e) *Extent of variance limited*. The board, in exercising its authority to grant variances from this ordinance, shall be empowered to vary the provisions of this ordinance only to the extent necessary to relieve or alleviate the demonstrated hardship.

(f) *Conditions and restrictions*. The board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set out in this ordinance to reduce, minimize, or mitigate the effect of such variance upon other property in the neighborhood and better to carry out the general intent of the ordinance. Failure to comply with any such conditions and restrictions shall constitute a violation of this ordinance.

(g) *Notice of decision*. After the hearing and making a decision, the board shall file its written decision on the requested variance, supported by findings of fact and conclusions of law and list of sections varied with respect to the standards in Subsection 31-092(a), with the chief building official. The chief building official shall mail, by first-class mail, a copy of the decision to the applicant and each other person who requests in writing to be notified.

(h) *Duration of variance*. No order of the board of adjustment granting a variance shall be valid for a period of longer than one year from the date of such order unless the action that precipitated the request for the variance (subdivision of land, construction, change in use, etc.) is commenced within such period and pursued to completion without unnecessary delay on the part of the person holding the title or beneficial interest in the property for which the variance was granted.
(Code 1969, Sec. 26-520; [Sec. 31-520] G.O. 1393, 4-22-96)

Sec. 31-093. Exceptions.

(a) In exercising its powers, the board may grant an exceptions permit in the following instances; provided the appropriate findings are made as specified in each applicable section:

(1) Permitted accessory uses as provided in Section 31-050.

(2) Signs as provided in Article II, Division I, Sections 31-110 et. seq.

(3) Fences as provided in Section 31-054.

(4) Parking and loading as provided in Section 31-053.

(5) Telecommunications towers and facilities as provided for in Article V, Section 31-318 of this chapter.

(6) Landscaping and buffering requirements as provided in Section 31-412.

(b) The landmark commission, when hearing sign exceptions as so provided, shall follow all the provisions required of the board of adjustment contained in Subsections 31-090(e), (f) and (g).

(c) *Application for exception*. An application for an exception may be filed by the owner of the subject property. Any special exception filed by a person who is not the owner of the property for which the special exception is sought shall be accompanied by evidence of the consent of and authority to act for the owner. The application shall contain the following information and such additional information as the board of adjustment may, by rule, require:

(1) The particular provisions or requirements of this ordinance under which the special exception is being requested.

(2) The existing district classification of the property.

(3) An explanation of how the requested exception conforms to each of the

required determinations set forth in each applicable section.

(4) A site plan describing the property boundaries, the location of buildings and the area for which the exception is being requested.

(d) *Conditions and restrictions.* The board of adjustment may impose such conditions and restrictions upon the premises benefited by an exception as may be necessary to comply with the standards set out in this ordinance to reduce, minimize or mitigate the effect of such exception upon other property in the neighborhood, and better to carry out the general intent of the ordinance. Failure to comply with any such conditions and restrictions shall constitute a violation of this ordinance.

(e) *Determination required.* The board or landmark commission, as the case may be, in considering special exception requests, shall determine the following prior to granting approval:

(1) That the exception will not be detrimental to or cause undue hardship to the surrounding neighborhood and property owners, or to the public safety;

(2) That the exception is in keeping with the purpose of the zone district, sign code or fence ordinance, as the case may be;

(3) That the exception to be granted is one that will require the least modification to the prescribed regulations and the minimum variance that will accomplish the purpose;

(4) That the literal enforcement of the provisions of the ordinance will result in restrictions inconsistent with the purpose of the applicable section;

(5) For exceptions to the parking and loading requirements, the board shall find that, due to unique circumstances, a particular activity would not reasonably be expected to generate parking demand sufficient to justify the parking requirement; and

(6) The required determination for telecommunications tower and facility exceptions are contained in Article V, Section 31-315(b) of this chapter.

(f) *Decision on exception.* After the hearing and making a decision on a request for an exception, the board of adjustment or landmark commission, as the case may be, shall file its written decision on the requested exception, supported by findings of fact and conclusions with respect to the required determinations in each applicable section with the chief building official. The chief building official shall mail, by first-class mail, a copy of the decision to the applicant and upon each other person who requests in writing to be notified.

(g) *Duration of exception.* No order of the board or landmark commission, as the case may be, granting an exception shall be valid for a period of longer than one year from the date of such order unless exception construction, change in use, etc. is commenced within such period and pursued to completion without unnecessary delay on the part of the person holding the title or beneficial interest in the property for which the special exception was granted.
(G.O. 1393, 4-22-96; G.O. 1619, 3-23-98; G.O. 2344, 10-19-09)

Secs. 31-094--31-099. Reserved

DIVISION 6. DOWNTOWN REVIEW BOARD

Sec. 31-100. Purpose.

It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements and landscape features of downtown as legally described within the adopted downtown precise plan or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this article is to:

(1) Effect and accomplish the protection, enhancement, perpetuation and use of such improvements, landscape features, and sites within downtown which represent or reflect elements of the city's cultural, social, economic, political and architectural history;

(2) Safeguard the city's historic, aesthetic and cultural heritage, as embodied and

reflected in such improvements, landscape features, sites and districts;

(3) Stabilize and improve property values of and near such improvements, landscape features, sites and districts;

(4) Foster civic pride in the beauty and noble accomplishments of the past;

(5) Protect and enhance the city's attractions to tourists and visitors;

(6) Encourage downtown conservation;

(7) Promote the use of downtown for the education, pleasure and welfare of the people of the city; and

(8) Promote the present and future safety, health, morals and general welfare of the people of the city.

(G.O. 2345, 10-19-09)

Sec. 31-101. Definitions.

The following words and phrases are used in this article and shall have the following meanings, unless a different meaning is plainly required by the content:

(1) *Certificate of appropriateness*. A permit granted by the downtown review board allowing exterior construction, alterations, repairs, improvements, excavation or demolition to any building or property located within the downtown precise plan.

(2) *Building permit*. The words "building permit" shall include all standard city building permits including demolition permits.

(3) *Full and fair hearing*. A proceeding conducted in an orderly manner where the person or persons acting in the capacity of fact finder, take up any issue properly before them for their consideration, after first having given reasonable notice to the interested parties of the time, date and place of such proceeding. Interested persons may appear in person or by attorney and be heard and present evidence which supports their viewpoint. Diligent effort shall be made by those conducting the proceeding to see that all parties are treated fairly and allowed to explain their position on the issue or issues under consideration.

(4) *Downtown precise plan district*. Buildings, structures, features, sites or objects within a contiguous land area with defined boundaries designated by the downtown precise plan and approved by the city council as having particular historic, cultural, aesthetic or architectural significance and limited in size to that area responsible for the proper identification and maintenance of the district.

(5) *Ordinary maintenance and minor works*. Any work for which a building permit is not required by law where the purpose and effect of such work is to correct any decay, deterioration or damage to structures, buildings, features, sites or objects, to restore the same, as nearly as practical, to its condition prior to the occurrence of such decay, deterioration or damage.

(6) *Person*. Any individual, corporation, firm, trust, trustee, administrator, executor, partnership or joint venture.

(7) *Public notice*. Publication at least one time in a newspaper of general circulation within the city.

(G.O. 2345, 10-19-09)

Sec. 31-102. Rules and procedures and records of the commission.

(a) The downtown review board shall adopt rules of procedure to further define rules of order. Rules of procedure shall be defined within the downtown precise plan as to which types of work require certificates of appropriateness and which types of work are ordinary maintenance and minor works. The rules of procedure may delegate such responsibilities to city staff as may be appropriate.

(b) The downtown review board shall keep minutes and records of all meetings and proceedings including the vote of each member upon each question or if absent or failing to vote. Board records shall be kept and maintained by the

planning and community development department and shall be made available for public inspection, consistent with the requirements of law, during regular working hours of the planning and community development department. Photocopies of public records may be obtained upon written request and payment of the cost of such photocopying. In addition, the downtown review board shall keep a tape recorded record of all public hearings held by it. The tape recording of all public hearings shall be kept for a minimum of one year.

(G.O. 2345, 10-19-09)

Sec. 31-103. Certificates of appropriateness.

(a) *Informal review process*. Any applicant who requests a certificate of appropriateness is encouraged to meet and confer with the planning division staff liaison to the downtown review board prior to submission of the final application to ensure that the application will be in proper form and order.

(b) *Permit process*. No building permit, whether to erect, construct, enlarge, alter, repair, move, improve, remove, excavate for, convert or demolish any building, structure or utility, shall be issued with respect to any real property located within the downtown precise plan area except in accordance with the terms and provisions of the certificate of appropriateness as approved by the downtown review board if property is located in the downtown precise plan area; however, a building permit may be issued with respect to such real property for the accomplishment of any work thereon which will change neither the exterior appearance nor the exterior architectural features of the improvements thereof, or which is considered necessary as a part of the ordinary maintenance of the property. The downtown review board shall identify definitions and specific criteria to be used in determining if work constitutes ordinary maintenance with the downtown review board rules of procedure and/or design guidelines. Such definitions and criteria may identify the scale or work, the skill and equipment needed, the timeliness of repairs, and the typical effect of specific activities on historic material as factors for determining whether an activity constitutes ordinary maintenance or requires a certificate of appropriateness. The following criteria shall be utilized to make a determination:

(1) Except as otherwise provided herein, no land surface within any real property designated within the downtown precise plan area shall be changed, and no improvements thereon shall be erected, removed, restored, demolished or altered, nor shall any addition be made thereto, in such a manner or of such a character as to change the appearance or the exterior architectural features thereof, if such change would be visible from any public street, park or other public place, as determined by the city planner, without prior approval evidenced by a certificate of appropriateness reciting in detail the approved changes.

(2) Such prohibited changes in appearance or exterior architectural features shall include but not be limited to the erection of business, professional and other signs in, on or about the downtown precise plan area, and no certificates of appropriateness shall permit the erection of any such sign, unless the size, texture, style and materials thereof are compatible with the general characteristics of the neighborhood and otherwise comply with zoning and building regulations.

(3) Any person desiring to erect, remove, restore, demolish, alter or in any way change the exterior appearance or the exterior architectural features of improvements on any real property located within the downtown precise plan area shall apply for a building permit from the chief building official, and upon receipt of such a request the chief building official shall notify the applicant of the duty to submit application to the downtown review board for property located within the downtown precise plan area for a certificate of appropriateness. Upon receipt of an application for certificate of appropriateness, the downtown review board shall schedule a public hearing and give at least seven days public notice thereof by publication in an official newspaper or a newspaper of general circulation within the city. A copy of the agenda item shall be sent by mail or electronic mail to the applicant at the address applicant so provides on the application.

(c) *Improvements not requiring certificates of appropriateness.* The following shall be specifically exempted from the need for a certificate of appropriateness:

(1) Improvements which constitute patios or similar areas that will be used for outdoor seating and/or dining where the construction or use thereof will not cause the removal of landscaping and/or greenspace existing on, or which was planted/created after October 12, 2015; or

(2) The installation of fences that consist of painted rod iron/metal that will enclose those areas described in Subsection (c)(1); or

(3) Minor changes that have been deemed as NOT substantial by the city planner to a project that has been granted a certificate of appropriateness.

(d) *Approval of certificates of appropriateness.* All interested parties shall be afforded the opportunity to be heard before the downtown review board which shall determine, either:

(1) The changes proposed are not visible from any public street, park or other public place as determined by the city planner; or

(2) The changes set forth in the application are not detrimental to the architectural, cultural, historic or contextual character of other improvements of the real property located within the downtown precise plan area. The downtown review board shall forthwith issue a certificate of appropriateness, stating in writing findings of fact and conclusions of law and detailing the work approved. Such certificate shall then be presented to the department of planning and community development who shall check the application for conformity with all applicable zoning codes; and to the building regulations division who shall check the application for compliance with building codes. The time limitations of the building codes shall control from this time forward. In the event that no building permit is necessary for the improvements controlled by the certificate of appropriateness, the certificate shall be valid for a term of one year from its date of issuance. The applicant must complete the work approved in the certificate of appropriateness within one year of:

a. The date the certificate of appropriateness is issued; or,
b. In the event a building permit is required, from the date of issuance of the building permit.

Otherwise, the certificate shall expire and a new application shall be filed with the planning and community development department.

(e) *Denial of certificates of appropriateness.* If, after a public hearing, the downtown review board determines that proposed changes are visible from any public street, park or other public place; and that such changes are detrimental to the architectural, cultural, historic or contextual character of the real property located within the downtown precise plan, the downtown review board shall enter an order denying a certificate of appropriateness, along with supporting written findings and at the same time shall mail a copy of the decision to the applicant. The downtown review board shall forward a copy of such order to the chief building official. The chief building official shall thereafter refuse to issue a building or demolition permit for which a certificate of appropriateness was denied. The downtown review board may grant a rehearing of an application for a certificate of appropriateness which it has decided, if an application seeking rehearing includes a concise statement of the new evidence to be considered by the board; and the application for rehearing is made to the downtown review board within ten working days from the date upon which the applicant was notified of the downtown review board's original action of denial. Only one application for rehearing may be made in any case. Any rehearing granted shall proceed upon public notice and be a full and fair hearing.

(f) *Appeals from downtown review board.* An appeal of the downtown review board's decision shall be made to the board of adjustment in the same manner as any other appeal from the decision of the a city official; provided, however, that the board of adjustment shall not grant relief except upon a finding of serious economic

hardship occasioned to the owner of the subject property.
(G.O. 2345, 10-19-09; G.O. 2791, 9-28-15)

Sec. 31-104. Conformance with other codes and laws.

(a) This article shall not be deemed to exempt any person from the requirements of building and maintenance codes, the zoning requirements or the minimum housing code unless specifically indicated herein.
(G.O. 2345, 10-19-09)

Sec. 31-105. Penalties.

Any person who shall remodel, reconstruct, restore, construct, alter or demolish any site or structure within the downtown precise plan area

in violation of this article, upon being found guilty thereof, shall be punished as set forth in Section 1-14 of the code of ordinances of the city of St. Joseph, Missouri. No prosecution initiated for violation of this article shall be deemed to constitute an exclusive remedy. The violation of this article may be enjoined by proper application to a court of general jurisdiction.
(G.O. 2345, 10-19-09)

Secs. 31-106--31-109. Reserved.

ARTICLE II. SIGNS

DIVISION 1. IN GENERAL

Sec. 31-110. Purposes and findings.

(a) *Purposes.* This article is intended to:

(1) Regulate existing and proposed signs of all types in a fair and consistent manner;

(2) Implement the comprehensive plan;

(3) Protect the public health, safety, and general welfare;

(4) Protect state and federal constitutional rights to free speech;

(5) Protect property values;

(6) Create a more attractive economical and business climate;

(7) Enhance and protect the physical appearance of the city;

(8) Preserve the scenic and natural beauty of the city and provide a more enjoyable and pleasing community; and

(9) Promote attractive signs which clearly present the visual message in a manner that is compatible with their surroundings.

(b) *Findings*. The city finds that the standards and procedures in this article:

(1) Implement the goals and policies of the comprehensive plan by establishing uniform standards and procedures to control the size, type, number, design, placement, illumination and maintenance of signs;

(2) Protect public health and safety by:

a. Minimizing visual distractions and obstructions that contribute to traffic accidents,
b. Prohibiting signs that constitute a traffic hazard or obstruct the visibility of motorists, bicyclists or pedestrians, or cause confusion by virtue of visual similarity to traffic control signs,
c. Reducing hazards that are caused by signs that overhang or project over public rights-of- way,
d. Providing more visual open space, and
e. Preventing potential deterioration of the community's appearance and attractiveness that would create a blighting influence;

(3) Encourage signs that are attractive and functional for the type of establishment to which they pertain, and that are in scale and architectural harmony with the project site, project building(s), adjacent buildings and development in the district or neighborhood in which they are located;

(4) Reduce visual clutter and physical obstructions caused by a proliferation of signs that could diminish the City's image, property values and quality of life;

(5) Keep signs within a reasonable scale with respect to the building(s) to which they relate;

(6) Encourage the upgrading, updating or removal of signs that are poorly maintained, out of character with their surroundings, or do not conform to this article; and

(7) Prevent signs that are potentially dangerous to the public due to structural deficiencies and disrepair.

This sign code is adopted under the zoning authority of the city in furtherance of the more general purposes set forth in the zoning ordinance.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17; G.O. 2858, 6-4-18)

Sec. 31-111. Applicability and message neutrality.

(a) *Applicability*. Any sign erected, placed, established or created that is visible from a public right-of-way, adjacent property or outdoor area of public property shall be in conformance with the standards, procedures and requirements of this article. All signs not expressly permitted by this article or exempt hereunder are prohibited.

(b*) Message neutrality*.

(1) This article regulates signs in a manner which is consistent with the speech freedoms of both the United States and Missouri Constitutions and the Missouri Statutes, and is content neutral.

(2) Notwithstanding any other provision of this article, no sign is subject to any limitation based on its content.

Any sign erected, placed, established, painted, created or maintained in the city shall be in conformance with the standards, procedures and requirements of this sign code. All signs not expressly permitted by this sign code or exempt hereunder are prohibited.
(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17. 2858, 6-4-18)

Sec. 31-112. Rules of interpretation.

Words and phrases used in this article shall have the meanings set forth in this article. Words and phrases not defined in this article but defined in Section 31-010 shall be given the meanings set forth therein. All other words and phrases shall be given their common, ordinary meanings, unless the context clearly requires otherwise.
(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17. 2858, 6-4-18)

Sec. 31-113. Definitions.

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

(1) *A-frame sign*. A sign constructed of two boards, opposed at the top, placed immediately outside an establishment for the purpose of advertising goods or services within.

(2) *Abandoned sign structure*. A sign structure which:

a. By reason of neglect, damage or deterioration, requires repair, and
b. The owner, or other party responsible for maintaining the sign, fails to undertake and complete the repairs within 30 days after written notice to do so from the city.

(3) *Animated sign*. Any sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic displays.

(4) *Area of a sign*.

a. The area of a sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing.
b. The area of a sign shall consist of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest rectangle which encompasses all elements of said sign.
c. The area of a sign which is other than rectangular in shape shall be determined as the area of the smallest rectangle which encompasses all elements of said sign.
d. The area of a sign which shall consist of a three-dimensional object shall be considered to be the area of the

largest vertical cross section of that object.

e. Only one side shall be counted in computing the area of a double faced sign.

(5) A*wning*. A fabric overhead projection from a building facade intended to provide shelter from wind, sun or rain for passing pedestrians and window shoppers.

(6) *Banner*. Any sign of lightweight fabric, vinyl or similar material. Flags and pennants shall not be considered a banner.

(7) *Billboard sign*. Any sign whose principal purpose is to convey a message or information which is neither conducted, rendered, or sold at the property on which the sign is placed.

(8) *Building marker*. Any sign indicating only the name of a building, the date of construction or incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material and permanently affixed to the building.

(9) *Construction sign (temporary)*. A sign which identifies the architects, engineers, builders, tenants, agent or a combination thereof, on the premises of a building which is under construction.

(10) *Development identification sign*. A sign identifying the name and/or address of a common and contiguous residential, commercial office or industrial development.

(11) *Direct external illumination*. Lighting that shines directly onto the sign, such as flood or spotlights.

(12) *Directional sign*. A sign designed to provide direction to pedestrian and vehicular traffic either to or within a facility.

(13) *Drive-thru facilities sign*. See "freestanding sign."

(14) *Driveway intersection sight visibility triangle*. The area formed by the intersection of a public street and a driveway and a line connecting the point on the right-of-way at a distance of 50 feet and the point along the edge of a driveway at a distance of eight feet from said intersection. See "Appendix: Intersection Visibility Triangles" on page 113, for an example.

(15) *Driveway sign*. A freestanding sign located within ten feet of any entrance to a property.

(16) Electronic message center. A variable-message sign that uses messages that are computer generated or other electronic means of changing copy. These signs include, but are not limited to, displays using incandescent lamps, light emitting diodes (LEDs), liquid crystal displays (LCDs) or a flipper matrix.

(17) *External but integral illumination*. Lighting that spells out the sign message, such as bulbs.

(18) *Flag*. Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government or political subdivision, the official flag of any institution, business or for civic purposes. Only business or trade flags are considered signs within the scope of authority of this sign ordinance.

(19) *Flashing sign*. A sign with an intermittent or flashing light source. Generally, the sign's message is constantly repeated, and the sign is most often used as a primary attention-getting device.

(20) *For sale/for rent sign (temporary)*. A sign which advertises all or part of the premises on which the sign is located for sale or rental.

(21) *Freestanding sign*. A "freestanding sign" means a sign that is permanently attached to the ground and that is wholly independent of any building or other structure. The term "freestanding sign" includes, but is not limited to, any ground sign, hanging sign, landscape wall sign,

menu board, monument sign, multitenant sign, pillar sign, pole sign, sandwich board, or subdivision monument sign, defined as follows:

a. Drive-thru facility sign. An outdoor sign which is part of drive through or drive-in facilities. This type of sign may be included, but is not limited to, a changeable point of purchase advertising display that allows the retailer to list products and prices,
b. Ground Sign. A freestanding sign, other than a pole sign, which is:

   i. supported by at least two architectural support structures,
   ii. pedestrian scale or low to the ground, and
   iii. not directly in contact with the ground.

c. Hanging sign. A sign is suspended from the underside or attached to the side of a wooden or iron post.
d. Landscape wall sign. A sign consisting of individual letters mounted on a screen, perimeter wall or retaining wall.
e. Monument sign. A freestanding sign in which the entire bottom of the sign is in contact with the ground, or which is mounted on a solid base at least two-thirds of which of the sign face, providing a solid and continuous background for the sign to face from the ground to the top of the sign.
f. Multi-tenant sign. A sign structure designed with two or more removable panels to identify the tenants in a building with more than one tenant, or in a development with more than building.
g. Pillar sign. A slender, three-dimensional freestanding vertical sign.
h. Sandwich board. A portable sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame and forms the cross-sectional shape of the letter "A" when viewed from the side.
i. Subdivision monument sign. A monument sign that is located at an entrance of a residential subdivision and is associated with identification of the subdivision.

