

## TITLE IV. LAND USE

### CHAPTER 400: CITY PLAN COMMISSION

#### SECTION 400.010: PURPOSE

In order to make adequate provision for and to stimulate, guide, direct, arrange and beautify the City of Bella Villa and the future development and growth thereof, there is hereby created a Commission to be known as the City Plan Commission. (R.O. 2009 §400.010; Ord. No. 7 §7-1, 7-28-47)

#### SECTION 400.020: COMPOSITION—TERMS—VACANCY—REMOVAL

There is hereby established within and for the City a Planning and Zoning Commission which shall consist of not more than fifteen (15) nor less than seven (7) members, including the Mayor, if the Mayor chooses to be a member; a member of the Board of Aldermen selected by the Board, if the Board chooses to have a member serve on the Commission; and not more than fifteen (15) nor less than five (5) citizens appointed by the Mayor and approved by the Board of Aldermen. The term of each of the citizen members shall be for four (4) years, except that the terms of the citizen members first (1st) appointed shall be for varying periods so that succeeding terms will be staggered. Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid. The Board of Aldermen may remove any citizen member for cause stated in writing and after public hearing. Terms of office shall begin June first (1st) and expire on May thirty-first (31st) of the appropriate year. All members shall serve without compensation. (R.O. 2009 §400.020; Ord. No. 7 §7-2, 7-28-47; Ord. No. 409 §1, 2-23-06)

#### SECTION 400.030: PROCEDURE

The Commission may elect from among its citizen members its own Chairman, Vice Chairman, Secretary and Treasurer and from time to time provide such rules and regulations, not inconsistent with the ordinances of said City, for its own organization and procedure as it may deem proper; provided however, that the Mayor, City Engineer and member of the Board of Aldermen, shall not be eligible to hold any of the offices in this Section mentioned. (R.O. 2009 §400.030; Ord. No. 7 §7-3, 7-28-47)

#### SECTION 400.040: REPORTS

The Commission may make reports and recommendations relating to the plan and development of the municipality to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. It may recommend to the executive or legislative officials of the municipality programs for public improvements and the financing thereof. All public officials shall, upon request, furnish to the Commission, within a reasonable time, all available information it requires for its work. The Commission, its members and employees, in the performance of its functions, may enter upon any land to make examinations and surveys. In general, the commission shall have the power necessary to enable it to perform its functions and promote municipal planning.

**SECTION 400.050: POWERS AND DUTIES**

The powers and duties of the Commission shall be to prepare from time to time a Comprehensive Plan or plans showing its ideas and recommendations of a zoning system covering the whole or any part of the City, together with its recommendations as to restrictions and other questions or issues therewith connected, and provide such outlines, drawings, maps or plans covering the whole or any portion of said City and of any lands outside of said City that in the opinion of the Commission bears relation to the welfare or beauty of the City or its inhabitants; and said plan or plans shall show the Commission's ideas and recommendations relative to the location, length, width and arrangement of the streets, alleys, bridges, viaducts, parks, playgrounds, boulevards, or other public grounds or improvements, the platting of public property into lots, plots, streets, alleys, railroad or streetcar lines, transportation or other channels for communication of any kind, the grouping of public buildings, the design and placing of any memorials, works of art, power or lighting plants, street lighting standards, telegraph and telephone poles, street name sign, billboards or projecting signs and all other things pertaining to the welfare, housing, appearance or beauty of said City or any portion thereof. The Commission shall consider any proposition to amend or change the zoning ordinance or map of other proposition referred to it by the Mayor or Board of Aldermen and shall report back to the Board of Aldermen in writing its recommendation thereon stating the reasons for its recommendation. The Commission shall perform such other duties as may be provided by law or ordinance. (R.O. 2009 §400.050; Ord. No. 7 §7-5, 7-28-47)

**SECTION 400.060: LEGISLATION**

It shall also be the duty of the Commission to prepare and recommend such national, State and municipal legislation as may, in their opinion, be deemed necessary in carrying out the recommendations or suggestions of the Commission. (R.O. 2009 §400.060; Ord. No. 7 §7-6, 7-28-47)

## **CHAPTER 405: GENERAL PROVISIONS**

### **SECTION 405.010: INTERPRETATION, PURPOSE AND CONFLICT**

In interpreting and applying the provisions of this Chapter, 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 Title to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this Title, or which shall be adopted or issued pursuant to law relating to the use of building or premises, and likewise, not in conflict with this Title; nor is it intended by this Title to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this Title imposes a greater restriction, this Title shall control. (R.O. 2009 §405.010; Ord. No. 20 §7-4, 3-22-49)

### **SECTION 405.020: DIVISION OF CITY INTO DISTRICTS**

In order to classify, regulate and restrict the location of trades, industries and the location of buildings designed for specified uses; to regulate and limit the height and bulk of buildings; to regulate and limit the intensity of the uses of lots; and to regulate and determine the area of yards, courts and other open spaces within and surrounding buildings, the City of Bella Villa is hereby divided into districts of which there shall be four (4) in number, known as:

1. "A" Single-Family Dwelling District;
2. "B" Single-Family or Duplex Dwelling District;
3. "C" Commercial District; and
4. "D" Light Industrial District. (R.O. 2009 §405.020; Ord. No. 20 §7-9, 3-22-49)

### **SECTION 405.030: DISTRICT MAP**

The boundaries of the districts are shown upon the map made a part of this Title, which map is designated as the "District Map". The District Map and all the notations, references and other information shown thereon are a part of this Title and have the same force and effect as if the District Map and all the notations, references and other information shown thereon were all fully set forth or described herein, which District Map is properly attested and is on file with the Clerk of the City of Bella Villa. (R.O. 2009 §405.030; Ord. No. 20 §7-10, 3-22-49)

### **SECTION 405.040: GENERAL PROVISIONS AS TO ALL DISTRICTS**

- A. All territory which may hereafter be annexed to the City of Bella Villa shall be considered as being in the "A" Single-Family District until otherwise changed by ordinance.
- B. Whenever any street, alley or other public way is vacated by the Board of Aldermen, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to

the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

C. Except as hereinafter provided:

1. No person shall use any premises for a use other than those permitted in the district in which such premises are located.
2. No building shall be erected unless it shall be designed to make the premises conform to the regulations for the district in which the premises are located.
3. No building shall be enlarged, structurally altered or moved unless such enlargement, structural alteration or moving shall be designed to make the premises conform to the regulations for the district in which the premises are located.
4. Every building hereafter erected, enlarged or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one (1) lot. In applying the area regulations for a building erected, enlarged, structurally altered or moved, land formerly part of another lot and not in excess of the area requirements for such other lot shall not be counted, provided, however, that more than one (1) dwelling or commercial building may be grouped in a court arrangement on a single lot if all yard and intensity of use regulations are complied with. (R.O. 2009 §405.040; Ord. No. 20 §§7-11—7-13, 3-22-49)

#### SECTION 405.050: DEFINITIONS

For the purpose of these Zoning Regulations, certain words and phrases are herein defined. Words and phrases defined herein shall be given the defined meaning. Words and phrases which are not defined shall be given their usual meaning except where the context clearly indicates a different or specified meaning.

Words used in the present tense shall include the future; the singular number includes the plural and the plural includes the singular; the word "*dwelling*" includes the word "*residence*"; the word "*shall*" is mandatory and not permissive.

The following words and phrases are defined:

**ACCESSORY BUILDING:** Any building, the use of which is incidental to the principal use of another structure on the same premises.

**ACCESSORY STRUCTURE:** Any structure, the use of which is incidental to the principal use of another structure on the same premises.