(22) Ground sign. See "freestanding sign."

(23) *Hanging sign.* See "freestanding sign."

(24) *Home occupation signs*. A sign identifying the name of the home occupation.

(25) *Illuminated sign*. Any sign utilizing an artificial source of light to enhance its visibility.

(26) *Indirect illumination*. Illumination provided by a light source hidden from direct view.

(27) *Internal illumination*. Lighting that shines through a plastic or other translucent covering.

(28) *Interstate or primary systems*. That portion of the national system of interstate highways or highways of the State of Missouri, and officially designated as such by the state highways and transportation commission (RSMo, 226.510 [2 & 4]).

(29) *Landscaping wall sign.* See "freestanding sign."

(30) *Message board*. A permanent sign used to convey information by means of changeable lettering, including electronic message boards.

(31) *Monument sign.* See "freestanding sign."

(32) *Multi-tenant identification sign*. "See "freestanding sign."

(33) *Neon sign*. A sign with exposed neon lighting. A sign with neon lighting transparent material shall be considered a neon sign.

(34) *Obsolete signs.* Any commercial sign or signs remaining after a building, structure or premise is vacated for a six-month period of time.

(35) *Outdoor advertising sign*. An outdoor sign of any type designed, intended or used to advertise or inform any part of the advertising or information contents of which is visible from any point of the traveled ways of the interstate or primary systems (RSMo, Sec. 226.510[3]).

(36) *Pennant*. Any lightweight plastic, fabric or other material, whether or not containing a message or any kind suspended from a rope, wire or string, usually in series, designed to move in the wind.

(37) *Pole sign*. A freestanding sign or monument normally supported by one but sometimes by more than one pole and otherwise separated from the ground by air space. Pole signs are separate from buildings or other structures.

(38) *Pillar sign.* See "freestanding sign."

(39) *Political sign.* See "temporary sign."

(40) *Portable sign*. Any sign which by virtue of its construction can be readily moved from one location to another, either on its own or by means of its attachment to a vehicle.

(41) *Roof sign*. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure.

(42) *Sandwich board sign*. See "freestanding sign."

(43) *Sight visibility triangle*. A triangular area measured from the intersection of a street with another street, alley or driveway, within which obstructions are particularly prone to impair sight distance and lead to increased accidents. See "Appendix: Intersection Visibility Triangles", on page 113.

(44) *Sign*. Any device, object, display or structure, or part thereof, that is used to advertise, identify, display, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected image.

(45) *Sign face*. The area or display surface used for the message.

(46) *Sign height*. The vertical distance to the highest point of a sign structure, as measured from the average grade at the base of the structure or the lowest vertical point of a projecting structure.

(47) *Spotlight/beacon*. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

(48) *Street intersection sight visibility triangle*: Is the area formed by the right-of-way lines of intersecting streets and a line connecting points on such right-of-way lines at a distance of 25 feet from their point of intersection. See "Appendix: Intersection Visibility Triangles", on page 113.

(49) *Strobe light*. Intermittently flashing spotlight.

(50) *Subdivision monument sign*. See "freestanding sign."

(51) *Temporary business*. A business, excluding not-for-profit organizations, that operates for a limited period of time, or seasonally, not to exceed two consecutive months per year.

(52) *Temporary sign*. A sign intended to be displayed for a limited period of time for the purpose of advertising a special commercial undertaking or announcing a bona fide charitable, religious or civic event, including but not limited to the following:

a. Construction sign. Sign placed on a site during construction of a building or development project, or the rehabilitation, remodeling or renovation of a building.
b. Garage sale sign. Sign advertising personal or household goods for sale, typically on a residential property,

generally referred to garage sales or yard sales.

c. Home parade sign, including directional arrows to homes on a homes tour.

d. Political sign. Sign displayed prior to an election, political campaign, referendum or ballot proposition put to the voters as part of city, state, or federal government.

e. Real estate sign. Sign displayed on a property or premises which is for sale, for lease, or for rent.

f. Special event sign. Sign displayed to advertise either:

i. a special event or

ii. a non-commercial event exempt from special event permit, such as on-premise church or school activities.

(53) *Time and temperature display*. A variable-message sign that displays current time and temperature in a stationary or alternating manner.

(54) *Use identification sign*. A sign whose principal purpose is to identify the name of the tenant or owner or the use of the premises or the goods sold on the site.

(55) Variable-message sign. A sign that includes provisions for message changes. Also, known as a changeable-copy panel, changeable-copy sign, time-and-temperature sign, electronic message center or menu board.

(56) Wall sign. Any sign attached to any part of a building as opposed to a freestanding sign.

(57) *Window sign*. A sign displayed on or within the window of a building visible from outside the building, not used to advertise the business, but rather the products or services, subject to frequent change, provided by the business at a particular time.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 1807, 12-11-00; G.O. 2135, 11-7-05; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17; G.O. 2858, 6-4-18)

Sec. 31-114. Prohibited signs.

The following signs shall be prohibited, except as otherwise provide in this article:

(1) Signs that interfere with free use of building entrances and exits, including emergency exits, or which obstruct doors or windows or impede light and ventilation otherwise required by city ordinance, code or regulation;

(2) Signs in a public right-of-way other than those permitted in this article;

(3) Signs within a driveway or street intersection sight visibility triangle which are between three feet and ten feet in height;

(4) Vehicle signs which are signs on vehicles or trailers that are parked or located so that they can be seen from a street right-of-way and for the primary purpose of displaying the sign. It shall be *prima facie* evidence that the primary purpose of a vehicle or trailer is to display a sign if the vehicle or trailer is parked on the same property for a continuous period exceeding 72 hours. The intent of this subsection is to prohibit the use or display of signs on vehicles and trailers to otherwise circumvent the purpose and intent of the sign code;

(5) Inflatable displays;

(6) Strobe lights, animated or moving signs, attention attracting devices and beacons;

(7) Signs painted directly onto structures;

(8) Obsolete signs as defined in Section 31-113 or any sign or sign structure determined by the city to be structurally unsafe or a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;

(9) Obscene sign;

(10) Portable sign; and

(11) Roof sign.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94;

G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17; G.O. 2858, 6-4-18; G.O. 2948, 4-6-20)

Sec. 31-115. Exempt signs.

The following signs are exempt from the permit requirements of these sign regulations. No sign, including exempt signs, may be posted within a street right-of-way without written approval from the director of public works and transportation or his designee.

(1) Advertising and identifying signs located on currently licensed vehicles such as taxicabs, buses and trucks as well as on bus benches, except for those vehicle signs prohibited under Section 31-114;

(2) Any legal or public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance;

(3) Temporary signs in all zoning districts. Such signs shall be no greater than nine square feet in area within a residential zoning district or 32 square feet in a nonresidential district and may be free standing or attached flat against a wall so long as they are not painted directly on a structure;

(4) Holiday and seasonal lights and decorations which would not otherwise meet the definition of any type of sign set forth herein;

(5) Signs advertising temporary activity on the property such as sale, rent or lease of the property; construction; grand openings; garage and yard sales; and special events and which meet the following requirements:

a. In residential zoning districts, the maximum size shall be nine square feet.
b. In nonresidential zoning districts, the maximum size shall be 30 square feet.
c. Garage sale signs for residences, permitted for four consecutive days only, provided the sale has a garage sale permit and that garage sales are held no more than two times in any 12 month period for any particular property.

(6) Hard balloons, streamers, pennants;

(7) Historical markers;

(8) Government flags;

(9) Signs carried by a person;

(10) Warning signs placed on private property which contain no commercial message of any sort and are a maximum of three square feet in area;

(11) Window signs which shall be limited to obscuring a maximum of 25% of transparent or translucent surfaces; and

(12) Signs preempted from regulation by state or federal law.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2245, 8-27-07; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17; G.O. 2858, 6-4-18; G.O. 2948, 4-6-20)

Sec. 31-116. Temporary signs.

(a) Temporary signs generally. Except as otherwise permitted in this article, all temporary signs not classified as exempt signs under this article shall:

(1) Be permitted on private property only. They are not permitted on public rights-of-way or on public property;

(2) Be placed only by the property owner, or with the property owners permission; and

(3) Not be located closer than 11 feet to the paved portion of a street and must be at least five feet from any other privately owned property.

(5) Obtain a no fee sign permit;

(6) Not be placed in street rights-of-way or otherwise diminish public safety such as placement in an intersection visibility triangle;

(7) Not be mounted on a roof or above the roofline;

(8) Not be illuminated; and

(9) Not be a prohibited sign as defined by Section 31-114 of the sign code.

(b) Wall and freestanding temporary signs. Temporary wall and freestanding signs other than those classified as "exempt signs" under this article, shall:

(1) Be a maximum of 20 square feet in area when located in residential zoning districts;

(2) Be a maximum of 100 square feet in area when located in nonresidential zoning districts; and

(3) Be limited to one sign per parcel for each street frontage.

(c) *Banners*.

(1) Banners:

a. When in residential zoning districts shall be no greater than 20 square feet in area.
b. When in nonresidential zoning districts shall be no greater than 100 square feet in area.
c. All banners shall be securely affixed flat against a structure such as a building, wall or fence.
d. All banners shall be considered temporary signs.
e. All commercial banners shall require a permit.
f. No banner shall be used as a permanent sign.
g. Banners shall not be hung as canopy signs, flown as flags, or used as any other form of permanent sign.
h. Banner materials shall be weather resistant fabric, plastic or vinyl.

(d) Signs advertising a temporary event may be placed no more than 60 days prior to the event and shall be removed no later than 48 hours after the event has ended.

(e) *Non-commercial temporary signs*. Non-commercial temporary signs do not require a sign permit, but must comply with the following standards:

(1) Signs are permitted on private property only. They are not permitted on public rights-of-way or on public property;

(2) Signs may be placed only by the property owner, or with the property owner's permission; and

(3) Signs may not be located closer than 11 feet to the paved portion of a street and must be at least five feet from any other privately owned property.

(f) Additional temporary signs are allowed as follows:

(1) During times of election: During time of election involving candidates from federal, state or local office that represents the district in which the property is located or involves an issue on the ballot of an election within the district where the property is located one additional temporary sign per issue per candidate shall be allowed. Such additional signs shall be permitted beginning 60 days prior to the date of the election and terminate five days after the date of the election.

(2) During times of sale: One additional temporary sign may be located on a property when:

(a) The owner consents and that property is being offered for sale through a licensed real estate agent,
(b) If not offered for sale through a licensed real estate agent, when the sign is owned by the property owner and the property is offered for sale by the owner through advertising in a local newspaper of general circulation, and
(c) For a period of 15 days following the date on which a contract for sale has been executed by a person purchasing the property.

(3) During times property is open to the public: One additional temporary sign may be located on the owner's property on a day when the property owner is opening the property to the public; however, the owner may not use this type of sign on more than 15 days a year.

(4) One additional temporary sign shall be allowed upon submittal of a final development application or issuance of a building permit, and shall terminate upon issuance of any certificate of occupancy or approval for connection to electric power for the work authorized by the building permit.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2163, 5-8-06; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17; G.O. 2858, 6-4-18; G.O. 2948, 4-6-20)

Secs. 31-117 - 31-129. Reserved.

DIVISION 2. SIGN REGULATIONS

Sec. 31-130. Requirements for sign categories.

(a) *General sign requirements.*

(1) *Height restrictions.* All signs other than billboards and pole sign within 500 feet of an interstate, shall comply with the height regulations of the zoning district in which they are located, but in no case shall signs exceed 30 feet in height from grade.

(2) No signs other than projecting signs shall be located closer than one foot from the property line.

(3) *Signs located in the public right-of-way.* No sign shall be located within a street right-of-way without written approval from the public works and transportation director or designee. At the city's discretion, the applicant may be required to provide insurance or other security acceptable to the city. Any permanent sign in a street right-of-way shall be placed at the risk of the sign owner and may be required to be removed at the owner's expense at the discretion of the public works and transportation director.

a. *Temporary signs in rights-of-way.* The following signs may be permitted within street rights-of-way at the discretion of the public works and transportation director:

i. Signs erected on behalf of a governmental body or otherwise carry out the public purposes of governing bodies, including those to direct traffic, post legal notices, identify public properties, convey public information, notify the public of emergencies and identify projects financed by public funds.

ii. Banners erected over a public right-of-way for any not-for-profit organization advertising a public service, charitable or civic event or any for profit business advertising any event which occurs in or on a city-owned facility.

b. *Permanent signs in rights-of-way*. No signs other than traffic control devices, directional signs for major destinations (as defined by the public works and transportation director), or an otherwise permitted projecting sign or awning shall be permanently located within or above any street right-of-way. In no case shall any permanent sign other than traffic control devices be located within one foot of the back of curb of the travel lane.

(4) All signs other than billboards shall advertise only for business activity taking place on that parcel.

(5) *Effects on adjacent residential lots*. No direct light or significant glare from any sign shall be cast onto an adjacent lot which is zoned and used for residential purposes.

(6) No sign of any type which can conduct electricity shall be located within 10 feet of any high voltage overhead line.

(7) *Attachments to freestanding signs*. No guys, braces, attachments, banners, flags, inflatable display~~s~~ or other similar devices shall be attached to any freestanding sign.

(8) *Sign maintenance*. All signs, together with all their supports, braces, guys, and anchors, shall be kept in good repair and, unless constructed of galvanized or noncorroding metal, shall be given a protective coating as necessary to maintain a clean appearance a~~n~~ safe condition. All signs shall be maintained in accordance with all city ordinances, including ordinances concerning nuisances and vegetation.

(b) *Permitted signs in residential zoning districts*. The following signs are permitted in residential zoning districts subject to meeting the specified area and illumination requirements and issuance of a sign permit. Table I (see page 107) summarizes these regulations.

(1) *Monument signs*.

a. Maximum of one sign per lot.
b. May not exceed 20 square feet in area.

(2) *Setback restrictions*.

a. All signs shall be located on the lot which accommodates the principal use.
b. The leading edge of a sign shall not be placed closer than one foot from the property line.
c. No sign shall be placed in a rear yard.

(c) *Signs permitted in non-residential zoning districts*: The following signs are permitted in all commercial, planned business and industrial zones subject to meeting the specified standards and issuance of a sign permit. Table II (see page 108) summarizes these regulations.

(1) *Wall and projecting signs*.

a. The total sign area is limited to 10% of the facade on which the sign(s) is/are located computed against the first 20 feet in building height.
b. Awning signs shall count toward the total limitation of 10% of wall signage.
c. For buildings closer to the street right-of-way than 20 feet, one projecting sign may be installed in addition to the wall sign, but the combined area of both signs shall be no greater than 10% of the façade to which they are mounted computed against the lowest 20 feet in building height. No projecting sign shall be permitted when a freestanding sign is installed on the property.

(2) *Freestanding signs*.

a. One freestanding sign is permitted for each parcel having up to 100 feet of frontage. Parcels with more than 100 feet of frontage shall be permitted a second freestanding sign.
b. Drive through businesses shall be permitted one menu board sign. A menu board sign shall not be oriented to a public right-of-way.
c. Freestanding directional signs not exceeding six square feet in area shall be permitted.
d. No freestanding signs other than freestanding directional signs shall be permitted when a projecting sign is installed on the property.
e. The sign area for each freestanding sign, except menu board and directional signs, may be 100 square feet. Additional square feet may be added as follows, provided the leading edge of the freestanding sign is set back farther than the minimum one~~–~~foot requirement. Where two freestanding signs are used,~~–~~ the sign area for each sign may be increased as follows when both signs meet the necessary setback restrictions.

Increased Distance	Additional square footage
2-4 feet	12 sq. ft.
5-8 feet	24 sq. ft.
9-12 feet	36 sq. ft.
13-16 feet	48 sq. ft.
17-20 feet	60 sq. ft.
greater than 20 feet	72 sq. ft.

One of the permitted freestanding signs may be a multi-tenant sign.

f. The square footage of the multi-tenant sign may be increased by 16 square feet for each additional tenant over the first, with a maximum of 600 square feet.

g. In calculating the maximum square footage for multi-tenant signs, the additional square footage permitted for a greater setback as allowed in Subsection (e) above shall be added to the square footage allowed in Subsection (f) above.

h. No freestanding sign greater than three feet high or less than ten feet from the bottom of the sign shall be located in a street intersection sight visibility triangle or a driveway intersection sight visibility triangle as defined in "Appendix: Intersection Visibility Triangles", on page 113.

(d) *P-1 downtown precise plan district signage*. In addition to these regulations, the following additional regulations shall apply in the P-1, downtown precise plan district. Signs in the P-1 district shall be subject to approval by the downtown review board.

(1) Banners shall be allowed, to be attached only to the building, and not to exceed five feet by two and one-half feet.

(2) Illuminated signs shall be allowed except for temporary signs.

(3) On canvas awnings, signage shall be calculated toward the total allotment of signage which limits the total area of signage to 10% of the façade on which the sign(s) is/are located computed against the first 20 feet in building height.

(4) Pole, billboard and portable temporary signs shall be prohibited.

(5) No signs, including political signs, shall be attached to telephone poles or light standards.

(6) Projecting signs shall be allowed with a total area not to exceed eight square feet, with indirect illumination only.

(7) *Wall signs*. The 10% of building facade area allowed for wall signs shall be computed against the first 20 feet of building height. Wall signs in P-1 districts may be internally illuminated.

(e) *Signs on historic landmark and in historic districts*. Any sign subject to issuance of a certificate of appropriateness, pursuant to Section 31-179 of this chapter, shall be subject to landmark commission review pursuant to Section 31-179 of this chapter, in addition to all other applicable requirements herein. This shall include the authority of the landmark commission to grant exceptions to these requirements. In addition, the following shall apply to signage for properties designated as a local landmark or historic district pursuant to Section 31-178:

(1) A certificate of appropriateness shall be required from the landmark commission. The landmark commission shall review for size, location, height, materials, lighting and style, but not message. The sign shall contribute to the retention or restoration of the historic character of the landmark or district.

(2) For locally designated properties in residential zoning districts, two identification signs, one square foot each, shall be permitted and may be wall or freestanding. Residentially zoned landmark properties granted a conditional use permit for commercial purposes may erect one sign not to exceed six square feet in area, either wall or freestanding. Freestanding signs in "residential" zoning districts shall not exceed five feet in height.

(3) The following sign regulations shall apply to historic buildings which were specifically designed and constructed to be used as places of commercial business

during the period of local significance in each of the two Local Historic Districts: Museum Hill Local Historic District between 1860 through 1929; Hall Street Local Historic District between 1870 through 1925:

a. The total sign area shall be limited to 10% of the façade on which the sign(s) is/are located computed against the first 20 feet of building height;
b. Signs on awnings shall be included in the total limitation of 10% of wall signage;
c. The area of a sign shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing;
d. The area of a sign shall consist of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest rectangle which encompasses all elements of said sign;
e. The area of a sign which is other than rectangular in shape shall be determined as the area of the smallest rectangle which encompasses all elements of said sign;
f. The area of a sign which shall consist of a thredimensional object shall be considered to be the area of the largest vertical cross section of that object; and
g. Only one side shall be counted in computing the area of a double faced sign. This shall not apply to tent signs.

(4) Properties excluded from Subsection (3) above shall be any properties that were historically designed as residential structures such as apartments, boarding houses, duplexes, single family homes or rental/income producing properties that were historically constructed as housing; and any properties that were specifically designed and constructed as residential structures that have since been converted into a business. Signs for these properties shall be governed by the Design Guidelines for Historic Properties in St. Joseph.

(5) For locally designated properties in nonresidential zoning districts, the regular sign requirements provided in Section 31-130 shall apply, except that any freestanding sign shall be a monument sign.

(6) Existing commercial signage not meeting these sign requirements shall be subject to the nonconforming use regulations as set forth in Section 31-056.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 1807, 12-11-00; G.O. 2135, 11-7-05; G.O. 2245, 8-27-07; G.O. 2255, 9-24-07; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17; G.O. 2947, 4-6-20)

Sec. 31-131. Billboards.

(a) Billboards shall be permitted only in C-3, M-1 and M-2 zoning districts.

(b) The minimum distance between billboards shall be 2,000 feet, regardless of which roadway the billboards are oriented.

(c) All billboards shall be located within 660 feet of the right-of-way and visible from either Interstate 29, Interstate 229, Highway 36, Highway 59, Highway 169 or Business Loop 29/Highway 169 from exit 44 on Interstate 29 on the south and the separation of Business Loop 29 and Highway 169 on the north. Billboards in other areas shall not be permitted, including but not limited to, Business Loop 29 north of Highway 169 and Business Loop 29 "split".

(d) No billboard shall exceed 725 square feet in total display area per side. No billboard shall have more than two sides.

(e) The maximum height allowed for billboards shall be 60 feet.

(f) A billboard sign on a parcel adjacent to a residential zoning district shall be placed no closer than 100 feet of the residential district as measured along both sides of the street frontage from the residential district.

(g) Billboards utilizing light emitting diodes (LEDs) which have the ability to display variable messages shall not change messages, images, or lighting sooner than a minimum of 15 second intervals.

(h) LED billboard upgrades shall be allowed to perform under the same regulations pertaining to nonconforming uses, specifically the conversion to an LED billboard can be allowed as in kind repair providing there is no enlargement, alteration of the structure, or additional height or depth of the structure. If the conversion is determined to be outside of the existing nonconforming use allowances, the LED billboard shall be regulated in the same manner as new construction.

(i) Billboards and other outdoor advertising shall also meet state and federal minimum standards for advertising in proximity to highways designated as part of the national highway system. In the event of a conflict between any provision of these sign regulations and a provision of state and federal requirements, the more restrictive provision shall control.

(j) No sign permit for any billboard shall be issued by the city without prior written approval by the Missouri Department of Transportation.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 1807, 12-11-00; G.O. 2135, 11-7-05; G.O. 2352, 11-2-09; G.O. 2830, 4-24-17)

Secs. 31-132--31-149. Reserved.

DIVISION 3. ADMINISTRATION

Sec. 31-150. Sign permit requirements and procedures.

(a) *Permit required*. If a sign or a sign modification requiring a permit under the provisions of these sign regulations is to be placed, constructed, erected or modified on a lot, the owner of the lot or his legally designated agent shall first secure a sign permit.

(b) Application for and issuance of permits. The following procedures shall govern the application for, and issuance of, all sign permits pursuant to these sign regulations:

(1) *Applications*. All applications for sign permits shall be submitted to the city planner or designated representative on an application form or in accordance with application specifications published by the city planner or designated representative which shall, at a minimum, include the type of sign, the location of the sign on the parcel and the dimensions of the sign.

(2) *Fees*. Each application for a sign permit shall be accompanied by a fee pursuant to a fee schedule, which shall be established by the governing body of the city from time to time. Permit fees required for signs under this section and Section 7-35 shall be waived for all not-for-profit organizations.

(3) *Action*. The city planner or designated representative shall take action within seven days of receipt of the application. The city planner or designated representative shall either:

a. Issue the sign permit, if the proposed sign conforms in every respect with these regulations; or
b. Reject the sign permit, if the proposed sign does not conform with all of the applicable regulations. In the case of a rejection, the city planner or designated representative shall specify the reasons therefore in writing, including references to relevant sections of these regulations and shall notify the applicant of such rejection.
c. Refer the sign application for review by the landmark commission or downtown review board as required under Section 31-179 of the zoning ordinance.
d. Where the city planner or designated representative does not act within seven days, the permit shall be deemed rejected.

(4) *Expiration of sign permit/conformity*. A sign permit shall expire upon any change in size or location. Any change to any sign shall require that the sign, and all related signs for a use, shall then conform to this ordinance. However, a sign may be maintained in order to restore it to its

original condition without the need for conformance or a new permit, up to the point of making any change in the size, height or location.

(5) *Temporary signs*. A temporary sign permit shall be required for temporary signs. The city planner or designated representative shall issue temporary sign permits for no longer then 60 consecutive days, and no more than one temporary sign permit issued for each business per any 90 day period. Such signs shall be removed within 48 hours of the expiration of the permit. Any temporary sign which does not comply with this ordinance may be removed by the city planner or designated representative at the expense of the owner. If the owner cannot be determined, such sign may be removed immediately and stored. The city will not be responsible for the condition of such signs and they may be disposed of unless claimed within 30 days.

(6) *Lapse of sign permit*. A sign permit shall lapse automatically if the business license for the premises lapses, is revoked or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 180 days or more and is not renewed within 30 days of written notice from the city planner or designated representative to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.

(7) *Assignment of sign permit*. A current and valid sign permit shall be freely assignable to a successor as owner or lessee of the premises.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2830, 4-24-17; G.O. 2948, 4-6-20)

Sec. 31-151. Unsafe and obsolete signs.

(a) *Unsafe signs*. If, in the opinion of the city planner or designated representative any sign is or has become dangerous or unsafe in any manner whatsoever, the city planner or designated representative shall issue an order to the owner directing that the sign shall be immediately repaired and made safe, or taken down and removed. The property owner shall be responsible for such corrective action, but in the case of failure to do so by the owner after sufficient notice and a reasonable period of time, the city planner or designated representative shall be authorized to remove the dangerous or unsafe sign at the owner's expense. Costs incurred by the city in removing unsafe signs shall be borne by the property owner, and shall, if unpaid, constitute a lien against the property.

(b) *Obsolete signs and sign structures*. Any sign or sign support structure, whether existing on or installed after the effective date of this sign code, which advertises or is intended to support a sign for a business no longer being conducted, or a product no longer being offered for sale on or from the premises on which the sign is located, shall be removed by the property owner within two months upon cessation of such business or sale of such product by owner, agent, tenant or person having the beneficial interest in the business, property or premises on which such sign is located.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2830, 4-24-17)

Sec. 31-152. Sign exceptions.

(a) *Exceptions permit*. Exceptions to this sign ordinance shall be made only by issuance of an exception permit as provided for in Sections 31-090 and 31-093 of the zoning ordinance. In the case of sign exceptions relating to historic districts and properties, the landmark commission shall have the power to grant an exception permit. In all other cases of sign exceptions, the zoning board of adjustment shall have the power to grant an exception permit.

(b) *Conditions for exceptions*. In approving a sign exception, the board of adjustment or landmark commission, as the case may be, may apply any condition which is required to uphold the three findings contained in Section 31-093 of the zoning ordinance. This may include, but is not limited to, conditions such as limiting sign illumination to certain hours in residential districts, requiring the use of only certain kinds of

sign lighting, placing a limitation on the duration of the exception or other similar conditions.

(c) *Antique signs.* The use of antique signs not otherwise meeting the requirements of this sign ordinance, shall be by exceptions permit only. However, it shall not be the purpose of this ordinance to unreasonably deny or actively discourage the appropriate use of otherwise nonconforming antique signs.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2830, 4-24-17)

Sec. 31-153. Violations.

Each of the following shall be a violation of this sign code and shall be subject to enforcement, remedies and penalties as provided herein, and as may otherwise be permitted by law:

(1) The installation, creation, erection, modification or maintenance of any sign requiring a permit without such a permit;

(2) The installation, creation, erection, modification or maintenance of any sign in a way that is inconsistent with the permit governing such sign;

(3) The failure to remove any sign that is installed, created, erected, modified or maintained in violation of these sign regulations or for which the sign permit has lapsed;

(4) The continuation of any such violation. Each day that a violation continues shall be considered a separate violation when applying the penalty provisions of these sign regulations; and

(5) The installation, creation, erection, modification or maintenance of a sign which is prohibited by the terms of these sign regulations.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2830, 4-24-17)

Sec. 31-154. Enforcement and remedies.

Any violation or attempted violation of this sign code or of any condition or requirement imposed pursuant to these sign regulations may be restrained, corrected or abated, as the case may be, by injunction or other appropriate proceedings pursuant to law. The remedies of the city shall include, but not be limited to, the following:

(1) Issuance of a stop-work order for any and all work on any signs on the same zone lot;

(2) Application to the court for a temporary or permanent injunction, or restraining order or order of abatement requiring the removal of the sign(s) or the correction of the violation;

(3) Imposition of any penalties that can be imposed on the violator directly by the city pursuant to the zoning ordinance;

(4) Application to the court for an order imposing any penalties that the court is empowered to impose pursuant to the zoning ordinance; and

(5) In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the city under the applicable provisions of the zoning ordinance, the building code or any other city code, ordinance or regulation.

(6) The city shall have such other remedies as are and as may from time to time be provided for or allowed by law for violations of the zoning ordinance.

(7) All of the remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

(Code 1969, Sec. 26-460; G.O. 756, 2-5-90; G.O. 1062, 2-1-93; [Sec. 31-460] G.O. 1218, 9-26-94; G.O. 1393, 4-22-96; G.O. 2135, 11-7-05; G.O. 2830, 4-24-17)

Sec. 31-155 - 31-169. Reserved.

ARTICLE III. HISTORIC PRESERVATION

DIVISION 1. IN GENERAL

Sec. 31-170. Purpose.

It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements and landscape features of special historical or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this article is to:

(1) Effect and accomplish the protection, enhancement, perpetuation and use of such improvements, landscape features, sites and districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;

(2) Safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such improvements, landscape features, sites and districts;

(3) Stabilize and improve property values of and near such improvements, landscape features, sites and districts;

(4) Foster civic pride in the beauty and noble accomplishments of the past;

(5) Protect and enhance the city's attractions to tourists and visitors;

(6) Encourage neighborhood conservation;

(7) Promote the use of historic landmarks and historic districts for the education, pleasure and welfare of the people of the city; and

(8) Promote the present and future safety, health, morals and general welfare of the people of the city.

(Code 1969, Sec. 26-670; [Sec. 31-670] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-171. Definitions.

The following words and phrases are used in this article and shall have the following meanings, unless a different meaning is plainly required by the content:

(1) *Certificate of appropriateness*. A permit granted by the landmark commission allowing construction, alterations, repairs, improvements, excavation or demolition to any building or property designated as a historic landmark or historic district as provided in Section 31-179.

(2) *Building permit*. The words "building permit" shall include all standard city building permits including demolition permits.

(3) *Full and fair hearing*. A proceeding conducted in an orderly manner where the person or persons acting in the capacity of fact finder, take up any issue properly before them for their consideration, after first having given reasonable notice to the interested parties of the time, date and place of such proceeding. Interested persons may appear in person or by attorney and be heard and present evidence which supports their viewpoint. Diligent effort shall be made by those conducting the proceeding to see that all parties are treated fairly and allowed to explain their position on the issue or issues under consideration.

(4) *Historic, cultural, aesthetic or architectural significance*. That quality present in buildings, structures, features, sites, object and districts which displays the integrity of location, design, setting, materials, workmanship, feeling or association that reflect the community's history, culture, aesthetic values or architecture and:

a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
b. That are associated with the lives of persons significant in our past; or
c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a "master" or that possess high artistic values, or that as a district represent a significant and distinguishable entity whose components may lack individual distinction; or
d. That have yielded, or may be likely to yield, information important in prehistory, history or archeology.

(5) *Historic district*. Buildings, structures, features, sites or objects within a contiguous land area with defined boundaries designated by the city council as having particular historic, cultural, aesthetic or architectural significance and limited in size to that area responsible for the proper identification and maintenance of the district.

(6) *Historic landmark*. Any single building, structure, feature, site or object or any single property containing buildings, structures, features, sites or objects, designated by the city council as having particular historic, cultural, aesthetic or architectural significance.

(7) *Ordinary maintenance*. Any work for which a building permit is not required by law where the purpose and effect of such work is to correct any decay, deterioration or damage to structures, buildings, features, sites or objects, to restore the same, as nearly as practical, to its condition prior to the occurrence of such decay, deterioration or damage.

(8) *Person*. Any individual, corporation, firm, trust, trustee, administrator, executor, partnership or joint venture.

(9) *Public notice*. Publication at least one time in a newspaper of general circulation within the city.

(Code 1969, Sec. 26-671; [Sec. 31-671] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-172. Creation of a commission.

For the purpose of assisting the city in carrying out the provisions of this article, there is hereby created a commission to be known as the landmark commission, with powers and duties as set out herein and as may hereafter be designated by ordinance of the city council.

(Code 1969, Sec. 26-672; [Sec. 31-672] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-173. Appointment, members, terms and qualifications.

(a) The landmark commission shall consist of nine members appointed by the city council for a term of three years and until their successors are appointed and qualified.

(b) All commission members shall be residents of the city, be qualified voters therein, shall reside in the city during their term of office, shall take the oath prescribed for city officers and shall serve without compensation.

(c) The city manager and the director of planning and community development shall be ex officio members of the commission, and may attend its hearings and deliberations and make such recommendations as they may see fit, and take part in all matters coming before such body, but shall not be entitled to a vote.

(d) All commission members must have a demonstrated interest in, or knowledge of historic preservation. The commission shall include two members who own and/or reside in historic homes and the city council shall endeavor to appoint one representative who resides in a local historic district or other designated area that falls within the design review jurisdiction of the commission. When making appointments to the commission, the city council shall strongly consider professionals who represent such disciplines as architecture, law, real estate

brokerage, banking, history or other fields relating to historic preservation.
(Code 1969, Sec. 26-673; [Sec. 31-673] G.O. 1393, 4-22-96; G.O. 1833, 7-23-01; G.O. 1975, 10-13-03; G.O. 2056, 10-25-04; G.O. 2792, 9-28-15)

Sec. 31-174. Staff.

The planning and zoning division of the community development department of the city of St. Joseph, Missouri, shall be responsible for all clerical and administrative support for the landmark commission.
(Code 1969, Sec. 26-674; [Sec. 31-674] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-175. Powers and duties of the commission.

Unless otherwise specified herein the powers and duties of the commission shall be as follows:

(1) Prepare or cause to be prepared and updated as necessary, a comprehensive inventory of local historical resources.

(2) Develop a preservation plan and participate in development of any preservation component of a comprehensive plan. Recommend the adoption of such plans or other policy documents to the city council.

(3) Develop and adopt appropriate policies and rules of procedure to define the processes required under this ordinance.

(4) After having held public hearings, make recommendations to the city council concerning the adoption of ordinances for designation of historic landmarks and districts and the adoption of design guidelines or other restrictions for the purposes of historic preservation.

(5) Hold public hearings and decide upon applications for certificates of appropriateness.

(6) Evaluate and forward the commission's comments to the city council concerning decisions by other public agencies which affect the physical development and land use patterns in the city.

(7) Participate in zoning, variance, and other city activities which may affect historic resources which are designated under this ordinance or listed in the National Register of Historic Places.

(8) Recommend to the city council, the purchase of an essential structure where private preservation is not feasible.

(9) Fully document any recommendations forwarded to the city council as to the criteria on which such recommendations are based and the application of the criteria to the facts involved.

(10) With the approval of the city council, accept the donation of any property, fee simple or other interest, for the purposes of preservation. No costs related accepting the property or any other expenses related to the property will be incurred or expended without the approval of the city council.

(11) Make recommendations to the city council concerning the procurement and utilization of grants from federal and state agencies, private groups and individuals and the utilization of budgetary appropriations to promote the preservation of historic landmarks or historic districts.

(12) Carry out such activities that may be delegated by the Missouri State Historic Preservation Officer, including but not limited to Section 106 of the National Historic Preservation Act in such instruments as a programmatic agreement or memorandum of agreement.

(13) Endeavor to increase public awareness of the value of historic, architectural and cultural preservation by developing and

participating in public information programs.

(14) Any other functions which may be designated by ordinance of the city council.

(Code 1969, Sec. 26-675; [Sec. 31-675] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-176. Rules and procedures and records of the commission.

(a) The landmark commission shall adopt rules of procedure to further define rules of order and procedure. Rules of procedure shall define which types of work require certificates of appropriateness and which types of work are ordinary maintenance and minor works. The rules of procedure may delegate such responsibilities to city staff as may be appropriate.

(b) The landmark commission shall keep minutes and records of all meetings and proceedings including the vote of each member upon each question or if absent or failing to vote. Commission records shall be kept and maintained by the community services department and shall be made available for public inspection, consistent with the requirements of law, during regular working hours of the planning and community development department. Photocopies of public records may be obtained upon written request and payment of the cost of such photocopying. In addition, the landmark commission shall keep a tape recorded record of all public hearings held by it. The tape recording of all public hearings shall be kept for a minimum of one year. Whenever the designation of a historical landmark or historical district is at issue, a copy of the minutes shall be forwarded to the city council for its guidance and reference as a part of the landmark commission's recommendation.

(Code 1969, Sec. 26-676; [Sec. 31-676] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-177. Designation of a historic landmarks and historic districts.

(a) *Applications.*

(1) Application for designation as a historic landmark or historic district may be filed by the owner thereof, any member of the public or any member of the landmark commission on forms provided by the landmark commission for that purpose.

(2) Applications shall include the applicant's name and interest in the property (i.e. owner, etc.), a legal description of the proposed landmark or district boundaries, a physical description of the property or district, representative photographs, statement of significance and a copy of any proposed design guidelines for use in future issuance of certificates of appropriateness.

(b) Building, structures and sites to be designated as historic landmarks shall be at least 50 years of age. In the case of historic districts, at least 75% of buildings and structures shall be a least 50 years of age. However, buildings, structures and sites having achieved significance within the last 50 years are eligible for local designation so long as they are also eligible for listing in the National Register of Historic Places.

(c) *Criteria for selection of historic landmarks or historic districts.* In addition to the requirements of Subsection 31-177(b) of this article, proposed historic landmarks and historic districts shall at a minimum meet one of the following criteria:

(1) *Historical, cultural importance.*

a. Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation; or is associated with the life of a person significant in the past; or
b. Is the site of an historic event with a significant effect upon society, the city, the state or the nation; or
c. Exemplifies the cultural, political, economic, social or historic heritage of the community; or

(2) *Architectural, engineering importance.*

a. Portrays the environment in an era of history characterized by a distinctive architectural style; or
b. Embodies those distinguishing characteristics of an architectural-type or engineering specimen which are inherently valuable to a study of

period, style, method of construction, material or craftsmanship; or

c. Is the work of a designer, master builder, architect or engineer whose individual work has significantly influenced the development of St. Joseph; or

d. Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or

e. By being part of or related to a square, park or other distinctive area, should be developed or preserved according to a plan based on a historic, cultural or architectural motif; or

f. Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or city; or

(3) *Archeological importance*.

a. Has yielded, or may be likely to yield, information important in prehistory, history or archeological matters.

(Code 1969, Sec. 26-677; [Sec. 31-677] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-178. Procedure for designation of local historic landmarks and local historic districts.

(a) *Intent.* It is intended that a local historic landmark or local historic district will provide additional safeguards to ensure that landmarks or districts with unique historic characteristics are protected and preserved for future generations. It is also intended that the local historic landmark or local historic district regulations, although independent, supplement applicable zoning district regulations and city building codes. Accordingly, the regulations in this article shall not replace those required by other sections of this code.

(b) *Hearing*.

(1) Upon receipt of an application meeting the requirements of Subsections 31-177(a) and (b) of this article proposing a local historic landmark or local historic district designation, amendment or rescission, the landmark commission at its next regular meeting shall set a public hearing on such application to be held within 30 days of such setting. Notice of such public hearing shall be given by publication in an official newspaper or a paper of general circulation in the city identifying the property that is the subject of the application and indicating the time and place of the public hearing at least 15 days prior to the date of the public hearing.

(2) At least 15 days prior to the date of the public hearing, a copy of the notice of the public hearing shall also be mailed by certified mail to all property owners of record shown on the Buchanan County tax rolls for the preceding calendar year of all lots, tracts or parcels of land lying within the local historic landmark or local historic district designation boundary affected by the application.

(3) At the public hearing, all interested persons shall have the opportunity to be heard. The landmark commission may solicit expert testimony regarding the historic and architectural importance of the building, structure, site, monument, area or other landmark under consideration.

(4) The landmark commission may call witnesses to present testimony or documentary evidence.

(5) All interested persons may appear in person or by attorney to present evidence.

(6) The landmark commission shall make a recommendation that the application shall be approved or denied at the close of the public hearing by a vote. Motions for recommendation of approval of application(s) shall reference Subsection 31-177(c) of this article "Criteria for selection of local historic landmarks and local historic districts". A simple majority vote by a quorum of the landmark commission shall be required to constitute an affirmative recommendation on any application presented to the landmark commission. The landmark commission may continue the public hearing to the next regularly scheduled meeting without additional public notice provided that the date, time and place of

the continued meeting shall be announced prior to adjournment and shall be set forth in the minutes.

(c) *Protests.* In the event a written protest against an application for a local historic landmark or local historic district designation, amendment or rescission is presented to the landmark commission not later than the date of the public hearing thereon, signed and acknowledged (notarized) by the owners of record of:

a. In the case of a newly proposed local historic district, any improved parcel located within the proposed local historic district;
b. In the case of a proposed expansion of an existing local historic district, any improved parcel located within the proposed expansion area; or
c. In the case of a proposed removal of property from a local historic district, any improved parcel adjoining the property to be removed, such written protest shall be included in the recommendation made by the landmark commission.

(d) *Recommendation by landmark commission*. After consideration and vote by the landmark commission, a written recommendation shall be forwarded to the city council. Any protest, or lack thereof, shall be noted as part of the landmark commission's recommendation. Upon receipt of a recommendation from the landmark commission, the city council shall consider passage of a general ordinance which shall specifically describe the local historic landmark or the local historic district to be designated or to be amended, including a legal description by subdivision, lot and block.

(e) Notice by city council. Before passage of any ordinance proposing a local historic landmark or local historic district designation, amendment or rescission, the city council shall hold a public hearing on such ordinance and shall give a minimum of 15 days prior notice by publication in an official newspaper or a paper of general circulation in the city. All interested persons may appear and be heard on the matter.

(f) *Historic designation.* The designation of a local historic landmark or local historic district shall be effective until such time as said designation is revoked. Revocation of an local historic landmark designation shall be considered by the landmark commission and city council at the request of an "owner" (as that term is defined herein). Revocation or a change of boundary of a local historic district shall be considered as follows:

(1) Upon presentment to the landmark commission, of notarized statement of at least 20 owners of property located in the local historic district requesting revocation of the district designation or of a notarized statement of the affected owner requesting removal of property from the local historical district, the landmark commission shall proceed as set out in Subsections 31-178(b), (c), (d) and (e) of the code of city ordinances. For purposes of this section, "owner" shall mean a record owner of real estate within the concerned local historic district; each such owner shall be counted as one owner and in no case shall any owner be counted more than once regardless of the number of property owned by him/her.

(2) Upon the city council's receipt of the recommendation of the landmark commission concerning revocation of a local historic landmark designation or removal of real property from a local historic district, and before passage of any ordinance, the city council shall hold a public hearing on such ordinance and shall give a minimum of 15 days prior notice by publication in an official newspaper or a paper of general circulation in the city. Adoption of such ordinance shall be by majority vote of the full city council.