**ACCESSORY USE:** A use incidental and subordinate to the principal use of the premises.

**ADULT BOOKSTORE:** An establishment having ten percent (10%) or more of its stock in trade, in books, photographs, magazines, films for sale or viewing on or off the premises by use of motion picture devices, video players, DVD players, computers or coin-operated means or other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing

or relating to sex or sexual activity or the principal purpose of which is to sexually stimulate or sexually arouse the patron viewer or reader.

**ADULT ENTERTAINMENT BUSINESS OR ESTABLISHMENT:** Any of the establishments, businesses, buildings, structures or facilities which fit within the definition of adult bookstore, adult entertainment facility, bathhouse, massage shop and/or modeling studio.

**ADULT ENTERTAINMENT FACILITY:** Any building, structure or facility which contains or is used entirely or partially for commercial entertainment, including theaters used for presenting live presentations, video tapes, DVDs or films predominantly distinguished or characterized by their principal emphasis on matters depicting, describing or relating to sexual activities and exotic dance facilities (regardless of whether the theater or facility provides a live presentation, video tape, DVD or film presentation), where the patrons either:

1. Engage in personal contact with or allow personal contact by employees, devices or equipment or by personnel provided by the establishment which appeals to the prurient interest of the patrons; or
2. Observe any live presentation, video tape, DVD or film presentation of persons wholly or partially nude, unless otherwise prohibited by ordinance, with their genitals or pubic region exposed or covered only with transparent or opaque covering or in the case of female persons with the areola and nipple of the breast exposed or covered only with transparent or opaque covering or to observe specified sexual activities as that term is defined herein.

**ALLEY:** A public thoroughfare which affords only a secondary means of access to abutting property.

**APARTMENT:** A room or suite of rooms within a building, provided with separate cooking facilities and intended as a single dwelling unit.

**ATRIUM:** An open public area within a building established principally for aesthetic purposes.

**AUTOMOBILE:** As used herein, the term includes passenger cars, motorcycles, vans, pickup trucks and recreational vehicles.

**BANK:** An office building or portion thereof which provides for the custody, loan, exchange or issue of money, the extension of credit, or facilitating the transmission of funds, and which may include accessory drive-up units on the same premises.

**BASE FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**BASEMENT:** A floored and walled substructure of a building at least fifty percent (50%) below the average finished grade of the building.

**BATHHOUSE:** An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated or supervised by a medical or chiropractic practitioner or professional physical therapist licensed by the State.

**BOARD AND BREAKFAST:** A building other than a hotel where, for compensation and by

prearrangement for definite periods, lodging and meals are provided for one (1) or more persons, but not exceeding three (3) adults per bedroom/bath facilities.

**BUILDING:** A structure that is affixed to the land, has one (1) or more floors, one (1) or more exterior walls and a roof, and is designed or intended for use as a shelter.

**CEMETERY:** A place for the burial of the dead, including crematory facilities as an accessory use.

**CHECK-CASHING ESTABLISHMENT:** A business which engages in check-cashing operations for a fee as a primary or substantial element of its business and which is not a financial institution as defined in this Chapter.

**CHILD CARE CENTER:** Facility providing care for five (5) or more children under the age of thirteen (13), not including children of a family residing on the premises, for any part of a twenty-four (24) hour day.

**CLUB:** A building or a portion of a building intended to be used as a center of informal association for a selective membership not open to the general public.

**COMMUNITY CENTER:** A facility maintained by a public agency or by a not-for-profit community or neighborhood association primarily for social, recreational or educational needs of the community or neighborhood.

**CONVENIENCE STORE:** A retail establishment having a gross floor area of five thousand (5,000) square feet or less, primarily selling foods as well as other household goods customarily sold in larger food markets and supermarkets.

**COSMETIC MICROPIGMENTATION:** A method of adding, replacing or augmenting cosmetic features by the placement of subcutaneous pigmentation by a licensed doctor or nurse.

**DAY CARE HOME:** A family home, occupied as a permanent residence by the day care provider, in which care is given to no more than ten (10) children, including children related to the day care provider, for any part of the twenty-four (24) hour day.

**DEVELOPMENT:** The act of changing and the state of a tract of land after its function has been purposefully changed by humankind including, but not limited to, structures on the land and alterations to the land.

**DISTRICT:** A part or parts of the City for which the zoning ordinance established regulations governing the development and use of land therein.

**DORMITORY:** A building with many rooms providing sleeping and living accommodations for a number of usually unrelated persons; usually associated with an educational institution.

**DWELLING:** Any building, or portion thereof, used exclusively for human habitation, except hotels, motels or house trailers.

**DWELLING, MULTIPLE-FAMILY:** A building or portion thereof designed for or occupied exclusively by three (3) or more families.

*DWELLING, SINGLE-FAMILY:* A building designed for or occupied exclusively by one (1) family, excluding earth-sheltered dwellings.

*DWELLING, SINGLE-FAMILY ATTACHED:* Two (2) or more single-family dwellings sharing common wall areas, each on its own individual lot.

*DWELLING, SINGLE-FAMILY, EARTH-SHELTERED:* A single-family dwelling having one-half (½) or more of its clear height below the average finished grade of the adjoining ground and in some cases having its floor at the approximate level of some other exterior grade on one (1) or more sides.

*DWELLING, TWO-FAMILY:* A building designed for or occupied exclusively by two (2) families.

*DWELLING UNIT:* A room or group of rooms located within a dwelling forming a habitable unit for one (1) family.

*FAMILY:* An individual or two (2) or more persons related by blood or marriage or a group of not more than three (3) persons who need not be related by blood or marriage living together and subsisting in common as a single non-profit housekeeping unit utilizing only one (1) kitchen.

*FARM:* A parcel of land used for growing or raising agricultural products, including related structures thereon.

*FAST-FOOD RESTAURANT:* Any establishment whose principal business is the sale of foods, frozen desserts or beverages in ready-to-consume individual servings for consumption either within the restaurant building or for carry-out, and where either:

1. Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers, and where customers are not served their food, frozen desserts or beverages by a restaurant employee at the same table or counter where the items are consumed, or
2. The establishment includes a drive-up or drive-through service facility or offers curb service.

*FENCE, SIGHT-PROOF:* A fence with an opaque value of seventy percent (70%) or greater. Such structure may be a chain link fence in combination with slat or lattice materials.

*FILLING STATION (SERVICE STATION):* Any structure or premises used for dispensing or sale, at retail, of vehicle fuels or lubricants, including lubrication of vehicles and replacement or installation of minor parts and accessories, but not primarily engaged in major repair work such as engine replacement, body and fender repair or spray painting.

*FINANCIAL INSTITUTION:* A bank, credit union or savings and loan facility licensed as such by an appropriate State or Federal agency.

*FLOODPLAIN:* That area within the City subject to a one percent (1%) or greater chance of flooding in any given year. This area is designated as "FP".

*FLOODWAY:* The area designated as floodway on the St. Louis County Zoning Map. It is derived by determining that portion 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 (1) foot.

**FLOOR AREA, GROSS:** The sum of the gross horizontal area of all floors of a building, including basement areas, as measured from the interior perimeter of exterior walls. Such area shall not include the following: Interior loading and parking areas, atriums except the first (1st) floor area, rooftop mechanical equipment enclosures, and the enclosed mall areas of shopping centers.

**FOSTER HOME FOR HANDICAPPED CHILDREN:** An institution providing sleeping and living accommodations for the full-time care, training, recreation and convalescent needs of five (5) or more physically or mentally handicapped minors.