(3) Upon passage of an ordinance designating a particular site as a local historic landmark or a local historic district, notice shall be sent to the chief building official and to the city clerk who shall cause a copy thereof to be recorded at the Buchanan County Recorder's Office. The applicant shall pay the fees for recordation.

(g) *Temporary stay of demolition*. Except as otherwise provided by Subsection 31-182(b), once the landmark commission has recommended designation of a property as a local historic

landmark or an area as a local historic district, during the pendency of a final decision thereon by the city council, the city shall issue no permit for demolition, in whole or in part, of any building, site or structure located on the property of the proposed local historic landmark or proposed local historic district until the city council takes final action on the designation; such restriction shall not extend beyond 90 days from the date of city council receipt of such recommendation.
(Code 1969, Sec. 26-678; [Sec. 31-678] G.O. 1393, 4-22-96; G.O. 1914, 2-3-03; G.O. 1975, 10-13-03; G.O. 2101, 6-6-05; G.O. 2270, 1-28-08)

Sec. 31-179. Certificates of appropriateness.

(a) *Preliminary review*. Applicants for a certificate of appropriateness are encouraged to consult with historic preservation division staff members prior to submission of an application to ensure proper form and order of the application.

(b) *Certificate of appropriateness required*. A certificate of appropriateness authorized by the landmark commission is required for the construction, alteration, relocation, or demolition of any building, structure, utility, or land surface located within a local historic district or on property designated in this chapter as a historic landmark except where (i) such modification would not be visible from any public street, park, or other public place, (ii) such modification will not change the exterior appearance or the exterior architectural features of the improvements being modified, or (iii) such modification is necessary as a part of the ordinary maintenance or repair that does not materially change the design of a building or site, remediates a naturally-occurring condition, or removes a dead or diseased vegetation.

(c) *Building permits prohibited.* No building permit shall be issued authorizing an activity for which a certificate of appropriateness is required until a certificate of appropriateness is issued for the activity.

(d) *Application; notice; public hearing.* Upon receipt of an application for a certificate of appropriateness, a public hearing before the landmark commission shall be scheduled to consider the application. Notice of the public hearing must be published in an official newspaper or a newspaper of general circulation within the city and must be provided to the applicant, at the address provided by the applicant, at least 15 days prior to the scheduled hearing.

(e) *Consideration of applications for certificates of appropriateness*. A certificate of appropriateness shall be approved if, after holding a public hearing at which the applicant and members of the public have the opportunity to be heard, the landmark commission determines (i) the proposed modification will not be visible from any public street, park, or other public place, (ii) the proposed modification will not change the exterior appearance or the exterior architectural features of the improvements being modified, (iii) the proposed modification is necessary as a part of the ordinary maintenance or repair that does not materially change the design of a building or site, remediates a naturally-occurring condition, or removes a dead or diseased vegetation, or (iv) the proposed modification is not detrimental to the architectural, cultural, historic, or contextual character of other improvements of the real property designated as a local historic landmark or local historic district. Upon consideration of an application for a certificate of appropriateness, the landmark commission shall issue written findings of fact and conclusions of law. In the event the landmark commission denies an application for a certificate of appropriateness, the written findings of fact and conclusions of law shall be provided to the applicant within 30 days of issuance.

(f) *Time limitations*. Unless a time limitation is specifically authorized by the landmark commission in conjunction with the issuance of a certificate of appropriateness, the time limitations set forth below shall apply.

(1) *Modifications not requiring building permits.* If a modification authorized in a certificate of appropriateness does not require the issuance of a building permit, the certificate of appropriateness shall be deemed to authorize completion of the modification for up to 1 year from the date of issuance.

(2) *Modifications requiring building permits*. If a modification authorized in a certificate of appropriateness requires the issuance of a building permit, such building permit must be obtained within 60 days following issuance of the certificate of appropriateness and the modification shall be deemed authorized

for the longer of (i) one year following issuance of the certificate of appropriateness or (ii) during the time period authorized by the building permit.

(3) *Reapplication.* In the event a modification is not completed within the time periods required by this section, the applicant shall be required to obtain a new certificate of appropriateness and pay an application fee of $100.00.

(g) *Appeals*. Upon denial of a certificate of appropriateness, the applicant may file an appeal within 30 days following the date on which the written findings of fact and conclusions of law are provided to applicant, with the date of mailing, electronically transmitting, or personally delivery constituting the first day.

(1) *Public hearing; notice.* Upon receipt of an appeal, the city council shall schedule a public hearing to consider the appeal. Notice of a public hearing at which the appeal will be considered must be published in an official newspaper or a newspaper of general circulation within the city and must be provided to the applicant, at the address provided by the applicant, at least 15 days prior to the scheduled hearing.

(2) *Appeal determination.* The city council shall authorize the issuance of a certificate appropriateness if it finds that that criteria set forth in subsection (e) of this section are met. Upon consideration of an appeal, the city council shall issue written findings of fact and conclusions of law. In the event the city council denies an appeal, the written findings of fact and conclusions of law shall be provided to the applicant within 30 days of issuance. The time limitations described in subsection (f) shall apply to certificates of appropriateness issued following an appeal under this subsection.

(3) *Appeals to Circuit Court.* Following the city council's decision on an appeal, the applicant or any party that is the fee owner of property in the same local historic district as the property that is the subject of an appeal may appeal such final decision to the Buchanan County Circuit Court within 30 days of the date of the City Council's decision.

(h) *Reapplication for certificates of appropriateness*. Reapplication for a certificate of appropriateness for identical work may not be heard by the landmark commission for a period of three months after the date of the denial.
(Code 1969, Sec. 26-679; [Sec. 31-679] G.O. 1393, 4-22-96; 1871, 2-4-02; G.O. 1975, 10-13-03; G.O. 2246, 9-12-07; G.O. 2270, 1-28-08; G.O. 2947, 4-6-20)

Sec. 31-180. Treatment of previously designated landmarks.

(a) *Honorary landmark designations*. Districts, sites, buildings, structures or objects designated by the mayor's advisory commission on historic landmarks (but not formally designated by ordinance of the city council) from and after its organization and until the effective date of this article, shall retain the status they now enjoy, but they shall be exempt from any restraints and/or benefits of this ordinance. Owners or others interested in the designation of districts, sites, buildings, structures or objects under the terms of this article may, however, choose to apply for landmark designation according to the provisions of this article, and upon designation pursuant to the procedures hereinbefore set forth, said districts, sites, buildings, structures or objects be subject to the restraints and/or benefits of this article.

(b) Districts previously designated by ordinance shall be subject to the restraints and benefits of this article.
(Code 1969, Sec. 26-680; [Sec. 31-680] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-181. Severability.

It is hereby declared that the sections, subsections, sentences, clauses and all other parts of this article whether large or small are severable and not matters of mutually essential inducement

and if any part or parts of this article shall be adjudged unconstitutional or invalid, such judgment shall not impair or invalidate the remaining provisions but shall apply only to the unconstitutional or invalid part or parts.
(Code 1969, Sec. 26-681; [Sec. 31-681] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-182. Conformance with other codes and laws.

(a) This article shall not be deemed to exempt any person from the requirements of building and maintenance codes, the zoning requirements or the minimum housing code unless specifically indicated herein.

(b) *Dangerous buildings*. In no event shall this article be construed to hinder the appropriate city officials from exercising the powers granted to them under the law concerning dangerous building abatement.
(Code 1969, Sec. 26-682; [Sec. 31-682] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-183. Penalties.

Any person who shall remodel, reconstruct, restore, construct, alter or demolish any historical landmark or who shall remodel, reconstruct, restore, construct, alter or demolish any site or structure within a historic district in violation of this article, upon being found guilty thereof, shall be punished as set forth in Section 1-14 of the Code of Ordinances of the City of St. Joseph, Missouri. No prosecution initiated for violation of this article shall be deemed to constitute an exclusive remedy. The violation of this article may be enjoined by proper application to a court of general jurisdiction.
(Code 1969, Sec. 26-683; [Sec. 31-683] G.O. 1393, 4-22-96; G.O. 1975, 10-13-03)

Sec. 31-184. Conflicts of interest.

(a) *Prohibitions*. Landmark commission members are called upon to make decisions related to the functions, responsibilities and activities of the landmark commission, (including, but not limited to, funding decisions) and are prohibited from (1) obtaining any financial interest or benefit from, or (2) having a financial interest in any contract, subcontract or agreement with respect to a program that is either reviewed or administered by and through the landmark commission. This includes the commission members themselves, as well as those with whom they currently have business or immediate family ties. Immediate family ties shall include any relative within the second degree created by consanguinity (bloodline) or affinity (marriage). These prohibitions attach when the landmark commission member is sworn in by the city clerk and extend through his/her term on the commission, and for one year thereafter.

(b) *Exceptions*. Upon the written request of the petitioner, the City Council may grant an exception to the provisions of subsection (a) on a case-by-case basis when the threshold requirements set forth in subsection (c) have been met; taking into account the cumulative effects of subsection (d).

(c) *Threshold requirements for exceptions.* The City Council will consider an exception only after the following documentation has been provided by the petitioner:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict at a city council meeting and a description of how the public disclosure was made; and

(2) An opinion of the petitioner's attorney that the interest for which the exception is sought would not violate State or local law.

(d) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the petitioner has satisfactorily met the requirements of subsection (c), the city council shall conclude that such an exception will serve to advance the preservation or restoration of a significant historical structure in the city, taking into account the cumulative effect of the following factors, as applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;

(5) Whether the interest or benefit was present before the affected person was in

a position as described in paragraph (a) of this section;

(6) Whether undue hardship will result either to the petitioner or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

(G.O. 2793, 9-28-15)

Sec. 31-185 - 31-189. Reserved.

DIVISION 2. HISTORIC LANDMARKS

Sec. 31-190. Historic Landmarks

(a) The following properties have been designated official historic landmarks by the city council:

(1) *Frank L. Goetz residence, 2902 Frederick Avenue*. The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property will include a tract of 2.10 acres described as the west 100 feet 8 inches of the east 591 feet 3 inches of the north 912 feet 3 inches of the west one-half of the Northwest Quarter of Section 10, Township 57 North, Range 35 West.

(2) *Nelson/Pettis Farmstead, 4401 Ajax Road*. The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property will include the boundaries as described in the diagram attached and labeled as Exhibit "A" (see page 114).

(3) *Second Presbyterian Church, 1122 South 12th Street*. The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property are defined by the following legal description: Patee's Addition, Block 28, Lots 1 and 2.

(4) *Albert and Flora Goetz Residence, 2603 Francis Street.* The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property are defined by the following legal description: A. P. McDonald's Eastern Extension, Block 61, Lots 17 & 18.

(5) *Charles A. and Annie Buddy House, 424 South 9th Street.* The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property will include the South Forty (40) feet of Lot Eight (8), in Block Twenty-six (26), in Smith's Addition to the City of St. Joseph, Buchanan County, Missouri.

(6) *Lewis C. Burnes House, 1923 Francis Street.* The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property are defined by the following legal description: The East One-half of Lots Seven and Eight, in Block Ten in Harris Addition, an addition to the City of St. Joseph, Buchanan County, Missouri.

(7) *809 Hall St., the Nathan Phipps Ogden Mansion, aka Cummings Ogden House, aka the Shakespeare Chateau Inn & Gardens.* The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property are defined by the following legal description: That part of Lots One (1), Two (2), Three(3), Four (4), Five and Six (6) in Block Three (3) in the county addition to the City of St. Joseph, Missouri, described as follows: Beginning at a point on the North line of Hall Street 228 ½ feet East of the Southwest corner of Lot One (1) in said Block; thence North Parallel with the West line of said Lots to the South line of the Alley in Quigley's Subdivision; thence East 100 feet; thence South parallel with the West line of said Lots to the North line of Hall

Street; thence West 100 feet to the place of beginning.

(8) *The McNeely House, 701 South 11th Street.* The following described property is hereby designated as a St. Joseph Historic Landmark and shall be entitled to all protection afforded by this article. The boundaries of this landmark property will include: LOTS SEVEN (7), EIGHT (8), IN PATEE'S ADDITION TO THE CITY OF ST. JOSEPH, BUCHANAN COUNTY, MISSOURI.

(G.O. 1490, 2-24-97; G.O. 1588, 1-12-98; G.O. 1769, 5-30-00; G.O. 1969, 9-29-03; G.O. 2918, 7-29-19; G.O. 2920, 8-26-19; G.O. 2926, 10-7-19)

Secs. 31-191 - 31-194. Reserved.

DIVISION 3. HISTORIC DISTRICTS

Sec. 31-195. Historic District Number One; Hall Street Historic District; boundaries.

The following described tract of land is hereby designated as the St. Joseph Historic District Number One and shall be entitled to all protection afforded by this article.

A tract of land located in the Northeast Quarter of Section 8, Township 57, Range 35, described as follows: Beginning at the southeast corner of Lot 25, Ege's Addition; thence north to the northeast corner of Lot 21, Ege's Addition; thence in an easterly direction to a point on the west line of Lot 26, Ege's Addition, said point being due east of the northeast corner of Lot 21, Ege's Addition, and said point also being on the east line of the north and south alley in said Ege's Addi-tion; thence in a northerly direction along the east line of said north and south alley to the northwest corner of Lot 46 in said Ege's Addi-tion; thence in a southeasterly direction along the northerly line of said Lot 46 to the north-east corner thereof; thence southerly along the east line of said addition to a point that would intersect the westward prolongation of the south line of an east and west alley in Quigley's Subdivision of Lot 6, Block 3, County Addition; thence in an easterly direction along said westward prolongation and the south line of said east and west alley to a point that is 63.5 feet west of the east line of Quigley's Subdivision of Lot 6, Block 3, County Addition; thence south to a point on the south line of Lot 4, in Block 3, County Addition; said point being 63.5 feet west of the southeast corner of said Lot 4; thence east along the south line of said Lot 4 and the prolongation thereof 69.33 feet to a point on the west line of Lot 1, Block 26, St. Joseph Improvement Company's Addition; thence south to the south line of an alley or the westward prolongation thereof in Block 26, St. Joseph Improvement Company's Addition; thence east 40 feet; thence south to the south-west corner of a tract of land described in a deed recorded in Book 544 at page 361 in the Office of the Recorder of Deeds, Buchanan County, Missouri; thence east along the south line of said tract of land, 101 feet to the west line of Ninth Street; thence south along the west line of Ninth Street to the southeast corner of a tract of land deeded to Dixie Jo Nelson, et al., in Book 1142 at page 168 in the Office of the Recorder of Deeds, Buchanan County, Missouri; thence west along the south line of said tract to the southwest corner there-of; thence south to a point on the north line of Lot 1 in Block 1, Ghio's Addition; thence west along the north line of said Lot 1 to the northwest corner thereof; thence south to the northeast corner of a 10 foot strip of ground described in 1142-417; thence west along the north line of said 10 foot strip of ground to the northwest corner thereof; thence south along the west line of said 10 foot strip of ground to the southwest corner thereof; thence east along the south line of said 10 foot strip of ground to the west line of Ghio's Addition; thence south along said west line to the north-west corner of Lot 3 in said addition; thence west 20 feet; thence south 60 feet; thence east 20 feet to the west line of Ghio's Addition; thence south along the west line of said addition and the west line of Nye's Addition, to the southeast corner of a tract of land con-veyed to Warren C. Cavins and wife in 898-173 and 990-405; thence west along the south line of said tract of land and the prolongation westward to a point on the west line of Eighth Street; thence north along the west line of Eighth Street to a point 5 feet northwest of the southeast corner of Lot 1, Bush Addition, which point is on the west line of Eighth Street; thence west and parallel with and 5 feet distant from the south line of said Lot 1 a distance of 50 feet; thence south 5 feet to the

south line of said Lot 1; thence west along the south line of said Lot 1; thence north to a point 10 feet north of the north line of said Lot 1, which point is in the vacated alley north of and adjoining said Lot 1; thence west 80 feet to the east line of Seventh Street; thence south along the east line of Seventh Street to a point on the east line of Seventh Street that is 8 feet north of the south line of Lot 4, Bush Addition; thence westerly in a straight line across Seventh Street to the southeast corner of that part of Lot 3 in Block 1, County Addition to St. Joseph, conveyed to Karl G. Schatz and wife in 719-266; thence west along the south line of said tract of land to the southwest corner thereof; thence north to the south line of the north 59 feet 6 inches of Lot 5 in Block 1 in said County Addition; thence west to a point that is 187 feet east of the west line of said Lot 5; thence north 59 feet 6 inches to the north line of said Lot 5; thence west along the north line of said Lot 5 to a point that is 157-3/4 feet east of the west line of Lot 6 in said addition; thence north to the north line of the south one-half of said Lot 6; thence west to a point 155.35 feet east of the west line of said Lot 6; thence north 39.25 feet to a point; thence west in a straight line to a point on the east line of Sixth Street; thence north to the southwest corner of Lot 25, Ege's Addition; thence east along the south line of Lot 25, Ege's Addition, to the point of beginning. Also, the east 2 feet 3 inches of Lot 4, all of Lot 5, and the east 100 feet of Lot 6, all in Bush Addition.

To be known as: Hall Street Historic District
(G.O. 1769, 5-30-00)

Editor's note: When the 1994 Code of Ordinances was recodified, the Hall Street Historic District was preserved by Sec. 11-29 "Preservation of existing historic landmarks and historic districts".

Sec. 31-196. Historic District Number Two; Museum Hill District; boundaries.

The following described tract of land is hereby designated as the St. Joseph Historic District Number Two and shall be entitled to all protection afforded by this article.

Beginning at the midline of Tenth Street at Felix Street; south on said midline to Charles Street; west on Charles Street to the midline of 9th Street; south on the midline of 9th Street to the midline of Messanie Street; thence easterly along the centerline of Messanie Street to an extension of the centerline of the north/south alley in Block 33 of Carter's Addition, thence north along said centerline to the centerline of Charles Street, thence east along the centerline of Charles Street to a southerly extension of the east property line of Lot 3 of Block 22 of Carter's Addition, thence north along the east line of Lots 3 and 4 of Carter's Addition, thence west along the north line of Lot 4 of Carter's Addition, thence north along the east line of Lots 1 through 6 of Block 10 of Wilson Addition and the east line of Lots 1 through 10 of Block 9 of Wilson Addition to the centerline of Felix Street, thence east along the centerline of Felix Street to the extension south of the centerline of the north/south alley of Block 15 of Carter's Addition, thence north along the centerline of the north/south alley of Blocks 15, 10 and 7 of Carter's Addition to an easterly projection of the north line of Lot 3 of Block 7 of Carter's Addition into Block 7, thence west to the mid-point of Lot 3 of Block 7, thence north to the centerline of Faraon Street, thence west along the centerline of Faraon Street to its intersection with the centerline of Fifteenth Street, thence west to a point centerline of Fifteenth Street, thence south on Fifteenth Street to the north line of the east 147'9" south 158' of block 8 of Carter's Addition and then south along the west line of the east 147'9" south 158' of block 8 to the north line of south 108' east 147'9" of Block 8, thence west along the north line of south 108' east 147'9" of Block 8 to the north line of Lot 7 of Block 67 of Smith's Addition, thence west along the north line of Lot 7 of Block 67 to the centerline of Thirteenth Street, thence north along the centerline of Thirteenth Street to the centerline of Faraon Street, thence west along centerline of Faraon Street to the centerline of the north/south alley of Block 64 of Smith's Addition, thence south along said centerline of the alley to the north line of Lot 7 of said Block 64, thence west along the north line of Lot 2 of Block 64 of Smith's Addition to the centerline of Twelfth Street, thence south along the centerline of Twelfth Street to the centerline of Francis Street, thence west along the centerline of Francis Street to the centerline of the north/south alley in Block 53 of Smith's Addition, thence south along said centerline to the centerline of Felix Street;

thence west on the midline of Felix Street to the point of beginning.

To be known as: Museum Hill Historic District.
(G.O. 1769, 5-30-00; G.O. 2149, 1-17-06)

Editor's note: When the 1994 Code of Ordinances was recodified, the Museum Hill Historic District was preserved by Sec. 11-29 "Preservation of existing historic landmarks and historic districts".

Secs. 31-197-199. Reserved.

ARTICLE IV. FLOOD PLAIN MANAGEMENT

Sec. 31-200. Statutory authorization.

Section 89.020 of the Revised Statutes of Missouri delegates the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety and general welfare of the city.
(G.O. 1855, 11-13-01)

Sec. 31-201. Findings of fact.

(a) *Flood losses resulting from periodic inundation*. The special flood hazard areas of the City of St. Joseph, Missouri, are subject to inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

(b) *General causes of flood losses*. These flood losses are caused by:

(1) The cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and

(2) By the occupancy in flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated or otherwise unprotected from flood damages.

(c) *Methods used to analyze flood hazards*. The Flood Insurance Study (FIS) that is the basis of this article uses a standard engineering method of analyzing flood hazards which consist of a series of interrelates steps as follows:

(1) Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this article is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent change of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS and illustrative materials dated September 19, 1984, as amended, and any future revisions thereto.

(2) Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.

(3) Computation of a floodway required to convey this flood without increasing flood heights more than one foot at any point.

(4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.

(5) Delineation of flood fringe, i.e. that area outside the floodway encroachment lines, but still subject to inundation by the base flood.
(Code 1969, Sec. 26-600; [Sec. 31-600] G.O. 1393, 4-22-96; G.O. 1855, 11-13-01)

Sec. 31-202. Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare; to minimize those losses described in Section 31-201; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this article to:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flooding or cause undue increases in flood heights or velocities;

(2) Require uses vulnerable of floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and;

(3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

(Code 1969, Sec. 26-601; [Sec. 31-601] G.O. 13973, 4-22-96; G.O. 1855, 11-13-01)

Sec. 31-203. Lands to which article applies.

This article shall apply to all lands within the jurisdiction of the City of St. Joseph, Missouri, identified as numbered and unnumbered A zones, AE, AO and AH Zones, on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) dated September 19, 1984, as amended, and any future revisions thereto. In all areas covered by this article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the city or its duly designated representative under such safeguards and restrictions as the city or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and as specifically noted in Sections 31-213 through 31-218.

(Code 1969, Sec. 26-620; [Sec. 31-620] G.O. 1393, 4-22-96 (Sec. 31-204(a)); G.O. 1855, 11-13-01)

Sec. 31-204. Compliance.

No development located within the special flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Code 1969, Sec. 26-620; [Sec. 31-620] G.O. 1393, 4-22-96 (Sec. 31-204(c)); G.O. 1855, 11-13-01)

Sec. 31-205. Abrogation and greater restrictions.

It is not intended by this article to repel, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.
(Code 1969, Sec. 26-620; [Sec. 31-620] G.O. 1393, 4-22-96 (Sec. 31-204(d)); G.O. 1855, 11-13-01)

Sec. 31-206. Interpretation.

In the interpretation and application of this article, all provisions shall be held to be minimum requirements, shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
(Code 1969, Sec. 26-620; [Sec. 31-620] G.O. 1393, 4-22-96 (Sec. 31-204(e)); G.O. 1855, 11-13-01)

Sec. 31-207. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This article shall not create a liability on the part of the city, or any officer or employee thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.
(Code 1969, Sec. 26-620; [Sec. 31-620] G.O. 1393, 4-22-96 (Sec. 31-204(f)); G.O. 1855, 11-13-01)

Sec. 31-208. Severability.

If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this article shall not be affected thereby.
(G.O. 1855, 11-13-01)

Sec. 31-209. Floodplain development permit required.

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 31-203. No person, firm, corporation or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
(Code 1969, Sec. 26-630; [Sec. 31-630] G.O. 1393, 4-22-96 (Sec. 31-205(a)); G.O. 1855, 11-13-01)

Sec. 31-210. Designation of floodplain administrator.

The director of public works and transportation or his/her designee is hereby designated as the floodplain administrator under this article and is hereby appointed to administer and implement the provisions of this article.
(Code 1969, Sec. 26-630; [Sec. 31-630] G.O. 1393, 4-22-96 (Sec. 31-205(b)); G.O. 1855, 11-13-01; G.O. 2177, 6-19-06; G.O. 2651, 8-6-12)

Sec. 31-211. Duties and responsibilities of floodplain administrator.

The duties of the floodplain administrator shall include, but not be limited to:

(1) Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied;

(2) Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required by federal, state or local law;

(3) Review all subdivision proposals and other proposed new development,

including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;

(4) Issue floodplain development permits for all approved applications;

(5) Notify adjacent communities and the State of Missouri Emergency Management prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

(6) Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished;

(7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;

(8) Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed; and

(9) When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

(Code 1969, Sec. 26-630; [Sec. 31-630] G.O. 1393, 4-22-96 (Sec. 31-205(c)); G.O. 1855, 11-13-01)

Sec. 31-212. Application for floodplain development permit.

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

(1) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address or similar description that will readily identify and specifically locate the proposed structure or work;

(2) Identify and describe the work to be covered by the floodplain development permit;

(3) Indicate the use of occupancy for which the proposed work is intended;

(4) Indicate the assessed value of the structure and the fair market value of the improvement.

(5) Specify whether development is located in designated flood fringe or floodway;

(6) Identify the existing base flood elevation and the elevation of the proposed development;

(7) Give such other information as reasonably may be required by the floodplain administrator.

(8) Be accompanied by plans and specifications for proposed construction; and

(9) Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

(G.O. 1855, 11-13-01)

Sec. 31-213. General standards.

(a) No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO and AH zones, unless the conditions of this section are satisfied.

(b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base elevation is not provided. Development within unnumbered A zones is subject to all provisions of this article. If Flood Insurance Study data is not available, the community shall obtain, review and reasonably utilize any base flood elevation or floodway data currently available from federal, state or other sources.

(c) Until a floodway is designated, no new construction, substantial improvements or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(d) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes and other developments shall require:

(1) Design or adequate anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Construction with materials resistant to flood damage;

(3) Utilization of methods and practices that minimize flood damage;

(4) All electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and.

(6) Subdivision proposals and other proposed new developments, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:

a. All such proposals are consistent with the need to minimize flood damage;
b. All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
d. All proposals for development, including proposals for manufactured home parks and subdivisions, of five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.

(e) *Storage, material and equipment.*

(1) The storage or processing of materials, within the special flood hazard area that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

(f) *Accessory structures*. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed, provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this article; and a floodplain development permit has been issued.
(Code 1969, Sec. 26-640; [Sec. 31-640] G.O. 1393, 4-22-96 (Sec. 31-206(a)); G.O. 1855, 11-13-01)

Sec. 31-214. Specific standards.

In all areas identified as numbered and unnumbered A zones, AE and AH Zones, where base flood elevation data has been provided, as set forth in Section 31-213(b), the following provisions are required:

(1) *Residential construction*. New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the

lowest floor, including basement, elevated to one foot above base flood elevation.

(2) *Nonresidential construction*. New construction or substantial-improvement of any commercial, industrial or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in Section 31-211(9).

(3) Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor, used solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and

b. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(Code 1969, Sec. 26-640; [Sec. 31-640] G.O. 1393, 4-22-96 (Sec. 31-206(b) & (c)); G.O. 1855, 11-13-01)

Sec. 31-215. Manufactured homes.

(a) All manufactured homes to be placed within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top frame ties to ground anchors.

(b) Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones AE and AH zones, on the community's FIRM, on sites:

(1) Outside of manufactured home park or subdivision;

(2) In a new manufactured home park or subdivision;

(3) In an expansion to an existing manufactured home park or subdivision; or

(4) In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(c) Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Section 310214(3)b of this article, be elevated so that either:

(1) The lowest floor of the manufactured home is at one foot above the base flood level; or

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(Code 1969, Sec. 26-640; [Sec. 31-640] G.O. 1393, 4-22-96 (Sec. 31-206(c)(4)); G.O. 1855, 11-13-01)

Sec. 31-216. Areas of shallow flooding (AO and AH Zones).

Located within the areas of special flood hazard established in Section 31-203 are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exit and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(1) *Within AO Zones*

a. All new construction and substantial improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

b. All new construction and substantial improvements of commercial, industrial or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified) or together with attendant utility and sanitary facilities be completely floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

(2) *Within AH Zones*.

a. The specific standards for all areas of special flood hazard where base flood elevation data has been provided shall be required as set forth in Section 31-214.

b. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

(Code 1969, Sec. 26-640; [Sec. 31-640] G.O. 1393, 4-22-96 (Sec. 31-206(e)); G.O. 1855, 11-13-01)

Sec. 31-217. Floodways.

Located within areas of special flood hazard established in Section 31-203 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles, the following provisions shall apply:

(1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

(2) The community shall prohibit any encroachments, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(3) If Subsection (2) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 31-213.

(4) In unnumbered A zones, the community shall obtain, review and reasonably utilize any base flood elevation or floodway data currently available from federal, state or other sources as set forth in Section 31-213(b).

(Code 1969, Sec. 26-640; [Sec. 31-640] G.O. 1393, 4-22-96 (Sec. 31-206(d)); G.O. 1855, 11-13-01)

Sec. 31-218. Recreational vehicles.

Require that recreational vehicles placed on sites within all unnumbered and numbered A zones, AO, AE and AH zones on the community's FIRM either:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached additions; or

(3) Meet the permitting, elevation and anchoring requirements for manufactured homes of this article.

(G.O. 1855, 11-13-01)

Sec. 31-219. Establishment of variance procedures.

(a) The board of zoning adjustment, as established by Section 89.110 RSMo, shall hear and decide appeals and requests for variances from the floodplain management requirements of this article.

(b) *Responsibility of appeal board.* Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the floodplain administrator, the applicant may apply for such floodplain development permit or variance directly to the board of zoning adjustment as defined in Section 31-219. The board of zoning adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this article.

(c) *Further appeals.* Any person aggrieved by the decision of the board of zoning adjustment or any taxpayer may appeal such decision to the circuit court of the County of Buchanan, Missouri, within 30 days after the filing of the decision in the office of the board.

(Code 1969, Sec. 26-630; [Sec. 31-630] G.O. 1393, 4-22-96 (Sec. 31-205(d)); G.O. 1855, 11-13-01)

Sec. 31-220. Floodplain management variance and exception criteria.

In passing upon such applications for variances or exceptions, the board of zoning adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this article and the following criteria:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flood damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, where applicable;

(6) The availability of alternative locations, not subject to flood damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the

flood waters, if applicable, expected at the site; and,

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(Code 1969, Sec. 26-630; [Sec. 31-630] G.O. 1393, 4-22-96 (Sec. 31-205(d)(2)); G.O. 1855, 11-13-01)

Sec. 31-221. Conditions for approving floodplain management variances or exceptions.

(a) Generally, variances or exceptions may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items listed in subsections (b) through (f) below, have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance, but not exception, increases.

(b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.

(c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(f) A community shall notify the applicant in writing over the signature of a community official that:

(1) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property.

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

(g) Exceptions for signs and accessory structures shall be issued as per Section 31-093.

(Code 1969, Sec. 26-630; [Sec. 31-630] G.O. 1393, 4-22-96 (Sec. 31-205(d)(3)); G.O. 1855, 11-13-01)

Sec. 31-222. Conditions for approving exceptions for accessory structures.

Any exception granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Exceptions granted shall meet the following conditions as well as those criteria and conditions set forth in Section 31-220 and 31-221 of this article.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any exception issued for accessory structures that are constructed at-grade and wet-proofed:

(1) Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's FIRM.

(2) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 31-213(d)(2) of this article.

(3) The accessory structures must be adequately anchored to prevent flotation, collapse or lateral movement of the structure in accordance with Section 31-213(d)(1) of this article. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy and hydrodynamic and debris impact forces.

(4) Any mechanical, electrical or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 31-213(d)(4) of this article.

(5) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 31-214(a)(3) of this article.

(6) The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 31-216(2) of this article. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

(7) Equipment, machinery or other contents must be protected from any flood damage.

(8) No disaster relief assistance under any program administered by any federal agency shall be paid for any repair or restoration costs of the accessory structures.

(9) A community shall notify the applicant in writing over the signature of a community official that:

a. The issuance of a variance or exception to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and
b. Such construction below the base flood level increases risks to life and property.

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

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

(G.O. 1855, 11-13-01)

Sec. 31-223. Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1969, Sec. 26-620; [Sec. 31-620] G.O. 1393, 4-22-96 (Sec. 31-204(c)); G.O. 1855, 11-13-01)

Sec. 31-224. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(1) *100-year flood*. See "*base flood*."

(2) *Accessory structure* means the same as "*appurtenant structure*."

(3) *Actuarial rates*. See "*risk premium rates*".

(4) *Administrator* means the Federal Insurance Administrator.

(5) *Agency* means the Federal Emergency Management Agency (FEMA).

(6) *Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this article or a request for a variance.

(7) *Appurtenant structure* means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

(8) *Area of shallow flooding* means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(9) *Area of special flood hazard* is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

(10) *Base flood* means the flood having one percent chance of being equaled or exceeded in any given year.

(11) *Basement* means any area of the structure having its floor subgrade (below ground level) on all sides.

(12) *Building*. See "*structure*."

(13) *Chief executive officer* or *chief elected official* means the official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

(14) *Community* means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

(15) *Development* means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(16) *Elevated building* means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

(17) *Eligible community* or *participating community* means a community for which the administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

(18) *Existing construction* means, for the purpose of determining rates, structures for which the "*start of construction*" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "*Existing construction*" may also be referred to as "*existing structures*."

(19) *Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of

the floodplain management regulations adopted by a community.

(20) *Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

(21) *Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland; and/or
b. The unusual and rapid accumulation or runoff of surface waters from any source.

(22) *Flood boundary and floodway map (FBFM)* means an official map of a community on which the administrator has delineated both special flood hazard areas and the designated regulatory floodway.

(23) *Flood elevation determination* means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

(24) *Flood elevation study* means an examination, evaluation and determination of flood hazards.

(25) *Flood fringe* means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

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

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

(28) Flood insurance study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

(29) *Floodplain* or *flood-prone area* means any land area susceptible to being inundated by water from any source (see "*flooding*").

(30) *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

(31) *Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

(32) *Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities or structures and their contents.

(33) *Floodway* or *regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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

(35) *Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *"Freeboard"* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

(36) *Functionally dependent use* means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

(37) *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(38) *Historic structure* means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservations programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities which historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or
2. Directly by the Secretary of the Interior in states without approved programs.

(39) *Lowest floor* means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this article.

(40) *Manufactured home* means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "*manufactured home*" does not include a "*recreational vehicle*.

(41) *Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(42) *Map* means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM) or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

(43) *Market value* or *fair market value* means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

(44) *Mean sea level* means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

(45) *New construction* means, for purposes of determining insurance rates, structures for which the "*start of construction*"

commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "*new construction*" means structures for which the "*start of construction*" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

(46) *New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the community.

(47) *NFIP* means the National Flood Insurance Program.

(48) *Participating community*, also know as an "eligible community", means a community in which the administrator has authorized the sale of flood insurance.

(49) *Person* includes any individual or group of individuals, corporation, partnership, association or any other entity, including federal, state and local governments and agencies.

(50) *Principally above ground* means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

(51) *Recreational vehicle* means a vehicle which is

a. Built on a single chassis;
b. 400 square feet or less when measured at the largest horizontal projections;
c. Designed to be self-propelled or permanently towable by a light-duty truck; and
d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

(52) *Remedy a violation* means to bring the structure or other development into compliance with federal, state or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

(53) *Risk premium rates* means those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "*Risk Premium Rates*" include provisions for operating costs and allowances.

(54) *Special flood hazard area*. See "*area of special flood hazard*."

(55) *Special hazard area* means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE or AH.

(56) *Start of construction* includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvements was within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms; nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For

a substantial improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) *State coordinating agency* means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

(58) *Structure* means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *"Structure"* for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

(59) *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(60) *Substantial improvement* means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "*start of construction*" of the improvement. This term includes structures, which have incurred "*substantial damage*," regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

b. Any alteration of a "*historic structure*," provided that the alteration will not preclude the structure's continued designation as a "*historic structure*."

(61) *Variance* means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

(62) *Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

(63) *Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified), of floods of various magnitudes and frequencies in the floodplain.

(Code 1969, Sec. 26-610; [Sec. 31-610] G.O. 1393, 4-22-96 (Sec. 31-203); G.O. 1855, 11-13-01)

Sec. 31- 225. Amendments.

The regulations, restrictions and boundaries set forth in this article may from time to time be amended, supplemented, changed or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city. At least 20 days shall elapse between the date of the publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management

Agency (FEMA). The regulations of this article are in compliance with the National Flood Insurance Program (NFIP) regulations.
(Code 1969, Sec. 26-660; [Sec. 31-660] G.O. 1393, 4-22-96 (Sec. 31-207); G.O. 1855, 11-13-01)

Secs. 31-226 - 31-299. Reserved.

ARTICLE V. TELECOMMUNICATIONS TOWERS AND FACILITIES

Sec. 31-300. Purpose.

(a) *Statement of purpose.* The general purpose of this Article V ("Article") is to regulate the placement, construction and modification of wireless communications facilities to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of St. Joseph. Specifically, this article is intended to:

1. Provide for the appropriate location and development of wireless communications facilities and systems to serve the citizens and businesses of the City of St. Joseph; and

2. Minimize adverse visual impacts of wireless communications facilities through careful design, siting, landscape screening and innovative camouflaging techniques that provide predictability for nearby property owners and others that future uses will not materially alter such approved aesthetic protections without zoning hearing procedures and input from interested parties; and

3. Ensure that any new wireless communications facilities are compatible with the neighborhood or surrounding community and surrounding land uses to the extent possible; and

4. Ensure that regulation of wireless communications facilities does not have the effect of prohibiting the provision of personal wireless services, does not unreasonably discriminate among functionally equivalent providers of such service and promotes the provision and availability of communication services within the city, and is no more burdensome than regulations applied to other types of infrastructure deployments.

(b) *Applicability; preemption*. Notwithstanding any ordinance to the contrary, the procedures set forth in this article shall be applicable to all wireless communications facilities existing or installed, built or modified after the effective date of this article to the fullest extent permitted by law; provided that any wireless communications facilities existing prior to the effective date of this article and not in full compliance with the requirements of this article shall be deemed a legal nonconforming use. No provision of this Article shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase or portion of this article is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.
(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Sec. 31-301. Definitions.

As used in this article, the following terms shall have the meanings and usages indicated:

(1) *Antenna*: Any device that transmits and/or receives wireless radio waves for voice, data, or video communications purposes including, but not limited to, television, AM/FM radio, texts, microwave, cellular telephone and similar forms of communications. The term shall exclude satellite earth station antenna less than two meters in diameter (mounted within twelve feet of the ground or building-mounted) and any receive-only home television antenna.

(2) *AGL (Above Ground Level)*: Ground level shall be determined by the average elevation of the natural ground level within a radius of 50 feet from the center location of measurement.

(3) *Cabinet*: A structure for the protection and security of communications equipment associated with one or more antenna where direct access to equipment is provided from the exterior and that has

horizontal dimensions that do not exceed four feet by six feet, and vertical height that does not exceed six feet.

(4) *Director*: The director of planning and community development or his/her designee.

(5) *Disguised support structure*: Any free-standing, man-made structure designed for the support of antenna, the presence of which is camouflaged or concealed as an appropriately placed and designed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flag poles, and artificial trees. For purposes of this definition, a structure "camouflaged or concealed as an appropriately-placed and designed architectural or natural feature" shall mean:

a. it is consistent with and contributes to and does not detract from the character and property values and use of the area and neighborhood in which it is located,
b. it does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate,
c. it cannot be identified as a Support Structure by persons with reasonable sensibilities and knowledge,
d. its equipment, accessory buildings, or other aspects or attachments relating to the disguised support structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated, and
e. it is of a height, design, and type that would ordinarily occur at the location and neighborhood selected.

(6) *Existing structure*: Any structure capable of supporting Wireless Communication Facilities (other than a Support Structure) in full conformance with the design and other requirements of this Article and is: (1) existing prior to the date of all applicable permit applications seeking City authorization for installation of such facilities thereon and (2) not built or installed in anticipation of such specific installation or erected as a means to evade approvals applicable to a non-existing structure.

(7) *FAA*: The Federal Aviation Administration.

(8) *"Fast-track" small wireless facility*: A "fast-track" small wireless facility, or "fast-track", shall mean a small wireless facility that meets the following requirements for an antenna and associated equipment:

a. No more than seven cubic feet in volume (comprised of no more than 27 square feet of exterior surface area, excluding the surface width equal to the width of the existing structure or utility pole to which it is mounted, on an imaginary enclosure around the perimeter thereof, excluding cable or cable conduit of four inches or less). Volume shall be the measure of the exterior displacement of the antenna and associated equipment;
b. Located with the consent of the owner on an existing structure or utility pole, or concealed within or on a replacement utility pole if the appearance is not materially altered and the existing structure or utility pole is no more than five feet taller;
c. Not exceeding six feet above the top of an existing structure or utility pole for a total height not exceeding 45 feet (nor taller than more than six feet above the average of similar poles within 300 feet.

(9) *FCC*: The Federal Communications Commission.

(10) *Height*: The vertical distance measured from the average grade of the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.

(11) *Incidental use*: Any use authorized herein that exists in addition to the principal use of the property.

(12) *Person*: An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.

(13) *Right-of-way*: The area on, below, or above a public roadway, highway, street, or alleyway, but not including:

a. The airwaves above a public right-of-way with regard to cellular or other non-wire telecommunications or broadcast service;
b. Easements obtained by utilities or private easements in platted subdivisions or tracts;
c. Railroad rights-of-way and ground utilized or acquired for railroad facilities; or
d. Poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a municipally owned or operated utility pursuant to Missouri law.

(14) *Shelter*: A building for the protection and security of communications equipment associated with one or more antenna and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected antenna is prohibited.

(15) *Small wireless facility*: An antenna and associated equipment that meets the following:

a. An Antenna of no more than six cubic feet in volume; and
b. All other associated equipment, to the extent permitted by applicable law to be calculated, of cumulatively no more than 28 cubic feet in volume; provided that no single piece of equipment on the Utility Pole shall exceed nine cubic feet in volume, and no single piece of ground mounted equipment shall exceed 15 cubic feet in volume.

(16) *Support structure*: A tower or disguised support structure.

(17) *Tower*: A structure designed for the support of one or more antenna and including guyed towers, self-supporting (lattice) towers, or monopoles, but not disguised support structures, utility poles or buildings. The term shall also not include any support structure that includes attachments of 65 feet or less in height owned and operated solely for use by an amateur radio operator licensed by the FCC.

(18) *Utility pole*: A pole or similar structure that is or may be used for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities; provided, however, such term shall not include wireless support structures, electric transmission structures, or breakaway poles owned by the state highways and transportation commission and shall not include municipal electric distribution poles or facilities.

(19) *Wireless communications facility*: Any antenna, small wireless facility, "fast-track," cabinet, shelter, and support structure and associated equipment.