**FRONTAGE:** That edge of a lot bordering a street.

**GOLF COURSE:** An area or course for playing golf consisting of at least nine (9) holes, except miniature golf, within which the playing area is not artificially illuminated.

**GARAGE, PRIVATE:** An accessory building designed or used for the storage of no more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

**GARAGE, PUBLIC:** A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

**GARAGE, STORAGE:** A building or portion thereof designed or used exclusively for term storage by prearrangement of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold.

**GOLF, MINIATURE:** A commercial recreation facility, resembling golf, containing short "holes", the majority of which are under three hundred (300) feet in length and primarily utilizing putting irons.

**GROUP HOME:** Any home in which eight (8) or fewer unrelated mentally or physically handicapped persons reside, and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

**GROUP HOME FOR THE ELDERLY:** A facility providing twenty-four (24) consecutive hour care for three (3) or more persons who by reason of aging require services furnished by a facility that provides shelter, board, storage and distribution of medicines, and protective oversight, including care during short-term illness or recuperation.

**GROUP HOUSING (GROUP HOUSE ARRANGEMENT):** Any combination of dwelling units comprised of two (2) or more residential buildings designed as a functional unit on and with the specific parcel of land on which they are to be erected.

**GYMNASIUM:** A building or portion thereof used for athletic training or sports activities, including accessory seating for spectators.



**HELIPORT:** A facility for the servicing, takeoff and landing of helicopters, which is open to public use.

**HOME IMPROVEMENT CENTER:** A retail store of at least twenty thousand (20,000) square feet selling only building materials, floor and wall coverings, items designed for installation in the home and associated tools.

**HOME OCCUPATION:** A domestic activity carried on by members of a family residing on the premises, but excluding beauty shops, barbershops, music schools, convalescent or nursing homes, tourist homes, massage or other establishments offering services to the general public, and providing that there are no signs nor any display that will indicate from the exterior of the building that it is being utilized, in whole or in part, for any purpose other than that of a dwelling; providing also, that there is no stock in trade or commodity sold upon the premises, no person is employed other than a member of the family residing on the premises, and no mechanical equipment is used except such as is customary for purely domestic or household purposes. The keeping of not more than two (2) roomers or boarders shall be considered a permitted home occupation. The care and supervision of not more than four (4) children other than those residing on the premises shall be considered a permitted home occupation.

**HOSPICE:** Residential and care facility for the terminally ill on the premises of a hospital or nursing home and operated in conjunction therewith.

**HOSPITAL:** An institution providing medical and surgical care for humans only, for both in- and out-patients, including medical service, training, and research facilities.

**HOTEL:** A building in which lodging is provided to the public usually on a transient basis.

**HOTEL, MOTOR (MOTEL):** A roadside hotel for motorists.

**HOUSE TRAILER (MOBILE HOME):** A self-contained mobile structure intended to be used for dwelling purposes which has been or reasonably may be equipped with wheels or other devices for transporting said structure.

**HOUSE TRAILER PARK:** An area designed or intended to be used as a site for occupied house trailers.

**INTERMITTENT LIGHTING:** A method of lighting, such as for signs, where artificial or reflected light is not maintained stationary or constant in intensity or color.

**JUNKYARD:** 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 an automobile graveyard, garbage dump or sanitary fill.

**KENNEL:** The use of land or buildings for the purpose of selling, breeding, boarding or training dogs or cats or both, or the keeping of four (4) or more dogs over four (4) months of age, or keeping six (6) or more cats over four (4) months of age, or the keeping of more than five (5) dogs and cats. The word "selling", as herein used, shall not be construed to include the sale of animals four (4) months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over four (4) months old by persons not operating a kennel as herein defined.

**LANDING STRIP:** A facility for takeoff and landing of aircraft, with or without services available for aircraft, which is operated for private use.

**LARGE LOT ROADWAY EASEMENT:** A private thoroughfare which provides a means of access to lots within a large lot subdivision.

**LOADING SPACE:** A durably dust-proofed, properly graded for drainage, off-street space used for the loading and unloading of vehicles, except passenger vehicles, in connection with the use of the property on which such space is located. Each such designated space shall comply with the applicable dimensional requirements set forth in St. Louis County Zoning Ordinance, Section 1003.165 "Off-Street Parking and Loading Requirements".

**LOT:** A platted parcel of land intended to be separately owned, developed and otherwise used as a unit.

**LOT, CORNER:** A platted parcel of land abutting two (2) road rights-of-way at their intersection.

**LOT (PARCEL) OF RECORD:** A lot which is part of a subdivision, the plat of which has been legally approved and recorded in the office of the Recorder of Deeds of St. Louis County, or a parcel of land which was legally approved and the deed recorded in the office of the Recorder of Deeds.

**MALL:** An enclosed public way upon which business establishments have direct access and which serves primarily for the movement of pedestrians, with trees, benches or other furnishings provided and with vehicular access prohibited, restricted or reduced so as to emphasize pedestrian use.

**MASSAGE BUSINESS:** Any place of business in which massage therapy is practiced.

**MATERIAL IMPROVEMENT:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition, "material improvement" is considered to occur when the first (1st) alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**MEDICAL OR DENTAL OFFICE (CLINIC):** A facility for the practice of medicine or dentistry for humans, including accessory diagnostic laboratories, but not including patient or overnight care or operating rooms for major surgery.

**MODELING STUDIO:** An establishment or business which provides for a fee or compensation the services of modeling on premises for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise. This does not apply to public or private schools in which persons are enrolled in a class.

**MODULAR UNIT:** A prefabricated building which arrives at its building site virtually complete, requiring only site preparation and assembly of major components, including installation on a permanent foundation.

**MULTIPLE-FAMILY ACCESS EASEMENT:** A private thoroughfare which provides a means of access to parking areas and bays and to abutting buildings which are developed solely or principally as multiple-family dwellings.

**NATURAL AREA:** An area that is substantially undisturbed by development.

**NON-CONFORMING LAND USE OR STRUCTURE:** A land use or structure which existed lawfully on the date that this zoning ordinance or any amendment thereto became effective and which fails to conform to one (1) or more of the applicable regulations in the zoning ordinance or amendment thereto, except minimum lot area, yard and setback requirements.

**NURSERY, DAY:** A building used for the supervision and care of five (5) or more preschool children, other than those of the operator, during daylight hours.

**NURSERY SCHOOL:** A pre-kindergarten school for children primarily between the ages of three (3) and five (5).

**NURSING HOME:** A building intended for use as a medical care facility for persons who need nursing care and medical service, but do not require intensive hospital care.

**OFFICE:** A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

**OPEN STORAGE:** Storage of material or goods on the ground outside of a building.

**PARCEL (TRACT) OF LAND:** A separately designated area of land delineated by identifiable legally recorded boundary lines.

**PARK:** An area open to the general public and reserved for recreational, educational or scenic purposes.

**PARKING AREA:** An area of land used or intended for off-street parking facilities for motor vehicles.

**PARKING SPACE:** A durably dust-proofed, properly graded for drainage, usable space enclosed in a main building or in an accessory building, or unenclosed, reserved for the temporary storage of one (1) vehicle and connected to a street, alley or other designated roadway by a surfaced aisle or driveway. Each such designated space shall comply with the applicable dimensional requirements set forth in St. Louis County Zoning Ordinance, Section 1003.165 "Off-Street Parking and Loading Requirements".

**PARKWAY:** A road or roadway intended to be used primarily for passenger vehicles and developed with a park-like or scenic character with recreational uses.