(G.O. 1618, 3-23-98; G.O. 2013, 3-29-04; G.O. 2891, 12-17-18)

Sec. 31-302. Application procedures; timing.

(a) *Applications.* Applications for permitted, administrative or conditional uses pursuant to this article shall be subject to the supplementary procedures in this article. Applications shall be submitted to the city as a complete application on forms provided by the city. A "complete application" shall be an application submitted on the forms provided by the city, fully executed by the applicant, identifying the specific approval sought, and containing all attachments, fees as may be established to reimburse the city for its inspection and review costs, and information as required thereon or by the city, consistent with this article. Applications shall be accompanied

by a building permit application and other applicable forms.

(b) *Proof of owner(s) consent*. Applications for permitted, administrative or conditional uses pursuant to this Division shall be required to provide proof of landlord consent, which shall minimally include:

(1) Written consent to pursue the application by all fee simple owners of the underlying real estate (or where located in street right-of-way, the right-of-way owner thereof), including when the proposed location is also in a utility easement; and

(2) Written consent to pursue the application. of the owner(s) of the structure on which such Facility is to be placed, if different than applicant.

(c) *Timing.* Applications shall be decided upon within a reasonable time, subject further to state or federal specific additional time requirements as may apply to the particular application.

(d) *Consolidated applications for small wireless facilities*. An applicant may submit a consolidated application and receive a single permit for up to 20 collocated small wireless Facilities, provided that they are for the same or materially the same design of small wireless facility being collocated on the same or materially the same type of utility pole or support structure. Denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same consolidated application.

(e) *Opportunity to cure*. In case of a denial, the applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 30 days of resubmission and limit its review to the deficiencies cited in the original denial.
(G.O. 1618, 3-23-98; G.O. 1991, 11-24-03; G.O. 2891, 12-17-18)

Sec. 31-303. General requirements.

(a) *Applicability*. The requirements set forth in this article shall be applicable to all wireless communications facilities within the city installed, built or modified after the effective date of this article to the full extent permitted by law. Such zoning review and approvals required in this article shall be in addition to any other generally applicable permitting requirement, including applicable building, excavation or other right-of-way permits.

(1) *Principal or incidental use.* Towers may be either a principal or incidental use in all commercial, business park districts and manufacturing zoning districts, subject to any applicable requirement relating to yard or setback. An incidental use subject to a leasehold interest of a person other than the lot owner may be approved for a tower only if the leasehold area separately meets all requirements for a separate subdivided lot, including dedicated access, parking, setbacks and lot size, applicable to a primary use in the district in which the use is proposed as if it was a separate subdivided lot. No other district shall allow Towers unless required by law. All other wireless communications facilities and utility poles other than towers, may be a principal or incidental use in all districts subject to the requirements herein.

(2) *Building codes, safety standards, and zoning compliance.* Wireless communications facilities shall be constructed and maintained in compliance with all standards contained in applicable state and local building and electric codes. A certified engineer's structural report shall be required for all applications to construct a new or modify, or any way alter, a support structure, a utility pole or antenna, including small wireless facility and fast-track unless waived upon application to the director stating why such report is unnecessary to the specific application and a determination in the discretion of the director approving such statement. The report shall certify that the support structure or antenna is structurally sound and in conformance with the requirements of the city's adopted building and electric codes and all other construction standards set forth by this Article and other city code sections, as well as federal and state law. This certification shall be submitted with the

permit application and prior to issuance of any building permit. As part of the building permit process, the applicant shall authorize the city and its agents to enter onto the property upon which the support structure or antenna is located to inspect the same for the purpose of determining whether it complies with the city's building and electric code, the National Electric Safety Code and all other construction standards provided by the city's code and federal and state law. In addition to any other approvals required by this article, no wireless communication facility or portion thereof, except for a modification under 47 U.S.C. § 1455(a), shall be erected, replaced or expanded prior to receipt of a certificate of zoning compliance, unless otherwise required by law, and the issuance of a building permit. For sites within city right-of-way, (1) the most restrictive adjacent underlying zoning district classification shall apply unless otherwise specifically zoned and designated on the official zoning map; (2) wireless communications facilities shall be installed and maintained as not to obstruct or hinder the usual travel or public safety on the right-of-way or obstruct the legal use of such right-of-way by authorities or authorized right-of-way users; and (3) such use shall be required to obtain applicable permits and comply with the city's ROW management rules and regulations set forth in this chapter.

(3) *Regulatory compliance.* All wireless communications facilities shall at all times meet or exceed current standards and regulations of the FAA, FCC, and any other local, state, or federal agency with the authority to regulate wireless communications facilities, and including all required licenses, permits, and taxes applicable to such structure and/or modification. Should such standards or regulations be amended, then the owner shall bring such devices and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction, or modification of any wireless communications facilities permitted by this article shall be granted for any applicant having an uncured violation of this article, any zoning regulation regarding the lot on which the structure is proposed, or any other governmental regulatory, licensing, or tax requirement applicable to such wireless communications facilities within the city unless preempted by applicable law. Modifications under 47 U.S.C. § 1455(a) shall be approved without regard to zoning regulations regarding the lot on which the modification is proposed.

(4) *Security*. All wireless communications facilities shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build, alter or modify wireless communications facilities. Additional measures may be required as a condition of the issuance of a building permit as deemed necessary by the Director or by the city council in the case of a conditional use permit.

(5) *Lighting.* Antenna, small wireless facilities, fast-track and support structures shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build, alter, or modify the antenna, small wireless facilities, fast-track or support structure. Lighting may also be approved as a consistent component of a disguised support structure. Equipment cabinets and shelters may have lighting only as approved by the director or city council in the case of a conditional use permit.

(6) *Advertising*. Except for a disguised support structure in the form of an otherwise lawfully permitted sign, the placement of advertising on wireless communications facilities is prohibited other than identification signage or required safety signage of not greater than one square foot on ground equipment.

(7) *Design.*

a. *Color.* Subject to the requirements of the FAA or any applicable state or federal agency, wireless communications facilities and attachments shall be painted a neutral color consistent with the natural or built environment of the site or an alternative painting scheme approved by the director, or the city council in the case of a Conditional Use permit, consistent with the requirements of this article. Unpainted galvanized steel support structures are only permitted in the manufacturing districts.

b. *Ground equipment.* When authorized, equipment shelters or cabinets shall have an exterior finish reasonably compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located unless not feasible. All ground equipment shall be either placed underground, contained in a single shelter or cabinet, or concealed within a building or approved walled compound.

c. *Antenna design.* Antenna attached to a disguised support structure shall be contained within the disguised support structure or flush on the surface to which they are mounted. Antenna attached to an existing building, utility pole, or structure shall be of a color matching the surface to which they are mounted. Antenna on the rooftop or attached to a building shall be screened or constructed and/or colored to match the structure to which they are attached and may not have a height of more than 15 feet above the rooftop. Except in the manufacturing districts, all antenna shall be designed to be disguised and maximally concealed on or within the support structure, utility pole or other structure. Exposed antenna or “crows nest” or other visible platforms or extensions are prohibited except within manufacturing districts.

d. *Height.* Support structures and antenna shall not exceed the height limitation of any airport overlay zone as may be adopted by the city or other regulatory agency. Support structures may exceed underlying zoning district height restrictions for buildings and structures only where shown to be necessary, provided that no reasonable and feasible alternative exists. To the extent permitted by applicable law, district height restrictions shall be considered by the city in determining the appropriateness of the design and location of the application under the applicable standards for approval. No support structure shall be approved at a height exceeding 150 feet AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system.

e. *Monopole design*. All towers within the commercial and business park districts shall be of a monopole design. Lattice, guyed towers, or other non-monopole Tower designs shall only be permitted in the manufacturing districts.

f. *Compound walls/landscaping.* All towers shall be surrounded by a minimum of a six-foot-high decorative wall constructed of brick, stone, or comparable masonry materials and a landscape strip of not less than ten feet in width and planted with materials, which will provide a visual barrier to a minimum height of six feet. The landscape strip shall be exterior to any security wall. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the director, or by the city council in the case of a conditional use permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved. Landscaping or other improvements may be required for disguised support structures if needed to implement an approved disguise.

g. *Setbacks.* All support structures, including any portion of any wireless communications facilities thereon

shall be separated from any public fight-of-way, sidewalk or street, alley, parking area, playground, or other building, and from the property line of any adjacent property at least a horizontal distance equal to the height of the support structure, including any portion of any wireless communications facilities thereon, whichever is greater. All related equipment, walls, and fences shall comply with the setbacks of the applicable zoning district.

h. *Storage.* Vehicle or outdoor storage on any wireless communications facilities site is prohibited, unless otherwise permitted by the zoning district.

i. *Parking*. On-site parking for periodic maintenance and service shall be provided at all support structure locations consistent with the underlying zoning district and the type of support structure approval granted. At least one paved vehicular parking space shall be provided on site.

j. *Decorative poles*. In districts where there are utility poles which were specifically designed for their aesthetic nature and compatibility with the built environment of that district, as determined by the city, such utility poles shall be deemed to be decorative utility poles. Such decorative utility poles, when authorized to be replaced by an applicant for wireless communications facilities pursuant to applicable law and in compliance with this article and code, shall only be replaced with a substantially similar decorative utility pole which matches the aesthetics and decorative elements of the original decorative utility pole being replaced. Such replacement expenses shall be bore wholly by the applicant seeking to place wireless communications facilities on such decorative utility pole.

(8) *Public property.* Wireless communications facilities located on property owned, leased, or otherwise controlled by the city shall be subject to the requirements of this article. A license or lease with the city authorizing the location of such wireless communications facilities shall be required for each site. The city shall have no obligation whatsoever to authorize use of city property for such purposes.

(9) *As-built plans.* Within 60 days of completion of the initial construction and any additional construction, two complete sets of plans drawn to scale and certified as accurately depicting the location of all wireless communications facilities constructed shall be furnished to the city.

(10) *Historic preservation; 30-day hearing period*. For collocation on any certified historic structure as defined in Section 253.545 RSMo, in addition to all other applicable time requirements, there shall be a 30-day time period before approval of an application during which one or more public hearings regarding collocation on a certified historic structure are held. The city may require reasonable, technically feasible and technological neutral design and concealment measures as a condition of approval of a wireless communication facility within a historic district.

(b) *Administration*. The director shall have the authority to establish forms and procedures consistent with this article and applicable federal, state, and local law to ensure compliance and to facilitate prompt review and administration of applications.
(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Section 31-304. Permitted use.

(a) *Permitted use.* The placement of wireless communications facilities fully conforming with the general requirements in this article are permitted in all zoning districts (including the right-of-way) only as follows:

(1) *Collocations on existing support structures.* The attachment of antennas including small wireless facilities, or associated equipment to any existing fully conforming support structure or utility pole, or as authorized by state or federal law where local zoning is preempted, provided that building permit

requirements, national safety codes, and other applicable codes including recognized accepted industry standards for structural, safety, capacity, reliability, and engineering are satisfied, including specifically the requirement to submit a certified structural engineering report as provided in Section 31-303(a)(2).

(2) *Antenna on* h*igh-voltage towers.* The mounting of antenna on or within any existing high-voltage electric transmission Tower, but not exceeding the height of such Tower by more than 15 feet, provided that all requirements of this article and the underlying zoning ordinance are met, except minimum setbacks provided in this article shall not apply.

(3) *Antenna on existing buildings/structures.* In all districts, the mounting of antenna on any existing and conforming building or structure (other than on a support structure, utility pole, or single family or two family residential dwellings) provided that the presence of the antenna and equipment is concealed by architectural elements or fully camouflaged or concealed by painting a color identical to the surface to which they are attached and further provided that all requirements of this article and the underlying zoning ordinance are met.

(4) *New, replacement, and modified utility poles.* New, replacement, or modified utility poles, at heights below the height limitations outlined in this Subdivision, and collocation of small wireless facilities on the same shall be a permitted use in all districts subject to Subsection (b)(3) below. New, replacement or modification of utility poles under the following circumstances shall not be considered a permitted use under this section:

a. Proposals to construct or modify a utility pole which exceeds the greater of:

i. 50 feet AGL; or
ii. More than 10 feet above the tallest existing utility pole as of January 1, 2019 within 500 feet of the proposed utility pole in the city; and

b. Proposals to collocate on an existing utility pole in place on August 28, 2018 which exceeds the height of the existing utility pole by more than ten feet.

(b) *Application procedure.*

(1) Application for a permitted use under this section shall require submission of an application with proof of owner(s) consent as required by Section 31-302 and an application fee of $100.00 per small wireless facility and an application fee of $500.00 for the installation, modification, or replacement of a utility pole and collocation of a small wireless facility thereon, as required to partly cover the city's actual costs and not to exceed such amounts as may be limited by law.

(2) If the applicant is not a wireless services provider, as defined by §67.5111 RSMo., then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the city that the proposed site(s) will become operational and used by a wireless services provider within one year of the permit's issuance date. For any application for a small wireless facility, the applicant shall provide an attestation that the proposed small wireless facility complies with the volumetric limitations as required to meet the definition of a small wireless facility in accordance with this article and pursuant to applicable law. Applicant shall also submit a certified structural analysis as required in the general requirements of this article. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

(3) The director shall issue a decision on the application for a permitted use within the time-frame permitted by applicable law. A decision to deny an application shall be made in writing and state the specific

reasons for the denial. With respect to a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole, the director may deny the application only if the proposal could reasonably be expected to:

a. Materially interfere with the safe operation of traffic and control equipment or city-owned communications equipment;
b. Materially and demonstrably interfere with the safe operation of traffic control equipment or city-owned communications equipment;
c. Materially and demonstrably interfere with sight lines or clear zones for transportation, pedestrians, or non-motorized vehicles;
d. Materially interfere with compliance with the American Disabilities Act, or similar federal or state standards regarding pedestrian access or movement;
e. Materially obstruct or hinder the usual travel or public safety on the rights-of-way;
f. Materially obstruct the legal use of the rights-of-way by the city, utility, or other third-party;
g. Fail to comply with the spacing requirements within Section 29-357;
h. Fail to comply with applicable national safety codes, including recognized engineering standards for utility Poles or support structures;
i. Fail to comply with the decorative pole replacement requirements herein; or
j. Fail to comply with undergrounding requirements within Section 29-357;

(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Section 31-305. Administrative approval.

(a) *Administrative approval.* The placement of wireless communications facilities fully conforming with the general requirements in this article are permitted in all zoning districts (including the right-of-way) by administrative permit approved by the director only as follows:

(1) *Disguised support structures* – Any disguised support structure shall have as a condition of approval, unless expressly exempted in the approval, an obligation that is recorded on the property for the benefit of the public prohibiting modifications to the disguised support structure that defeats the disguise, unless such proposed modification is approved by a duly authorized zoning or conditional use approval approved in the same manner as required for an original construction of such disguised support structure. If the applicant does not wish to have such a condition, the structure shall not qualify as a disguised support structure, unless another mechanism is proposed and approved to ensure that the disguise is not subsequently defeated. A disguised support structure proposed to be located within a public or private right-of-way may be exempted from the general requirements of this article relating to parking/access and setbacks, unless determined by the director as applicable to the specific location for safety reasons.

(2) "Fast-track" small wireless facilities. An application for a "fast-track" small wireless facility may be approved administratively by the director, subject to meeting the following requirements:

a. *General Requirements*. The following requirements shall generally apply to all "fast-track" small wireless facilities located within the city:

i. The "fast-track" shall substantially match any current aesthetic or ornamental elements of the existing structure or utility pole or otherwise be designed to maximally blend in to the built environment, with attention to the current uses within the district at the proposed site;
ii. Any portion above the existing structure or utility pole shall be concealed and of the same dimensions and appearance so as to appear to be a natural extension of the existing structure or utility pole in lieu of an enclosure or concealment;
iii. The "fast-track" equipment shall not emit noise audible from the building line of any residentially zoned or used property; and

iv. Location, placement and orientation of the "fast-track" shall, to the extent feasible, minimize the obstruction to, or visibility from, the closest adjacent properties unless otherwise required by the city for safety reasons.

b. *Additional requirements when sited near pedestrian and vehicle ways.* When a "fast-track" is proposed to be located on an existing structure or utility pole on or adjacent to public or private streets, sidewalks or other pedestrian or vehicle ways:

i. Only one "fast-track" shall be permitted per structure or utility pole in the rights-of-way;
ii. The height of all portions of the "fast-track" shall be located at least 8 feet above ground level;
iii. No ground equipment shall be permitted; and
iv. No portions of the "fast-track" shall extend horizontally from the surface of the utility pole or existing structure more than sixteen inches 16 inches.

c. *Waiver for good cause shown.* Additionally, the director may for good cause shown increase any one or more of the maximum volumetric specifications from the definition of a "fast-track" by up to 50% if the applicant demonstrates that it:

i. Does not in any location nationally use equipment capable of meeting the specifications and the purpose of the equipment; and
ii. Cannot feasibly meet the requirements as defined and described.

d. The city council may further waive one or more of the requirements found in the definition of "fast-track", or from *a. general requirements* or *b. Additional requirements when sited near pedestrian or vehicle ways* of this subdivision, upon good cause shown by the applicant, and provided a showing that the waiver is the minimum necessary to accomplish the purposes of this article. The burden of proof for any waiver shall be wholly on the applicant and must be shown by clear and convincing evidence.

(b) *Application procedures.* Applications for administrative permits shall be made on the appropriate forms to the director consistent with the requirements of this article. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

(1) *General application requirements.* Applicant shall submit along with its completed application form:

a. An application fee of not more than $100.00 per "fast track" small wireless facility as required to partly cover the city's actual costs, and an application fee of not more than $500.00 for an application for a disguised support structure and collocation of a small wireless facility thereon and not to exceed such amounts as may be limited by law. Any amount not used by the city shall be refunded to the applicant upon written request after a final decision.
b. A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating the exact location of the facility, all dimensions and orientations of the facility and associated equipment, in addition to all existing and proposed improvements including buildings, drives, walkway, parking areas, and other structures, right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the utility pole or existing structure, if applicable;

c. Specifications, dimensions, photos, or drawings of the completed installation;
d. Proof of owner(s) consent as required by Section 31-302;
e. Certified structural analysis as required in this article;
f. If the applicant is not a wireless services provider, as defined by §67.5111 RSMo, then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the city that the proposed site(s) will become operational and used by a wireless services provider within one year of the permit's issuance date; and
g. All other information reasonably necessary to show compliance with the applicable requirements of this article.

(2) *"Fast-track" specific application requirements.* In addition to the above general application requirements, applications for a "fast-track" shall include the following:

a. An attestation that the proposed "fast-track" meets the volumetric and other requirements to meet the definition of "fast-track" provided in this article; and
b. Information demonstrating that the applicant's proposed plans are in compliance with § 67.5113.3(9) RSMo to the satisfaction of the city.

(3) *Review.* The application shall be reviewed by the director to determine compliance with the above standards, including specifically design, location, safety and appearance requirements and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.

(4) *Additional information may be required.* In reviewing an application, the director may require the applicant to provide additional information, including technical studies, to the extent permitted by applicable law and contained in an applicable code provision, ordinance, application, or other public guideline.

(5) *Decisions; denials required in writing.* The director shall issue a decision on the permit within the time-frame permitted by applicable law. The director may deny the application or approve the application as submitted or with such modifications or conditions as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens and property values consistent with and to affect the purposes of this article, and subject to applicable law. The director may consider the purposes of this article and the factors established herein. A decision to deny an application shall be made in writing and state the specific reasons for the denial. Provided that with respect to a proposed collocation of a small wireless facility or installation, modification, or replacement of a utility pole, the director may deny the application only for the reasons outlined in Section 31-304(b)(3) above.

(G.O. 1618, 3-23-98; G.O. 1992, 11-24-03; G.O. 2891, 12-17-18)

Section 31-306. Conditional use permit required.

(a) *Conditional use permit required.* All proposals to construct or modify a wireless communications facilities not permitted by Section 31-305 (Permitted uses) or Section 31-306 (Administrative approval) or not fully complying with the general requirements of this article, and except for modifications under 47 U.S.C. § 1455(a) which must be approved, shall be permitted only upon the approval of a conditional use permit authorized consistent with Section 31-070 following a duly advertised public hearing by the planning commission and city council, subject to the following additional requirements, procedures, and limitations:

(1) *Applications.* Applications for conditional use permits shall be filed on such forms required by the Director, and processed subject to the requirements of and in the manner established by applicable law, herein, and for conditional use permits in Section 31-070 of the zoning code and, in addition to such other requirements, shall be

accompanied by a deposit as set forth in Section 31-075. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application. Any amount not used by the city shall be refunded to the applicant upon written request after a final decision. The application shall include the following:

a. The name, address and telephone number of the applicant. If the applicant is not the owner of the parcel of land upon which the tower is situated and/or the owner of wireless communications facility, proof of owner consent as required by Section 31-302, and the name, address, and telephone number of both such owner(s), shall be evidenced in the application; and
b. An affirmative statement indicating that the owners described in Subsection (a) and the applicant are aware of and agree to comply with the provisions in Section 31-309 of this article regarding abandonment and removal; and
c. The legal description, city parcel number, and address of the parcel of land upon which the wireless communication facility is situated; and
d. Written, technical evidence from a structural engineer that the proposed structure meets the standards set forth in this code, including, but not limited to, the requirements set forth in Section 31-303 of this article; and
e. Color photo simulations showing the proposed site of the wireless communication facility with a photorealistic representation of the proposed wireless communication facility or modification as it would appear viewed from the closest residential property and from adjacent roadways, as determined by the director. The photo simulations shall be taken at five to six feet above the ground at locations most visible to residents and the general public; and
f. Building permit application and fee; and
g. Site plan, including a description of the lot lines, setbacks, location, and use of adjacent structures, proposed location of the wireless communications facility, distances between wireless communications facility, proposed wireless communications facility height, landscaping, screening, access, parking, and security.

(2) *Decision and findings required.* A decision shall be contemporaneously accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter or presented during the public hearing by the applicant or others.

(3) *Additional minimum requirements*. No conditional use permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of wireless communications facilities pursuant to Section 31-305 (Permitted uses) or Section 31-306 (Administrative permits) of this article is not technologically or economically feasible.

(4) *Findings required.* In addition to the determinations or limitations specified herein and by the applicable provisions of Section 31-070 of this zoning code for the consideration of conditional use permits, no conditional use permit shall be approved by the city council unless findings in the affirmative are made that the following conditions exist:

a. That the design of the wireless communications facilities, including ground layout, maximally reduces visual degradation and otherwise complies with provisions and intent of this article;
b. That the design is visually compatible with the area, will not distract from the view of the surrounding area, is maximally concealed or blended in with the environment and will not adversely affect property values;

c. That such conditional use shall not be inconsistent or adversely affect the regular permitted uses in the district in which the same is located; and

d. That the proposal fully complies with applicable law including the general requirements herein; provided that an exception to the general requirements, other than building or safety code compliance, may be approved upon evidence that compliance is not feasible or is shown to be unreasonable under the specific circumstances shown.

(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Section 31-307. Special exceptions.

(a) *Scope; procedures.* A special exception permit may be granted by the zoning board of adjustment in accordance with the procedures contained in Section 31-090 and 31-093 of the city code for the following requirements:

(1) Setbacks as required in Section 31-303(a)(7)g.;

(2) Height restrictions as required in Section 31-303(A) (7)d.; and

(3) Findings required for issuance of a Conditional Use Permit required in Section 31-306.

(b) *Determination required*.

(1) The zoning board of adjustment, in considering special exception requests, may grant a special exception if a person, upon application to the city, demonstrates with written evidence that:

a. The location, shape, height, appearance or nature of use of the proposed wireless communication facility will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the wireless communication facility is proposed to be located; and

b. The site plan development modification will not create any threat to the public health, safety or welfare.

(2) In addition to the requirements of subparagraph (a) of this section, in the following cases, the applicant must also demonstrate with written evidence, the following:

a. In the case of a requested modification to the setback requirement, that the area of the parcel of land upon which the Support Structure is proposed to be located makes compliance with Section 31-303(a)(7)g. of this article impossible and that such will not pose a danger to the public; or

b. In the case of a requested modification to the height requirement, that the height in that location does not pose a danger to the public and the applicant must clearly demonstrate that such height is required for the proper function of the applicant's system.

(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Section 31-308. Commercial operation of unlawful wireless communications facilities.

Notwithstanding any right that may exist for a governmental entity to operate or construct wireless communications facilities, it shall be unlawful for any person to erect or operate for any private commercial purpose any wireless communications facilities in violation of any provision of this article, regardless of whether such wireless communications facilities are located on land owned by a governmental entity.
(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Section 31-309. Removal of support structure.

Any wireless communication facility or portion thereof that is no longer in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the city with a copy of the notice to the FCC of intent to cease operations within 30 days of providing such notice to the FCC and the support structures and accessory structures shall be removed within 90 days from the date of ceasing operations. In the case of multiple operators sharing use of a single support structure, this provision shall not become effective until all users cease operations.
(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Section 31-310. Penalty.

In addition to any other penalties and remedies for violations that may exist in law or equity, and except as may otherwise be provided by law, any person violating any provision in this article shall be subject to such penalties as set forth in Section 1-14 of the city code per day for each and every day the violation exists or continues.

(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Section 31-311. Appeals.

The administrative review procedures set forth in Article XIII of Chapter 2 shall govern appeals by any aggrieved person of a final action of any city officer, employee, board or commission that are claimed by an aggrieved person to be unlawful or an unconstitutional taking of property without compensation. To the fullest extent permitted by law, the review procedures of Article XIII of Chapter 2 shall be exhausted before any action may be filed in any court against the city or its officers, employees, boards, officials or commissions. Nothing herein shall be deemed to unlawfully limit any remedy that is required to be available as a matter of law.

(G.O. 1618, 3-23-98; G.O. 2891, 12-17-18)

Secs. 31-312--31-349. Reserved.

ARTICLE VI. ALTERNATIVE ENERGY SYSTEMS

DIVISION 1. WIND ENERGY CONVERSION SYSTEMS

Sec. 31-350. Purpose.

(a) The purpose of this article is to regulate the placement, construction and modification of wind energy facilities in order to:

(1) Promote the safe, effective, and efficient use of small wind energy systems in order to reduce pollution and the consumption of fossil fuels in producing electricity;

(2) Protect the health, safety and welfare of the public by reducing and minimizing the potential adverse impacts of wind energy systems;

(3) Protect the public by ensuring the design, construction, maintenance and removal of wind energy systems is undertaken in a manner that protects neighboring properties, the City and the public as a whole; and

(4) Provide for a procedure to review, approve, deny or condition proposed wind energy systems that are larger than or otherwise do not satisfy the requirements for those that may be permitted by right or by administrative permit.

(G.O. 2363, 11-30-09)

Sec. 31-351. Definitions.

(a) As used in this article, the following terms shall have the meanings and usages indicated:

(1) *AGL.* Above ground level. Ground level shall be determined by the average elevation of the natural ground level within a radius of 50 feet from the center location of measurement.

(2) *Director.* The director of planning and community development of the city or his/her designee.

(3) *Exempt facilities*: Exemption criteria for wind energy facilities:

a. Having a rotor arc of one meter (or 39.37 inches) or less in diameter, and other type of turbine having a rotation device with no dimension greater than 1 meter (or 39.37 inches), and

b. Mounted on an existing structure having a primary authorized use other than as a support structure for a wind energy facility, and

c. Having a setback from property lines at least 20 feet plus the principal building setback in addition to other setback requirements herein, and

d. With no portion more than ten feet above the highest part of the existing structure and no exposed moving part having less than 15 feet of clearance to the ground or other point of pedestrian access.

e. No more than three exempt facilities may exist on any one parcel.

(4) *FAA.* The Federal Aviation Administration.

(5) *FCC.* The Federal Communications Commission.

(6) *Height.* For purposes of this article, the vertical distance measured from the average grade of the base of the structure above ground level to its highest point of any wind energy facility, which shall be calculated at the tip of the rotor blade at its highest point, or any higher portion of the structure that may exist.

(7) *Accessory use.* Any use authorized herein that exists in addition to the principal use of the property.

(8) *Net metering.* Using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by the customer-generator to the retail electric supplier over the applicable billing period and as so defined pursuant to R.S.Mo. § 386.290.2(5).

(9) *Modification.* Any change to a structure requiring a building permit or other governmental approval.

(10) *Large wind energy facilities.* Wind energy facilities that are larger than 100 KW output, consist of a grouping of two or more non-exempt wind energy facilities, or otherwise do not meet the requirements for facilities authorized by permitted use or administrative approval.

(11) *Small wind energy facilities*: Wind energy facilities, other than facilities authorized as a permitted use, having a capacity of 100 KW output or less and that fully comply with the general standards for wind energy facilities and satisfy all other requirements of this code applicable to small wind energy facilities.

(12) *Wind energy facilities or wind energy conversion systems (WECS)*: Facilities including turbines, support structures, accessory equipment and related components designed to create electrical or other energy by use of wind. Wind energy facilities include exempt facilities, small wind energy facilities, and other facilities, whether connected to the electrical grid of the local utility or independently operating.

(G.O. 2363, 11-30-09)

Sec. 31-352. Permitted uses.

(a) The placement of wind energy facilities shall be a permitted or accessory use in any zoning district within the city only as follows:

(1) *Municipal property*. Wind energy facilities may be placed on city-owned or leased land where authorized by the approval of an executed mutual agreement with the city council, subject to such conditions and requirements as deemed necessary by the city to meet the purposes of this article and to protect the public interests.

(2) *Exempt facilities*. Exempt facilities may be placed in any zoning district as a permitted accessory use subject to the general standards within this code, except for the requirements of Subsection 31-355(9)("minimum ground clearance") which shall be as provided in the definition of exempt facilities, and such other specifically applicable provisions.

(G.O. 2363, 11-30-09)

Sec. 31-353. Administrative permit - small wind energy facilities.

(a) The placement of small wind energy facilities shall be permitted by administrative permit approved by the director within any zoning district, subject to general standards and other requirements of this article and further limited as follows:

(1) Application procedures. Applications for administrative permits shall be made on the appropriate forms to the director and accompanied by payment of the non-refundable fee as set out in Subsection 31-075(2)(a) for a conditional use permit.

a. Detailed structure plans and a detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted clearly outlining all existing and proposed improvements including buildings, drives, walkways, parking areas and other structures, public right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the existing or proposed tower.

b. The application shall be reviewed by the director to determine compliance with the above standards, after which the application shall be transmitted for review and comment by other departments and public agencies that may be affected by the proposed facility.

c. The director shall issue a decision on the permit within 45 days of the date of application or the application shall be deemed denied unless the application is referred to the planning commission as authorized by subsection 31-353(1)(d), or the time period for review and action is extended by written order of the director. The director may deny the application or approve the application as submitted or approve with such modifications as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens, consistent with the purposes of this section. The director shall consider the purposes of this section and the factors established herein for granting a conditional use permit as well as any other considerations consistent with this article. A decision to approve, approve with modifications or disapprove an application shall be made in writing. If the decision is for approval with modifications or disapproval, the specific reasons for the modification or disapproval must be included.

d. Minor variations: When an application does not fully comply

with the requirements for administrative approval, but a minor variation to the requirements would, in the opinion of the director, be consistent with the spirit and intent of this code, the director shall be authorized to refer the application to the planning commission, which shall be authorized to approve, disapprove or condition such variation as may be appropriate to meet the purposes of this code, provided that the basis for the variation or disapproval is unique to the property or otherwise not typical to all applications.

e. Appeals: Appeals from the decision of the director or the planning commission shall be made in the same manner as otherwise provided in Chapter 2, Article XIII of the code of ordinances for the appeal of administrative decisions.

f. Requirements. No application for a small wind energy facility may be approved unless it fully complies with the requirements in this subsection and the general standards for wind energy facilities.

(G.O. 2363, 11-30-09)

Sec. 31-354. Planned unit development (PUD) district – large wind energy facilities.

(a) All proposals to install, build or modify a large wind energy facility, including wind energy facilities that do not fully meet the requirements for approval as a permitted use or administrative approval in this article, may be constructed, operated and approved only as a planned unit development (PUD) district overlay pursuant to Section 31-036 of this code, and subject to the following additional limitations:

(1) *Underlying eligible districts.* A planned unit development district overlay may only be approved in the following underlying districts: A-1 general agricultural district, A-OR agricultural outer residential district, M-1 light manufacturing district, M-2 heavy manufacturing district, and all district B-P business park districts.

(2) *Minimum requirements.* In addition to the criteria otherwise applicable to planned unit development approvals:

a. No planned use may be approved unless the applicant has clearly demonstrated that the approval under permitted or administrative approvals under this code is not technologically or economically feasible and that the proposed wind energy facility (1) complies with the requirements for administrative approval to the extent practicable *and* (2) meets the purposes of this code. In addition to other standards established for approval of planned uses, the governing body may consider current or emerging industry standards and practices, net energy benefits, and impact on neighboring properties and uses, among other information, in determining feasibility and compliance with the intent of this code. At the expense of the applicant, the City may require additional studies or the hiring of an external consultant to review exhibits and/or other requirements in accordance with this section.

b. The general standards for wind energy facilities shall apply to all facilities proposed for planned use approval, except to the minimum extent a modification or variance is determined to be necessary to meet the purposes of this article. Any modification or variance to any such general requirements sought by a PUD approval shall be expressly stated in the application for the PUD.

(3) *Additional height limitations.* A PUD may authorize a variation to the height requirements in the general standards, provided that no wind energy facility shall be approved for a height of greater than 100 feet.

(4) *Modifications.* Modifications to the underlying district regulations or the general standards herein may be permitted in the PUD, provided that such modification is expressly set forth in the PUD ordinance and otherwise meets the requirements for a PUD approval.

(G.O. 2363, 11-30-09)

Sec. 31-355. General standards for wind energy facilities.

(a) Except as noted, the following requirements shall be applicable to all wind energy facilities installed, built or modified after the effective date of this article to the full extent permitted by law unless otherwise provided pursuant to Section 31-354 within the conditions of a planned unit development district:

(1) *Principal or accessory use.* A wind energy facility may be either a principal use or an accessory use, subject to any applicable district requirement relating to yard area or setback, provided that no more than one small wind energy facility shall be located on a parcel and no more than three exempt facilities shall be permitted per parcel.

(2) *Building codes, safety standards, and zoning compliance.* Wind energy facilities shall be constructed and maintained in compliance with all standards contained in applicable state and local building codes. In addition to any other approvals required by this section, no Wind energy facility shall be erected prior to receipt of an approved zoning certificate and the issuance of a building permit.

(3) *Regulatory compliance.* All wind energy facilities shall meet or exceed current standards and regulations of the FAA, and any other state or federal agency with the authority to regulate applicable wind energy facilities. Should such standards or regulations be amended, then the owner shall bring such devices and structure into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction or modification of any wind energy facility permitted by this section shall be granted for any applicant having an uncured violation of this section or any other governmental regulatory requirement related to the subject property.

(4) *Security.* All wind energy facilities shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any administrative or planned use application. Additional measures may be required as a condition of the issuance of a building permit or administrative permit as deemed necessary by the director or by the planning commission in the case of a planned use.

(5) *Lighting.* Wind energy facilities shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build or modify the facility. Equipment cabinets and shelters, if permitted, may have lighting only as approved by the director on the approved site development plan. The requirement by the FAA or other agency for lighting of any proposed structure may be considered as a reasonable basis for denial of an application in any residential area or otherwise where incompatible with the surrounding uses.

(6) *Advertising.* The placement of advertising on structures regulated by this section is prohibited, provided that a manufacturer or specification notice of less than one square foot in size shall be permitted.

(7) Design. The design criteria for wind energy facilities shall be as follows:

a. The support structure of any wind energy facility shall be of a monopole design and lattice towers are not permitted except that a lattice structure and rotors that replicate a historical windmill appearance may be approved. Guy wires are not permitted.

b. Subject to the requirements of the FAA or any applicable state or federal agency, all visible portions of the wind energy facility shall be painted a non-reflective gray or other approved neutral color consistent with the natural or built environment of the site. Unpainted galvanized exposed material is prohibited.

c. No equipment shelters or other accessory structures shall be permitted in conjunction with a wind energy facility except where underground, contained within an existing building, or otherwise appropriately concealed.
d. All utilities serving the facility shall be underground.
e. Design elements shall be of a type consistent with the zoning district and accessory uses of the property and adjoining area.

(8) *Height.* A wind energy facility shall not be subject to building height restrictions within the applicable underlying zoning district but shall not exceed a height which is the lesser of:

a. Thirty feet above the principal building height permitted within the zoning district, or
b. The limitation set by any airport overlay zone as may be adopted by the city, FAA limitation, or other height restrictions established by the city, or
c. A maximum of 75 feet.

(9) *Minimum ground clearance.* The blade tip of any rotor, or other rotating portion of any non-exempt facility, shall have a clearance of not less than 25 feet at its closest point to the ground.

(10) *Setbacks.*

a. Wind energy facilities shall be separated from the property line of any adjacent property zoned or used for a residential use at least a distance equal to twice its height, and shall be separated from all other adjacent property lines at least a distance equal to its height. Set back distances shall be measured from the tip of the closest rotor blade at the point at which it is horizontal to and facing the applicable property line.
b. Wind energy facilities shall be separated from public roads by a distance equal to its height.
c. Wind energy facilities shall not be located in any front yard or front yard setback of any property.

(11) *Noise limitations.* Noise emanating from the operation of a wind energy facility shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a property used or zoned for residential use or used for a school, hospital, or place of worship. Noise emanating from the operation of a wind energy facility shall in no event exceed, at any time, 45 dBa measured at the property line.

(12) *Site improvements/screening.*

a. All support structures for wind energy facilities shall maintain a landscape strip of not less than ten feet in width and planted with materials which will provide a visual barrier to a minimum height of six feet if necessary to conceal any ground equipment, or safety walls or fences. The landscape strip shall be exterior to any security wall, if any. In lieu of the landscape strip, alternative screening may be approved or waived as part of the approval of any wind energy facility, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved or is unnecessary.
b. Vehicle or outdoor storage at any wind energy location is prohibited, unless otherwise permitted by the zoning applicable to other uses on the property.
c. Access for periodic maintenance and service shall be provided consistent with the underlying zoning district.

(13) *Safety requirements.* All wind energy facilities shall:

a. Comply with the requirements of the Net Metering and Easy Connection Act, R.S.Mo. §386.890 (2008), to the extent such facility is connected to the retail electric supplier for net metering;
b. Provide appropriate design or protection from ice falling hazards;
c. Be unclimbable by design or protected by anti-climbing devices such as:

i. Approved walls or fences with locking portals at least six (6) feet high and having required landscape screening, or

ii. Anti-climbing devices 12 feet vertical from the base of the WECS (wind energy conversion system) tower.

d. Include power outage protection so as to automatically terminate power generation during any power outage in any electrical utility system being served. Certification or documentation of such design shall be included with any permit approval.

(G.O. 2363, 11-30-09)

Sec. 31-356. Nonfunctional or non-complying structures.

(a) Any wind energy facility, including any exempt facility, that is nonfunctional for a period of 12 months shall be removed at the owner's expense. For purposes of this section, "nonfunctional" shall included a facility that:

(1) Is mechanically not producing electricity or power substantially as designed,

(2) Is disconnected from the electrical grid or consumption source for which the facility is intended to provide power or electricity, and/or

(3) Becomes in violation of the requirements or conditions of this ordinance after notice of the same by the city. Failure to comply with this provision shall constitute a nuisance that may be remedied by the city at the tower owner's or property owner's expense. Any costs of removal by the city shall be a lien on the property that may be collected as permitted for property taxes or nuisance abatement.

(4) Except for exempt facilities or facilities having a height of 45 feet or less, any applicant for a wind energy facility shall also place a bond or other security with the city prior to any final approval for the purpose of removing any tower or disguised structure as required herein and to compensate the city for performing proper maintenance to ensure such structures do not become unsafe or otherwise fail to be maintained in compliance with this article. The bond or security shall be in a form approved by the director, and in the amount of $15,000, or such other amount as is determined by the director to satisfy the requirements hereof with regard to the specific tower or structure to which it would apply. The director may waive or modify the bond requirement for small wind energy facilities for facilities less than 75 feet in height where the purposes of this article are shown by the applicant to be otherwise satisfied.

(G.O. 2363, 11-30-09)

Sec. 31-357. Operation of unlawful wind energy facility.

(a) Notwithstanding any right that may exist for a governmental entity to operate or construct a tower or structure, it shall be unlawful for any person to erect or operate any wind energy facility in violation of any provision of this article, regardless of whether such structure is located on land owned by a governmental entity.
(G.O. 2363, 11-30-09)

Sec. 31-358. Penalty.

(a) Any person violating the regulations set forth in this article shall be subject to a fine of not more than $500.00 or 90 days in jail or both. Each day the violation continues shall constitute a separate offense.
(G.O. 2363, 11-30-09)

Sec. 31-359. Reserved.

DIVISION 2. SOLAR ENERGY SYSTEMS (SES)

Sec. 31-360. Purpose.

To set forth standards that will assist industry providers and property owners in the determination of the proper installation and placement of solar related equipment with the understanding that solar capabilities may not be possible or feasible on all properties within the City of St. Joseph.
(G.O. 2698, 7-8-13)

Sec. 31-361. Definitions.

For purposes of this division the following words and terms as used herein are defined to mean the following:

(1) *Accessory solar energy system* shall mean an area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one or more free-standing ground, or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

(2) *Glare* shall mean the effect produced by light with an intensity sufficient to cause loss in visual performance and visibility.

(3) *Principal solar energy system* shall mean an area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

(4) *Solar easement* shall mean a solar easement means a right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

(5) *Solar energy* shall mean radiant energy (direct, diffuse and/or reflective) received from the sun.

(6) *Solar panel* shall mean that part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

(7) *Solar related equipment* shall mean items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy, such as:

a. *Solar array* shall mean a grouping of multiple solar modules with purpose of harvesting solar energy.
b. *Solar cell* shall mean the smallest basic solar electric device which generates electricity when exposed to sunlight.
c. *Solar module* shall mean a grouping of solar cells with the purpose of harvesting solar energy.

(G.O. 2698, 7-8-13)

Sec 31-362. Accessory Solar Energy Systems (ASES)

(a) The following regulations are applicable to all accessory solar energy systems:

(1) ASES shall be permitted as a use by right in all zoning districts.

(2) Exemptions:

a. ASES constructed prior to the effective date of this section shall not be required to meet the terms and conditions of this ordinance, but must still adhere to and all regulations that were in place at the time they were constructed. Any physical modification to an existing ASES whether or not existing prior to the effective date of this section that materially alters the ASES shall require approval under this ordinance. Routine maintenance or like-kind replacements do not require a permit.

(3) All on-site utility feeder lines associated with SES from the array to the final utility connection shall be placed underground.

(4) The owner of an ASES shall provide the city written confirmation that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.

(5) The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.

(G.O. 2698, 7-8-13)

Sec. 31-363. Solar easements.

(a) Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements.

(b) Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to:

(1) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed.

(2) Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement.