**PAVE (PAVEMENT):** The act or result of applying a hard, water-tight material to any ground surface in such manner as to present a uniform surface over large areas.

**PAWNBROKER:** Any person engaged in the business of lending money on the security of pledged goods or engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

**PAWNSHOP:** The location at which, or premises in which, a pawnbroker regularly conducts business. Pawnshops shall be prohibited in all zoning districts.

**PIERCING STUDIO OR ESTABLISHMENT:** Any place or facility where body piercing, including piercing any part of the body or head, is performed as a primary or substantial element of its business.

**PLANT NURSERY:** A farm, garden or other cultivated land together with accessory structures designed and intended to be used only for the cultivation and sale of live vegetation.

**PLAT:** A subdivision of land legally approved and recorded.

**PROPERTY LINE:** The legally recorded boundary of a lot, tract or other parcel of land.

**PUBLIC USE AREA:** Public parks, playgrounds, recreational areas, designated scenic or historic sites, schools, sites for other public buildings and other areas dedicated to public use.

**PUBLIC UTILITY FACILITY, LOCAL:** A public utility facility serving a local area only, such as an electric substation or a water or gas pumping or regulating station or a telephone switching center.

**RESIDENCE:** Any building which is designed or used exclusively for residential purposes, except hotels and motels.

**RETREAT:** A building or group of buildings with designated open areas utilized and maintained for educational and religious conclaves, seminars and similar activities by particular educational, religious, fraternal or other groups.

**RIDING STABLE:** A building and designated site intended or used as a shelter for horses or ponies, which provides for commercial boarding, hire, sale or training of such animals.

**ROADWAY:** The entire area within public or private vehicular easement or right-of-way lines, whether improved or unimproved.

**ROADWAY RIGHT-OF-WAY LINE:** The boundary which divides a lot from a public or private roadway.

**ROW HOUSE:** Three (3) or more attached single-family dwellings, each on its own plot of ground, but not necessarily on individual lots.

**SALVAGE YARD:** An area for the dismantling, storage and sale of inoperative, obsolete or wrecked motor vehicles, trailers and their parts.

**SANITARY LANDFILL:** Solid waste disposal area which accepts commercial and residential solid waste.

**SELF-CARE UNIT:** A nursing facility located on the same premises as a full-care nursing home and providing semi-independent apartment-style living accommodations for residents including separate cooking facilities for each living unit or cluster of living units.

**SEMI-FINISHED MATERIAL:** Material which has gone through one (1) or more stages of processing.

**SETBACK (BUILDING LINE):** The required minimum distance from a road right-of-way or lot line that establishes the area within which a structure can be erected or placed, except as may be permitted elsewhere in this Title.

**SHORT-TERM LOAN ESTABLISHMENT:** A business engaged in providing short-term loans to the public as a primary or substantial element of its business and which is not a financial institution as defined in this Chapter.

**SIGHT DISTANCE TRIANGLE:** The triangular area of a corner lot bound by the property lines and a line connecting the two (2) points on the property lines thirty (30) feet from the intersection of the property line.

**SIGN:** A structure or device designed or intended to convey information to the public in written or pictorial form.

**SIGN, ADVERTISING:** A sign intended to attract general public interest concerning a commercial enterprise, product, service, industry or other activity not conducted, sold or offered on the same premises upon which the sign is erected.

**SIGN, BUSINESS:** A sign which gives only basic information concerning the existence of a commercial enterprise, service or other activity conducted, sold or offered on the premises upon which the sign is erected.

**SIGN, DIRECTIONAL:** A sign identifying entrances, exits, aisles, ramps and similar traffic-related information.

**SIGN, FLAT:** Any sign painted on or attached to and erected parallel to the face of a window, wall of a building or a boundary wall or fence and supported solely by the structure to which it is affixed and not extending more than twelve (12) inches vertically from the face of the structure to which it is attached.

**SIGN, INFORMATION:** A sign which identifies a residence, a non-commercial activity, including historic markers, or a sign conveying cautionary and similar information.

**SIGN, PORTABLE:** A sign that is not permanently affixed to a building, other unmovable structure or the ground.

*SIGN, TEMPORARY:* A sign intended for use for only a limited period of time.

*SPECIALIZED PRIVATE SCHOOLS:* An institution for students at the elementary, junior or senior high level who have physical or mental characteristics which require specialized or individual instruction.

*STABLE, PRIVATE:* A detached building accessory to a residential use for the keeping of horses owned by the occupants of the premises and which shall not be used for any commercial purpose including the boarding, hiring, selling or training of horses.

*STORY:* The horizontal segment of a building between the floor surface and the ceiling next above it and wholly above grade.

*STREET:* A paved public or private vehicular right-of-way which provides access to abutting properties from the front.

*STRUCTURE:* Any assembly of material forming a construction for occupancy or use, excepting, however, utility poles and appurtenances thereto, underground distribution or collection pipes or cables, and underground or ground level appurtenances thereto.

*SUBSTANTIAL CONSTRUCTION, DEVELOPMENT OR WORK:*

1. In a project involving structures, the completion of excavation for footings and foundations.
2. In a project involving no structures or insignificant structures, the completion of grading.

*TATTOOING:* Any method of placing designs, letters, scrolls, figures or symbols upon or under the skin with ink or colors by the aid of needles or instruments. Cosmetic micropigmentation shall not be considered "tattooing" as that term is used in this Chapter.

*TATTOOING ESTABLISHMENT:* Any place or facility where tattooing is performed.

*TERMINAL:* A depot building or area specifically designated for the storage or transfer of persons or material or temporary storage and service of operable vehicles used in the transport of persons, goods or materials.

*TOWED VEHICLE STORAGE YARD:* An area for the unstacked temporary storage and sale of operative, wrecked or otherwise damaged or immobilized motor vehicles wherein each vehicle space is directly accessible to a designated aisle.

*USE:* As utilized in this Chapter, "use" is any functional, social or technological activity which is imposed or applied to land or to structures on the land.

*VEHICLE REPAIR FACILITY:* Any structure or premises conducting major vehicle repair work within enclosed service bays or stalls, including the installation or removal of engines, radiators, transmissions, differentials, fenders, doors, bumpers or other major body or mechanical parts, or spray painting, but not including tire recapping or vulcanizing, or the outdoor storage of wrecked or otherwise damaged and immobilized vehicles.

*VEHICLE SERVICE CENTER:* Any structure or premises used for the servicing and minor repair

of vehicles within enclosed service bays or stalls, including diagnostic services, lubrication of vehicles, and minor engine repair such as tune-ups, and the sale and installation of minor parts and accessories such as tires, batteries, shock absorbers, brakes, mufflers and tailpipes. This use shall not include any establishment engaged in major repair work such as the installation or removal of engines, radiators, transmissions, differentials, fenders, doors, bumpers or other major body or mechanical parts, spray painting, tire recapping or vulcanizing, or the storage of wrecked or damaged and immobilized vehicles.

*VETERINARY CLINIC (ANIMAL HOSPITAL):* A facility for the practice of veterinary medicine.

*WAREHOUSE:* A structure for use as a storage place for goods, materials or merchandise.

*YARD:* An open area between the structure setback lines of a lot as established by the regulations of a particular zoning district and the property lines of the same lot.

*YARD, FRONT:* A space extending across the entire front of a lot between the structure setback line as required by the regulations of a particular zoning district and the roadway right-of-way line.

*YARD, REAR:* A space opposite the front yard, extending across the entire rear of a lot between the structure setback line as required by the regulations of a particular zoning district and the rear lot line.