(3) Enumerate terms and conditions, if any, under which the easement may be revised or terminated.

(4) Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(5) If required, an ASES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

(c) In lieu of an easement submitted pursuant to the previous section, prior to the issuance of a zoning permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in any other property owner, its, his, her or their successors and assigns in title or, create in the property itself:

(1) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or

(2) The right to prohibit the development on or growth of any trees or vegetation on any other property, unless a solar easement is established according to the provisions of these regulations.

(G.O. 2698, 7-8-13)

Sec. 31-364. Screening.

The support structure for any ground mounted ASES shall be screened from all adjacent rights-of-way and property that is residentially zoned or used for residential purposes. Screening may consist of skirting, landscaping, privacy fence or other type of fence that meets the requirements of the zoning regulations. In the case that landscaping is used for screening of the support structure, evergreen trees that meet the size requirements of the city's landscaping regulations shall be placed at intervals of no more than six feet on center.

(G.O. 2698, 7-8-13)

Sec. 31-365. Accessory solar energy system located in designated local historic districts.

Any ASES that is located within a designated local historic district or any precise plan area shall, in addition to compliance with all other zoning and building code regulations, comply with the requirements of the respective local historic district or applicable precise plan. The determination of visibility from street right-of-way shall be the responsibility of the historic preservation planner within the historic districts or otherwise the city planner.

(G.O. 2698, 7-8-13)

Sec. 31-366. Solar readiness.

(a) No homeowners' agreement, covenant, common interest community, or other contract between multiple property owners within a subdivision shall restrict or limit solar energy systems to a greater extent than these regulations.

(b) In the event that renewable energy systems are not being implemented in a project, the city will encourage that the building design is "solar ready" such that solar electric, solar thermal systems, or both can be easily installed at a later date. Therefore the developer and architect should anticipate the future introduction of solar technologies in the preliminary orientation and siting of the building. Development proposals should also incorporate MEC conduit/chases; structural loads and anchoring needed to provide solar electric and solar thermal renewable energy systems in the future.

(c) The term "solar readiness" is not intended to apply to the orientation of streets or any other aspect of a construction project or subdivision other than the preparation of the structure(s) and the components thereof to facilitate the future conversion to solar energy use.
(G.O. 2698, 7-8-13)

Sec. 31-367. Use for advertising.

No part of a solar energy system shall be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials.
(G.O. 2698, 7-8-13)

Sec. 31-368. Permit requirements.

(a) Building permits shall be required for all solar energy systems in the City of St. Joseph.

(b) Zoning/building permit applications shall document compliance with these regulations and shall be accompanied by drawings showing the location of the system on the building or property, including property lines.

(c) The zoning/building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this division.
(G.O. 2698, 7-8-13)

Sec. 31-369. Roof mounted and wall mounted accessory solar energy systems.

(a) A roof mounted or wall mounted ASES may be located on a principal or accessory building.

(b) Roof mounted ASES may exceed the maximum building height specified for principal or accessory buildings within the applicable zoning district by no more than three feet.

(c) No part of the solar array or the supporting structure shall extend beyond any portion of the roof edge.

(d) Roof mounted solar panels on residential structures that are located on roof surfaces visible from the right-of-way of any street contiguous to the property shall be installed parallel to the respective roof surface.

(e) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the adopted building code of the City of St. Joseph and that the roof or wall is capable of holding the load imposed on the structure.

(f) Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.
(G.O. 2698, 7-8-13)

Sec. 31-370. Ground mounted accessory solar energy systems.

(a) Generally, ground mounted ASES will be required to adhere to the requirements of Section 31-050 of these regulations.

(b) *Setbacks.*

(1) The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structure setback in the zoning district.

(2) A ground mounted ASES shall not be located in any front yard. (See Section 31-371 pertaining to solar energy systems permitted as principal uses.)

(c) *Height.*

(1) Freestanding ground mounted ASES shall not exceed the maximum accessory structure height in the underlying zoning district.

(d) *Coverage.*

(1) The area beneath the ground mounted ASES is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable zoning district.

a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
b. All mechanical equipment of the system including any structure for batteries or storage cells.

(e) Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed or natural storm water conveyance system.
(G.O. 2698, 7-8-13)

Sec. 31-371. Solar energy systems as principal uses.

(a) Ground mounted solar energy systems are permitted as principal uses by right in the M-1 and M-2 zoning districts, subject to the following:

(1) Properties containing solar energy systems as principal uses shall contain a minimum of one acre.

(2) All SES permitted as principal uses shall comply with the side-yard and rear yard setbacks for accessory structures within the applicable zoning district. The front yard setback for principal use SES shall be ten feet.

(3) No residential use or structure shall exist on the property.

(4) The solar energy system must provide energy to off-site locations and to other than the owner of the property containing the solar array.

(5) Solar energy systems permitted as principal uses shall comply with all other applicable regulations within this section and other sections of the code that apply to accessory solar energy systems.
(G.O. 2698, 7-8-13)

Secs. 31-372—31-399. Reserved.

ARTICLE VII. LANDSCAPING

Sec. 31-400. Purpose.

The purpose of this article is to enhance the attractiveness of the community through the establishment of landscape requirements for urban development projects. The provisions for the installation and maintenance of landscaping will aid in providing a healthy, beautiful, and safe community through improved aesthetics, environmental quality, land values, and preservation and creation of vegetated open spaces.

In addition, properly established and maintained landscaping can improve the livability in neighborhoods, enhance the appearance of

commercial areas, increase property values, improve relationships between incompatible uses, screen undesirable views, soften the effects of structural features and contribute to a positive overall image of the community.
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-401. Definitions.

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

(1) Abutting property: Two or more properties wherein the properties share one or more common property lines.

(2) *Adjacent property*: Any property that is next to another with either common property boundaries or property boundaries separated by a public right-of-way.

(3) *Berm:* An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

(4) *Common property line:* A property line common to two or more abutting properties.

(5) *Conifer tree:* Any of various mostly needle-leaved or scale-leaved, chiefly evergreen, cone-bearing gymnospermous trees such as pines, spruces and firs. For the purposes of these regulations, a conifer shall be considered a shade tree if it is at least six feet tall when planted.

(6) *Deciduous:* Tees and shrubs that shed their leaves after the growing season.

(7) *Evergreen:* A tree, shrub or plant having foliage that persists and remains green throughout the year.

(8) *Front yard:* A yard across the full width of a lot from the front line of the main building to the front property line of the lot.

(9) *Ground cover:* Living landscape materials or low-growing plants, other than turf grasses, planted in such a manner so as to provide a continuous cover of the ground surface, and which upon maturity normally reach the average maximum height of not greater than 24 inches.

(10) *Hedge*: A landscape barrier consisting of continuous dense planting of shrubs.

(11) *Irrigation system:* Permanent, artificial watering system designed to transport and distribute water to plants.

(12) *Landscape materials:* Living plants, such as trees, shrubs, vines, groundcover, flowers and grasses. It may include such nonliving features as bark, wood chips, rock, brick, stone or similar materials (monolithic paving not included) and structural and/or decorative features such as fountains, pools, gazebos, walls, fences, benches, light fixtures, sculpture pieces and earthen berms, terraces and mounds.

(13) *Landscaping:* The product of careful planning and installation using any combination of landscape materials subject to the limitations set out in this chapter which results in the softening of building lines, the modification of environmental extremes, the definition of separate functional spaces and the presentation of a pleasing visual effect on the premises.

(14) *Mulch:* Non-living organic, inorganic or synthetic materials customarily used in landscape design and maintenance to retard soil erosion, retain moisture, insulate soil against temperature extremes, suppress weeds, deter soil compaction and provide visual interest.

(15) *Ornamental tree:* A deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark or shape, with a mature height generally under 40 feet.

(16) *Parking lot:* An area not within a building or other structure where motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. This definition shall include vehicle queuing or holding areas such as

at car washes, drive-up windows, gasoline pumps, etc., but shall not include vehicle storage and display areas for new and used vehicle sales lots or parking for one-family and two-family dwellings.

(17) *Shade tree:* Usually a deciduous tree -- rarely an evergreen -- planted primarily for its high crown of foliage or overhead canopy.

(18) *Shrub:* A deciduous or evergreen woody plant smaller than a tree and larger than ground cover, consisting of multiple stems from the ground or small branches near the ground, which attains a height of 24 inches or more.

(19) *Side yard:* A yard between the side line of the main building and the adjacent side property line of the lot, and extending entirely from the front property line to the rear property line.

(20) *Street frontage:* The length of the property abutting on one side of a street measured along the dividing line between the property and the street.

(21) *Street wall*: Any building wall facing a street.

(22) *Street wall line:* A line that extends from the building parallel to the street wall until it intersects a side or rear lot line or a wall line of another building.

(23) *Xeriscape* Landscape methods which conserve water through the use of drought-tolerant plants and planting techniques.

(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-402. Applicability and conflicts.

The standards and criteria contained within this article are deemed to be minimum standards and shall apply to all new construction occurring within the city except that industrially zoned properties in M-1 and M-2 districts meet the landscape requirements for the first 20,000 square feet of structure, 20,000 to 40,000 square feet of structure must meet half of the landscape requirements, beyond 40,000 square feet of structure is exempt from additional landscape requirements; and single-family residential developments shall not be required to comply with buffer requirements. Commercially zoned properties in C-2 and P-1 districts are exempt from landscaping requirements unless specified as part of an overlay zone or district.

If the provisions of this article conflict with other ordinances or regulations, the more stringent limitation or requirement shall prevail to the extent of the conflict.
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07; G.O. 2809, 3-28-16)

Sec. 31-403. Enforcement.

(a) The provision of this article shall be administered and enforced by the city planner or his/her designee.

(b) Prior to the issuance of a certificate of occupancy for any structure where landscaping is required, a letter from the landscape architect, architect, engineer, designer or contractor shall be provided to the city planner stating that the landscaping has been installed in accordance with the landscape plan and with the provisions of this article.

(c) If the building is complete and the developer/property owner cannot install the landscaping because of weather or other significant factors, the owner/developer may submit to the city planner a written extension request to a specified date, not to exceed six months. A certificate of occupancy shall not be issued until such time as the landscaping is installed or the extension request has been approved.
(G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-404. Landscape plans.

(a) The landscape plan may be submitted concurrently with the site plan or subdivision plat. The city planner, or his/her designee, shall review such plans within five working days and shall approve them if the plans are in accordance with criteria specified in this article. If the plans are not in accord, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary to bring the plans into compliance.

(b) Landscape plans shall contain the following information:

(1) The location of all trees to be preserved;

(2) The location of all plant and landscaping materials to be used including plants, paving or other landscape features;

(3) The type of all plant material (shade, ornamental or evergreen tree; shrub, grass; etc.) to be used;

(4) The size of plant material to be used;

(5) The spacing of plant material where appropriate; and

(6) The person or persons responsible for the preparation of the landscape plan.

(c) Landscape methods which conserve water through the use of drought-tolerant plants and planting techniques, known as xeriscape are encouraged.
(G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-405. Maintenance.

The landowner is responsible for the maintenance of all landscaping materials and shall keep them in proper, neat and orderly appearance, free from noxious weeds, debris and refuse at all times.

Maintenance shall include mowing, trimming, weeding, cultivation, mulching, tightening and repairing of guys and stakes, resetting plants to proper grades and upright position, restoration of planting areas as needed, pruning, diseases and insect control, repair and maintenance of irrigation systems and other maintenance as deemed necessary by the city.

Disturbed soil between trees and shrubs in the planting beds shall be mulched, planted or otherwise treated to prevent wind and water erosion.

Plants which die shall be replaced within 60 days or, if weather prohibits replanting within that time, shall be immediately removed from the landscape area and then replanted within the first 30 days of the next planting season.
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Section 31-406. General standards.

The following criteria and standards shall apply to landscape materials and installation.

(1) *Coverage*. Grass, ground cover, shrubs and other living landscape materials shall be used to cover all open ground. Landscaping materials, such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate.

(2) *Trees*. Trees referred to in this article shall be of a species common to or adapted to this area of Missouri. The city planner can provide an appropriate tree list. Caliper measurements shall be taken six inches above grade. Trees shall have the following characteristics:

a. Shade trees shall be deciduous trees or conifer trees. Deciduous trees shall have a minimum height of 30 feet at maturity and evergreen or conifer trees shall have a minimum height of 20 feet at maturity.
b. Ornamental trees shall be flowering deciduous trees.

The minimum size of trees at the time of planting shall be as follows:

a. Shade trees -- Two and one half inch or greater caliper measured at a height of six inches above the ground.
b. Ornamental trees—Two inch or greater caliper measured six inches above the ground.
c. Conifer/evergreen trees—A minimum of six feet in height measured from the surface of the ground at the base of the tree to the top of the tree.

(3) *Shrubs and Hedges*. Shrubs shall be a minimum of 18 inches in height when measured immediately after planting. Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen and shall be at least three feet high within one year after time of planting.

(4) *Substitutions*. Reduction in the number and/or size of plantings may be approved by the city planner where the applicant establishes that the location of driveways

or unique physical characteristics of the property would not allow the plantings as required in this article.

(5) *Waivers.* The city planner may waive rules regarding setbacks and buffers when written consent has been received from all owners of abutting property. Where such written consent is not filed, an exception to the landscape ordinance may be granted by the board of adjustment as explained in Section 31-412.

(6) *Design*. To ensure that new development includes natural features such as trees and shrubs, sites shall be designed with the following standards:

a. Landscaping within and around a parking lot shall be provided in accordance with the following minimum standards:

i. One shade tree or two ornamental trees shall be planted per 15 parking spaces. These trees may be planted within landscape islands, buffer areas or open space.

b. Any trees planted on land lying between property lines on either side of all streets, avenues or ways within the city shall be deemed "street trees" and shall be installed in accordance with Chapter 25, Article VI "Trees".

c. In addition to the parking lot landscaping, open space areas shall be landscaped in accordance with the following:

i. For every 3,000 square feet of building area, at least one shade tree or ornamental tree shall be required.

d. Existing trees and shrubs may be credited against the minimum landscaping requirements provided they are in healthy condition and meet the minimum planting standards.

e. The developer, its successor and/or subsequent owners of a development shall be responsible for the maintenance of landscaping on a continuing basis for the life of a development in accordance with the approved landscape plan.

f. All land areas not covered by buildings and to be left unpaved shall be brought to finished grade and planted in sod, native grasses or other appropriate ground covers.

g. Shade and ornamental trees, but not conifer trees or shrubs may be located in part or in total in adjacent public right-of-way areas if approved as to type and location by the city engineer of the city. Said approval shall be based on a detailed landscape plan that includes utility, sidewalk and curb line location. It is recommended that trees be located no closer than six feet to either side of a sidewalk or to the curb line unless root barrier materials are installed at the time of tree planting.

(G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-407. Buffers.

(a) Buffers shall be required as shown on the "Buffer Table" (see page 31-115) where different zoning classifications abut or are separated by an alley. A buffer required by the table shall be provided by the proposed development when it is located in a zoning district listed in the left-most column of the table and the development abuts or is separated by an alley from a zoning district listed across the top of the table.

(b) Where a proposed development is located adjacent to a planned unit development or a precise plan district, a buffer shall be required based on the existing uses in the area adjacent to the proposed development or most intense uses permitted by the development or district if the area adjacent to the proposed development is vacant. The buffer required shall be based on the table (see page 31-115) in this section using the zoning district in which the existing or proposed uses most closely mirror.

(c) A buffer shall be required adjacent to a street (excluding alleys) for nonresidential uses in residential districts and all uses in nonresidential districts when:

(1) The property across the street is zoned residential and is vacant or developed with residential uses; and

(2) The right-of-way width of a street is 70 feet or less.

(d) A buffer is not required when there is an intervening public street with a right-of-way width greater than 70 feet or railroad rights-of-way (does not include railroad spurs on private property) between two districts.
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-408. Buffer standards.

(a) Buffer standards are stated in terms of the minimum 20 foot width of the buffer and the number of plant units required per 100 linear feet. The number of plant materials required shall be rounded up when a fraction is calculated. The type and quantity of plant materials required by each buffer is specified in this Section. These standards are minimum requirements. More plantings, wider buffers or higher structures may be provided. If a buffer required below does not require a solid screen, the width of the buffer may be reduced by five feet if a solid screen at least six feet in height is provided the length of the buffer. If a solid screen at least six feet in height is provided along the property line, the length of the buffer, ornamental or evergreen trees may be substituted for shrubs at the rate of one ornamental or evergreen tree for each five shrubs.

(b) The following corresponds with the buffer table referenced in Section 31-407:

(1) Buffer A.

a. One deciduous tree per lot for lots 40 feet wide or greater.
b. One ornamental tree per lot for lots less than 40 feet wide.

(2) Buffer B.

a. Required plantings per 100 linear feet:

i.. One deciduous tree; and
ii. One ornamental tree; and
iii. One evergreen tree; and
iv. Six shrubs.

(3) Buffer C.

a. Required plantings per 100 linear feet:

i.. One deciduous tree; and
ii. Two ornamental trees; and
iii. Two evergreen trees; and
iv. Ten shrubs.

(4) Buffer D.

a. Required plantings per 100 linear feet:

i. Two deciduous trees; and
ii. Two ornamental trees; and
iii. Two evergreen trees; and
iv. Fourteen shrubs.

(5) Buffer E.

a. Required plantings per 100 linear feet:

i. Three deciduous trees; and
ii. Two ornamental trees; and
iii. Two evergreen trees; and
iv. Fifteen shrubs; and

b. Required structure:

i. Six foot solid wood/vinyl fence; or
ii. Six foot solid masonry/brick wall; or
iii. Six foot solid evergreen hedge.

(6) Buffer F.

Unless a building is located on the property line, a six foot solid wood/vinyl fence, a six foot solid masonry/brick wall or a six foot solid evergreen hedge shall be provided.

(7) Buffer G.

a. Required plantings per 100 linear feet:

i. Three deciduous trees; and
ii. Three ornamental trees; and
iii. Four evergreen trees; and
iv. Twenty shrubs.

b. Required structure:

i. Six foot solid wood/vinyl fence; or
ii. Six foot solid masonry/brick wall; or
iii. Six foot solid evergreen hedge.

(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-409. Sight distance and visibility.

(a) In no case shall a sight-obscuring fence, hedge, tree or other visual barrier be placed or maintained in excess of three feet high within a street or driveway intersection sight visibility triangle as defined in Section 31-113 of this code. Trees within a street or driveway intersection sight visibility triangle shall be kept trimmed so the tree canopy is no less than ten feet high.

(b) Landscaping, except required grass and low ground cover, shall not be located closer than five feet from the edge of any public access pavement unless approved by the city planner or his/her designee.

(c) For single and two-family residential districts, no more than 50% of the front yard area shall be allowed as a vehicular parking area nor allowed to have paving associated with the same, except that amount of paving allowed shall provide for a standard two car driveway.
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-410. Utility easements.

Utility easements shall be agreed to with the affected utility prior to submission of Landscape Plans. Within utility construction requirements, easements shall be provided at locations that minimize their impact on required buffers and perimeter landscaping. Plantings on utility easements shall be limited to ornamental trees, shrubs and hedges, ground cover and lawn grass. Each required deciduous tree may be replaced by two (2) ornamental or evergreen trees to reduce conflicts with overheard utilities. Planting in or

adjacent to a utility easement shall be coordinated with the utility company.
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-411. Administrative remedies.

Until the provisions of this article, and including any conditions of permits issued thereunder, have been fully met, the city may withhold issuance of any building permit, certificates of occupancy or inspection required under the city building or zoning codes, or the city may issue cease and desist orders for further development.
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-412. Exceptions.

Notwithstanding the provisions of Section 31-056, proposed additions of ten percent or less of the existing floor area of any or all existing structures, or a maximum of 10,000 square feet, which were built prior to January 1, 1996, shall be required to meet the landscape requirements only for the new addition.

Except as otherwise provided in this section, exceptions to the landscape ordinance shall be granted by the board of adjustment as per Section 31-090 (board of adjustment) and 31-093 (exceptions), except that in order for the board to grant the exception, it shall make the following determinations:

(1) That the exception to the landscaping requirements will not be detrimental to or cause undue hardship to the surrounding property, neighborhood and property owners;

(2) That the exception is in keeping with the purpose of Article VI (landscaping); and

(3) That the exception is one that will require the least modification to the prescribed regulations and the minimum exception that will accomplish the purpose; and

(4) That the literal enforcement of the provisions of the ordinance will result in restrictions inconsistent with the purpose of the applicable section.

If a property owner chooses to avoid the requirements of this article in full, a variance is required in accordance with Section 31-090 (board of adjustment) and 31-092 (variances)
(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07; G.O. 2809, 3-28-16)

Sec. 31-413. Penalties.

Any person, individual, partnership, corporation or association who violates any of the provisions of this article and who fails to correct such a violation upon written notice of a violation from the city shall be served with a citation, and if found guilty of said violation, shall be guilty of a misdemeanor.

(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-414. Appeals.

Any person aggrieved by the administration of interpretation of any of the terms or provision of this article may appeal to the board of adjustment as provided in Section 31-090 (board of adjustment) of the zoning code, at which time the board of adjustment may reverse, affirm or modify, in whole or in part, the order, requirement, decision or determination that is the subject of the appeal.

(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)

Sec. 31-415. Severability.

If any of this article or ordinance, or provisions of this article or ordinance is for any reason held illegal, invalid or unconstitutional, such action shall not effect the remaining provisions of this article or ordinance, and of which said remaining article or ordinance shall remain valid to the extent possible.

(G.O. 2016, 4-26-04; G.O. 2030, 7-6-04; G.O. 2241, 7-30-07)