*YARD, SIDE:* A space extending between the structure setback line as required by the regulations of a particular zoning district and the side lot lines measured between the front yard and the rear yard. (R.O. 2009 §§405.050, 410.090; Ord. No. 235 §2, 3-13-90; Ord. No. 353 §1, 8-11-98; Ord. No. 420 §1, 11-16-06; Ord. No. 422 §2, 11-16-06)

#### **SECTION 405.060: ADULT ENTERTAINMENT ESTABLISHMENT OR BUSINESS— SPECIAL CONDITIONS**

In the case of any adult entertainment establishment or business, the following special conditions shall apply:

1. No adult bookstore, adult entertainment facility or establishment, bathhouse, massage shop or modeling studio shall be permitted within one thousand two hundred (1,200) feet of any religious institution, school, public park or any property zoned for residential use or any City boundary. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment establishment to the closest point on any property line of the religious institution, school or public park or the property zoned for residential use or to the closest point of the City boundary.
2. No adult entertainment establishment shall be allowed to locate or expand within one thousand (1,000) feet of any other adult entertainment establishment or of any business licensed to sell or serve alcoholic beverages whether or not such business is also an adult entertainment establishment as defined in this Section. The distance between any two (2) adult entertainment establishments or between an adult entertainment establishment and a business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.

3. All access to and from the adult entertainment establishment shall be provided from a street classified as a public right-of-way.
4. The property on which such use is located shall have a minimum of one hundred (100) feet of frontage on a public right-of-way.
5. The facility on which the use is located and the parking for such facility shall have a front yard setback of thirty (30) feet, a side yard setback of six (6) feet and a rear yard setback of ten (10) feet.
6. Off-street parking shall be provided pursuant to the City Code.
7. All landscaping and screening requirements otherwise required by the Bella Villa City Code shall be observed.
8. The facility in which the use is located shall be designed in such a fashion that all openings, entries and windows prevent view into such facilities from any pedestrian, sidewalk, walkway, street or other public area. No adult entertainment activity shall take place partially or totally outside the adult entertainment establishment.
9. The facility in which such a use is located shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign per one (1) foot of wall length, not to exceed a total of fifty (50) square feet; said sign shall not flash, blink or move by mechanical means and shall not extend above the roof line of the building. Said sign shall not exceed eight (8) feet in height from ground level. Further, no merchandise, symbol or pictures of products or entertainment on the premises shall be displayed in window areas or on any sign or any area where such merchandise or pictures can be viewed from the exterior of the building. No flashing lights and/or lighting which leaves the impression of motion or movement shall be permitted. No temporary signs shall be allowed.
10. Lighting of the parking area shall conform to the requirements of the City Code. (R.O. 2009 §405.060; Ord. No. 422 §2, 11-16-06)



## CHAPTER 410: ZONING DISTRICTS

### SECTION 410.010: DISTRICT "A"—REGULATIONS AND USES

- A. The regulations set forth in this Section, or set forth elsewhere in this Chapter when referred to in this Section, are the district regulations in the "A" Single-Family Dwelling Districts.
- B. *Use Regulations.* A building or premises shall be used only for the following purposes:
1. Single-family dwellings.
  2. *Group homes.* No group home shall be located within two thousand five hundred (2,500) feet of another group home. The exterior appearance of the home and property shall be in reasonable conformance with the general neighborhood standards. Group homes shall be eleemosynary or not-for-profit in nature.
  3. Parks and playgrounds and public use areas.
  4. Truck gardening but not on a scale that would be objectionable because of noise or odor to the surrounding residences.
  5. Home occupations.
  6. Accessory buildings and uses customarily incident to the above uses, not involving the conduct of a business, including a private garage. Any accessory building that is not a part of the main structure shall be located not less than sixty (60) feet from the front lot line.
  7. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
  8. Temporary signs not exceeding six (6) square feet in area appertaining to the lease, hire or sale of a building or premises.
- C. *Height Regulations.* No building shall exceed one and one half (1½) stories, except as hereinafter provided by this Chapter.
- D. *Area Regulations.*
1. *Front yard.*
    - a. There shall be a front yard having a depth of not less than thirty (30) feet.
    - b. Where lots have a double frontage, the required front yard shall be provided on both streets.
    - c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot, except that the buildable width of such lot shall not be reduced to less than seventy percent (70%) of the width of the lot. No accessory building shall project beyond the front yard line on either street.

2. *Side yard.* Except as hereinafter provided, there shall be a side yard on one (1) side of a building having a width of not less than ten percent (10%) of the width of the lot and on the other side not less than twenty percent (20%) of the width of the lot and is to include side drive for automobile.
3. *Rear yard.* Except as hereinafter provided, there shall be a rear yard having a depth of not less than forty (40) feet or twenty percent (20%) of the depth of the lot, whichever amount is larger, but it need not exceed sixty (60) feet. Improvements to existing structures shall not exceed twenty percent (20%) of the rear yard except for those lots less than one hundred twenty (120) feet deep, in which case the minimum back yards shall be at least ten percent (10%) of the depth of the lot. Impervious area shall not exceed fifty-five percent (55%) of lot area excluding existing driveway and front walkway. Additional drainage caused by improvements and impervious additions shall not be allowed to flow onto adjoining properties.
4. *Intensity of use of lot.* Every lot shall have an area of not less than six thousand (6,000) square feet, except that if a lot has less area than herein required and was of record on March 22, 1949, that lot may be occupied by a single-family dwelling.
5. *Type of construction.* The exterior construction of all buildings hereafter erected in "A" Single-Family District shall be at least seventy-five percent (75%) brick or stone and shall have a minimum floor area of not less than nine hundred (900) square feet. (R.O. 2009 §410.010; Ord. No. 20 §§7-14—7-18, 3-22-49; Ord. No. 302, 3-12-96; Ord. No. 352 §1, 8-11-98)

#### **SECTION 410.020: DISTRICT "B"—REGULATIONS AND USE**

- A. The regulations set forth in this Section, or set forth elsewhere in this Chapter when referred to in this Section, are the district regulations in the "B" Single-Family or Duplex Dwelling Districts.
- B. *Use Regulations.* A building or premises shall be used only for the following purposes:
  1. Any use permitted in the "A" Single-Family Dwelling District.
  2. Church.
  3. School.
  4. Nurseries and truck gardening, but not on a scale that would be objectionable because of noise or odor to surrounding residences.
  5. One (1) church or one (1) public bulletin board not exceeding ten (10) square feet in area and temporary signs not exceeding ten (10) square feet in area appertaining to the lease, hire or sale of a building or premises.
- C. *Height Regulations.* No building shall exceed one and one half (1½) stories except as hereinafter provided.
- D. *Area Regulations.*
  1. *Front yard.*
    - a. There shall be a front yard having a depth of not less than thirty (30) feet. Where there

are existing improvements, no new buildings shall project beyond the front line so established.

- b. On double frontage lots the required front yard shall be provided on both streets.
  - c. Where a lot is located at the intersections of two (2) or more streets, there shall be a front yard on each street side of a corner lot, except that the buildable width of such lot shall not be reduced to less than seventy percent (70%) of the width of the lot. No accessory building shall project beyond the front yard line on either street.
2. *Side yard.* Except as hereinafter provided, there shall be a side yard on one (1) side of a building having a width of not less than ten percent (10%) of the width of the lot and on the other side not less than twenty percent (20%) of the width of the lot and is to include side drive for automobile.
  3. *Rear yard.* Except as hereinafter provided, there shall be a rear yard having a depth of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is larger, but it need not exceed forty (40) feet.
  4. *Intensity of use.* Every lot shall have an area of not less than six thousand (6,000) square feet.
- E. *Type Of Construction.* The exterior construction of all buildings hereafter erected in "B" Single-Family or Duplex Dwelling Districts shall be brick, stone or asbestos shingle or equal and shall have a minimum floor area of not less than nine hundred (900) square feet. (R.O. 2009 §410.020; Ord. No. 20 §§7-19—7-23, 3-22-49)

#### **SECTION 410.030: DISTRICT "C"—REGULATIONS AND USE**

- A. The regulations set forth in this Section, or set forth elsewhere in this Chapter when referred to in this Section, are the district regulations in the "C" Commercial Districts.
- B. *Use Regulations.* A building or premises shall be used only for the following purposes:
  1. *Alcohol or drug treatment center.* A facility including buildings, structures and land for the residential or outpatient treatment of alcohol and/or other drug abuse may be located as a permissive use, if the facility meets all of the following conditions:
    - a. If a residential facility, not more than four (4) persons residing in the building at one (1) time; and not more than six (6) persons in any one (1) day in an outpatient facility.
    - b. The exterior appearance of the treatment facility shall reasonably conform to the exterior appearance of other dwellings in the vicinity.
    - c. A treatment facility shall not be located closer than eight thousand (8,000) feet to any other substance abuse treatment facility.
  2. Any use permitted in the "B" Single-Family or Duplex Dwelling District.

3. Amusement place or theater, provided however, that no theater shall be erected or reconstructed unless there is provided on the same lot, or within three hundred (300) feet thereof, one (1) parking space for every (4) seats in the theater.
4. Bakery, whose products are sold at retail on the premises.
5. Bank.
6. Barbershop.
7. Business or commercial school.
8. Dancing academy.
9. Dressmaking or tailoring establishment (employing not more than five (5) persons).
10. Dyeing and dry cleaning works and laundry shops for the collection and distribution of clothes, but not the treatment thereof.
11. Hospitals.
12. Liquor sales, as approved.
13. Lodge hall.
14. Massage business.
15. Messenger or telegraph service station.
16. Millinery shop.
17. Office.
18. Painting and decorating shop.
19. Photograph gallery.
20. Restaurant.
21. Shoe repair shop.
22. Store or shop for the conduct of a retail business as approved by the Board of Aldermen.
23. Studio parlor.
24. Tailor shop.
25. Undertaking establishment.
26. Usual accessory uses and buildings incident to the above uses, including a sign or a bulletin

board relating only to services, articles and products offered within the building to which the sign is attached, and which sign does not exceed fifty (50) square feet in area; provided however, that any advertising sign shall be attached to the building and shall not project beyond the building for a distance of more than thirty (30) inches. A store located on a corner lot may have such a sign on each street side of the structure. Minimum height eleven (11) feet high.

Any building used primarily for any of the above enumerated purposes may have not more than forty percent (40%) of the floor area devoted to industry or storage purposes incidental to such primary use; provided that not more than five (5) employees shall be engaged at any time on the premises in any such incidental use.

- C. *Parking Regulations.* Whenever any building is erected, converted or structurally altered for commercial purposes, there shall be provided parking space. Such parking space may be located on the same lot as the building or on an area within three hundred (300) feet of the building but within the commercial district. Two (2) or more owners of buildings may join together in providing this space.
- D. *Height Regulations.* No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height except as otherwise herein provided.
- E. *Area Regulations.*
1. *Front yard.*
    - a. There shall be a front yard having a depth of not less than thirty (30) feet, unless forty percent (40%) or more of the frontage on the same side of the street between two (2) intersecting streets is improved with buildings that have observed a front yard line having a variation in depth of not more than six (6) 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 sixty (60) feet.
    - b. Where lots have a double frontage, the required front yard shall be provided on both streets.
    - c. Where a lot is located at the intersection of two (2) or more streets, the front yard requirements of the above paragraphs shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than seventy percent (70%) of the width of the lot. No accessory building shall project beyond the front yard line on either street.
  2. *Side yard.*
    - a. Except as otherwise provided in this Section, there shall be a side yard on each side of a building having a width of not less than five (5) feet.
    - b. Whenever a lot of record existing on March 22, 1949 has a width of less than forty (40) feet, the side yard on each side of a building may be reduced to a width of not less than ten percent (10%) the width of the lot, but in no instance shall it be less than three (3) feet.
  3. *Rear yard.* Except as otherwise provided in this Section, there shall be a rear yard having a

depth of not less than twenty-five (25) feet, unless the lot is less than one hundred twenty-five (125) feet in depth and was of record on March 22, 1949, in which case the rear yard need not exceed twenty percent (20%) of the depth of such lot.

4. *Intensity of use.* Every lot shall have an area of not less than six thousand (6,000) square feet.

F. *Type Of Construction.* The exterior construction of all buildings hereafter erected in "C" Commercial Districts shall be brick, stone or concrete blocks. All commercial construction shall be approved by the Board of Aldermen. (R.O. 2009 §410.030; Ord. No. 20 §§7-24—7-29, 3-22-49; Ord. No. 239 §1, 12-11-90; Ord. No. 410 §1, 4-27-06)

#### **SECTION 410.040: DISTRICT "D"—REGULATIONS AND USE**

A. The regulations set forth in this Section, or set forth elsewhere in this Chapter when referred to in this Section, are the district regulations in the "D" Light Industrial Districts.

B. *Use Regulations.* A building or premises may be used for any purpose except the following:

1. Abattoirs.
2. Acetylene gas manufacture.
3. Acid manufacture.
4. Ammonia, bleaching powder or chlorine manufacture.
5. Arsenal.
6. Asphalt manufacture or refining.
7. Blast furnace.
8. Boiler works.
9. Brick, tile or terra cotta manufacture.
10. Candle manufacture.
11. Carpet or bag cleaning.
12. Celluloid manufacture.
13. Cement, lime, gypsum or plaster of Paris manufacture.
14. Coke ovens.
15. Cotton gin factory.

16. Crematory.
17. Creosote treatment or manufacture.
18. Disinfectants manufacture.
19. Distillation of bones, coal or wood.
20. Dyestuff manufacture.
21. Exterminator and insect poison manufacture.
22. Emery cloth and sandpaper manufacture.
23. Fat rendering.
24. Fertilizer manufacture.
25. Fish smoking and curing.
26. Forge plant.
27. Gas (illuminating and heating) manufacture.
28. Glue, size or gelatine manufacture.
29. Gunpowder manufacture or storage.
30. Fireworks or explosive manufacture or storage.
31. Incineration or reduction of garbage, dead animals, offal or refuse.
32. Iron, steel, brass or copper works or foundry.
33. Lamp black manufacture.
34. Oil cloth or linoleum manufacture.
35. Oiled, rubber or leather goods manufacture.
36. Ore reduction.
37. Paint, oil, shellac, turpentine or varnish manufacture.
38. Paper and pulp manufacture.
39. Petroleum refining or storage.
40. Plating works.

41. Potash works.
42. Printing ink manufacture.
43. Pyroxylin manufacture.
44. Roundhouse.
45. Rock crusher.
46. Rolling mill.
47. Rubber or gutta percha manufacture or treatment.
48. Salt works.
49. Sauerkraut manufacture.
50. Sausage manufacture.
51. Shoe blacking manufacture.
52. Smelters.
53. Soap manufacture.
54. Stockyards.
55. Soda and compound manufacture.
56. Stone mill or quarry.
57. Storage of baling of scrap paper, iron, bottles, rags or junk.
58. Stove polish manufacture.
59. Sulfuric, nitric or phirochloric acid manufacture.
60. Tanning, curing or storage of leather rawhides or skins.
61. Tallow, grease or lard manufacture or refining.
62. Tar distillation or manufacture.
63. Tar roofing or water-proofing manufacture.
64. Tobacco (chewing) manufacture or treatment.
65. Vinegar manufacture.



66. Wool pulling or scouring.
  67. Yeast plant.
  68. Junk, iron or rag storage or baling, except when the premises upon which such activities are conducted are wholly enclosed within a building or by a wooden fence not less than eight (8) feet in height and in which the openings or cracks are less than fifteen percent (15%) of the total area.
  69. And in general those uses which may be noxious or offensive by reason of the emission of odor, dust, smoke or noise.
- C. *Height Regulations.* No building shall exceed four (4) stories or seventy (70) feet in height except as herein otherwise provided.
- D. *Area Regulations.*
1. *Front yard.*
    - a. Where all the frontage on one (1) side of the street between two (2) intersecting streets is located in the "D" Light Industrial District, no front yard shall be required. Where the frontage on one (1) side of the street between two (2) intersecting streets is located in the "D" Light Industrial District and a dwelling district, the front yard requirements of the dwelling district shall apply to the "D" Light Industrial District.
    - b. Where a lot is located at the intersection of two (2) or more streets, the front yard requirements of the above paragraph shall apply to each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than twenty-eight (28) feet. No accessory building shall project beyond the front yard line or either street.
  2. *Side yard.* The side yard regulations are the same as those in the "C" Commercial District.
  3. *Rear yard.* The rear yard regulations for dwellings are the same as in the "B" Single-Family and Duplex Dwelling Districts. In all other cases, a rear yard is not required except where a lot abuts upon the dwelling district, in which case there shall be a rear yard of not less than fifteen (15) feet.
  4. *Intensity of use.* When a lot is improved with a single-family dwelling or two-family dwelling or when living facilities are erected above stores or other commercial or industrial uses, the intensity of use regulations are the same as those required in the "B" Single-Family or Duplex Dwelling Districts. (R.O. 2009 §410.040; Ord. No. 20 §§7-30—7-33, 3-22-49)

#### **SECTION 410.050: ADDITIONAL HEIGHT AND AREA REGULATIONS**

The district regulations hereinafter set forth in this Section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Chapter.

1. Public, semi-public or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches

and temples may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each yard line at least one (1) foot for each foot of additional building height above the height limit otherwise permitted in the district in which the building is built.

2. Single-family dwellings and two-family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height.
3. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the City of Bella Villa.
4. Buildings on through lots and extending through from street to street may waive the requirements for a rear yard by furnishing an equivalent open space in lieu of such required rear yard.
5. In computing the depth of a rear yard where such yard opens on to an alley, one-half ( $\frac{1}{2}$ ) of the alley width may be included as a portion of the rear yard.
6. Accessory buildings may not occupy more than thirty percent (30%) of a required rear yard, but where such rear yard adjoins an alley, the accessory buildings shall not be nearer than five (5) feet to the alley line.
7. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.
8. Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard, terraces and boundary line fences not over four (4) feet high, and except for the ordinary projections of skylights, sills, belt courses, cornices and ornamental features projection not to exceed twelve (12) inches. This requirement shall not prevent the construction of fences not exceeding six (6) feet in height except on that portion of lots within thirty (30) feet of the intersection of two (2) or more streets.
9. Open or lattice-enclosed fire escapes, fire-proof outside stairways, unenclosed porches, marquees, and balconies opening upon fire towers projecting into a yard not more than five (5) feet, and the ordinary projections of chimneys and flues may be permitted by the Building Commissioner/Inspector when placed so as not to obstruct light and ventilation.
10. An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten (10) feet. (R.O. 2009 §410.050; Ord. No. 20 §7-42, 3-22-49)

#### **SECTION 410.060: BOUNDARIES OF DISTRICTS—UNCERTAINTY OF**

*Rules Where Uncertainty May Arise.* Where uncertainty exists with respect to the boundaries of the various districts as shown on the District Map accompanying and made a part of this Title, the following rules apply:

1. The district boundaries are either streets or alleys unless otherwise shown, and where the

districts designated on the map accompanying and made a part of this Title are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.

2. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the District Map accompanying and made a part of this Title are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
3. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this Title shall be determined by use of the scale appearing on the map. (R.O. 2009 §410.060; Ord. No. 20 §7-53, 3-22-49)

**SECTION 410.070: DISTRICTS "C" AND "D"—FURTHER REGULATIONS AND USE FOR AUTOMOBILE SALES**

*Use Regulations.* A building, parcel or premises shall be used only for sales of used automobiles if the predominant land use of the parcel or premises is for sales of new automobiles. (R.O. 2009 §410.070; Ord. No. 421 §1, 11-16-06)

**SECTION 410.080: DISTRICT "D"—FURTHER REGULATIONS CONCERNING ADULT ENTERTAINMENT**

Adult entertainment establishment or business shall only be allowed in District "D" in accordance with the regulations set out in Section 405.060 of this Code. (R.O. 2009 §410.080; Ord. No. 422 §3, 11-16-06)



## CHAPTER 415: NON-CONFORMING USES

### SECTION 415.010: LAND, ADVERTISING SIGNS AND BULLETIN BOARDS

The lawful use of land and of advertising signs and bulletin boards which do not conform to the provisions of this Chapter shall be discontinued within one (1) year from March 22, 1949, and the use of land and of advertising signs and bulletin boards which become non-conforming by reason of a subsequent change in these regulations shall also be discontinued within one (1) year from the date of the change. (R.O. 2009 §415.010; Ord. No. 20 §7-34, 3-22-49)

### SECTION 415.020: BUILDINGS

- A. The lawful use of a building existing on March 22, 1949 may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of a more restricted classification. Whenever a non-conforming use, such use shall not thereafter be changed to a less restricted use.
- B. Whenever the use of a building becomes non-conforming through a change in the zoning ordinance or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another non-conforming use of the same or of a more restricted classification.
- C. In the event that a non-conforming use of any building or premises is discontinued for a period of two (2) years, the use of the same shall thereafter conform to the use permitted in the district in which it is located.
- D. No existing building devoted to a use not permitted by this Title in the district in which such building is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building is located.
- E. When a building, the use of which does not conform to the provisions of this Title, is damaged by fire, explosion, act of God, or the public enemy to the extent of more than sixty percent (60%) of its fair market value, it shall not be restored except in conformity with the district regulations of the district in which the building is situated. When a building, the use of which does not conform to the provisions of this Title, is damaged by fire, explosion, act of God, or the public enemy to the extent of less than sixty percent (60%) of its fair market value, it may only be restored upon the issuance of a permit by the Board of Adjustment as provided in Chapter 420.
- F. All non-conforming commercial or industrial buildings located within any dwelling district shall be removed or converted, and the building thereafter devoted to a use permitted in the district in which such building is located, on or before January 1, 1960; provided however, that non-conforming commercial or industrial buildings located within any dwelling district for which a building permit was issued after January 1, 1920, shall be removed or converted, and the building thereafter devoted to a use permitted in the district in which such building is located, within forty (40) years from the date of the issuance of the building permit. (R.O. 2009 §415.020; Ord. No. 20 §§7-35—7-40, 3-22-49)

**SECTION 415.030: SPECIAL PERMITS**

- A. The Board of Aldermen of the City of Bella Villa may, by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this Title.
1. Any public building erected or used by any department of the City, County, State or Federal Government.
  2. Used car lots in the "C" Commercial District.
  3. Private schools, including nursery, pre-kindergarten, kindergarten, play and special schools.
  4. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions; provided however, that such buildings occupy not over twenty-five percent (25%) of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and, provided further, that the buildings shall be set back from all yard lines a distance of not less than two (2) feet for each foot of building height.
  5. Cemetery.
  6. Community building or recreation field.
  7. Airport or landing field.
  8. Greenhouses.
  9. Roadside stands and recreational activities for temporary or seasonable periods.
  10. Extractions of sand, gravel or other raw materials.
  11. Parking lots on land not more than three hundred (300) feet from the boundary of any "C" Commercial District under such conditions as will properly protect the character of surrounding property.
- B. Before issuance of any special permit of any of the above buildings or uses, the Board of Aldermen shall refer the proposed application to the City Plan Commission, which Commission shall be given thirty (30) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety and general welfare. No action shall be taken upon any application for a proposed building or use above referred to until and unless the report of the Plan Commission has been filed; provided however, that if no report is received from the Plan Commission within forty-five (45) days, it shall be assumed that approval of the application has been given by the said Commission. (R.O. 2009 §415.030; Ord. No. 20 §7-41, 3-22-49)

## CHAPTER 417: SIGN REGULATIONS

### SECTION 417.010: SIGN REGULATIONS—GENERALLY

- A. *Scope Of Provisions.* This Chapter contains the regulations governing the size, number, location, height and width of signs permitted in the various zoning districts. These regulations are supplemented and qualified by the regulations of the particular zoning district in which a sign may be located and by additional general regulations appearing elsewhere in this Chapter which are incorporated as part of this Chapter by reference. This Chapter contains regulations applicable to all signs in all zoning districts.
- B. The following Sections relate to particular zoning districts or particular kinds of signs. (R.O. 2009 §417.010; Ord. No. 235 §3, 3-13-90)

### SECTION 417.020: SIGN PERMITS

- A. Unless excepted by these regulations or the St. Louis County Building Code, no sign shall be erected, constructed, posted, painted, altered, maintained or relocated, until a permit has been issued by the Building Commissioner. Before any permit is issued, an application, provided by the City Clerk, shall be filed, together with drawings and specifications as may be necessary to fully advise and acquaint the Building Commissioner with the location, construction, materials, manner of illuminating, and securing or fastening, and the wording or delineation to be carried on the sign. All signs that are to be illuminated by one (1) or more sources of artificial light shall require a separate electrical permit and inspection.
- B. Structural and safety features and electrical systems shall be in accordance with the requirements of the City of Bella Villa and St. Louis County Building Code. No sign shall be approved for use unless it has been inspected by the department issuing the permit and is found to be in compliance with all the requirements of this Chapter and applicable technical codes. Signs found to be in violation of the requirements of this Chapter and/or applicable technical codes and which are determined to be a danger to public health and safety may, after fifteen (15) days of an inspection determining said violation and after notification to the property owner, be dismantled and removed by the City. The expense of such action shall be charged to the owner of the property on which the sign is erected. (R.O. 2009 §417.020; Ord. No. 235 §3.2, 3-13-90)

### SECTION 417.030: DETERMINATION OF SIGN AREA

The following regulations shall govern the determination of sign area:

- 1. *Outline area of sign.*
  - a. *Freestanding signs.* The outline area of a freestanding sign shall include the area within a continuous perimeter of a plane enclosing the limits of writing, representation, logo, or any figure or similar character together with the outer extremities of any frame, or other material or color forming an integral part of the display which is used as a background for the sign. The area of a freestanding sign of individually cut-out writing, representation, logo, or any figure or similar character which is not enclosed by framing, and which

projects from a sign support or main body of a sign, is the sum of the areas of all the triangles or parallelograms necessary to enclose each writing, representation, logo, or any figure or similar character, including the space between individual letters comprising a word, but not including the space between individual words.

The outline area of a freestanding sign shall not include the necessary supports for the sign when such supports do not extend above the sign and are not a part of the overall design of a sign. The outline area of a freestanding sign shall also not include the area between separate cabinets or modules of such sign or any pole covers, lighting fixtures or landscaping provided they contain no writing, representation, logo, or any figure or similar character.

- b. *Attached signs.* The outline area of an attached sign shall include the area within a continuous perimeter of a plane enclosing the limits of writing, representation, logo, or any figure or similar character together with the outer extremities of any frame, or other material or color forming an integral part of the display which is used as a background for the sign. The area of an attached sign of individually cut-out writing, representation, logo, or any figure or similar character which is not enclosed by framing, and which projects from a sign support or main body of a sign, is the sum of the areas of all of the triangles or parallelograms necessary to enclose each writing, representation, logo, or any figure or similar character, including the space between individual letters comprising a word, but not including the space between individual words if the words are part of a single message. However, any painted area that is part of the common background area of such attached sign shall be included in the outline area of the sign.

The outline area of an attached sign shall not include the necessary supports for a rooftop sign which supports do not extend above the sign and are not a part of the overall design of a sign. The outline area of an attached sign shall also not include any building, boundary wall or fence to which a sign is attached, the area between separate cabinets or modules of such sign, when such cabinets or modules contain parts of the same sign message, or any lighting fixtures or landscaping provided they contain no writing, representation, logo, or any figure or similar character.

2. *Double-faced signs.* Only one (1) side of a double-faced sign shall be included in the sign area. Double-faced signs shall include those signs where the sign face is parallel or where the interior angle formed by the faces of a V-shaped sign is sixty degrees (60°) or less. If the two (2) faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face.
3. *Sign area on walls of circular buildings and other buildings with curved wall surfaces.*
  - a. The area constituting a single wall of a circular building shall be designated by the owner on a portion of the wall but shall be limited to an area determined by multiplying three-fourths ( $\frac{3}{4}$ ) of the diameter of the building by the average height of the exterior walls of the building at the finished ground elevation of the building.
  - b. The area contained on a single wall of a non-circular building with continuous curved wall surfaces shall be designated by the owner on a portion of the wall but shall be limited to an area determined by multiplying three-fourths ( $\frac{3}{4}$ ) of the average diameter of the



building by the average height of the exterior walls of the building at the finished ground elevation of the building.

- c. The area contained on any single curved wall of a building that is not totally circular or is not composed of a continuous curved wall surface shall be determined by multiplying the shortest distance between the two (2) ends of the arc forming the curved wall surface by the average height of the exterior walls of the curved wall surface at the finished ground elevation of that surface.
- d. The horizontal length of any single wall of a building that is characterized by multiple curved wall surfaces or other irregular wall surfaces shall be measured as a straight line extending between both edges of the wall. (R.O. 2009 §417.030; Ord. No. 235 §3.3, 3-13-90)

#### **SECTION 417.040: DEFINITION OF ROADWAY**

For the purpose of the regulations of this Chapter as it relates to sign location and number, in respect to "roadway" or "roadway frontage"; "roadway" includes not only public or private rights-of-way providing access to abutting properties from the front, but also limited and restricted access highways. (R.O. 2009 §417.040; Ord. No. 235 §3.4, 3-13-90)

#### **SECTION 417.050: EXCLUSIONS**

The provisions of this Chapter shall not apply to the following structures. However, setback and height requirements for all structures, where applicable, shall be in accord with the regulations of the particular zoning district in which the structure is located.

1. Official traffic or government signs, including memorial plaques and signs of historical interest.
2. Flags of any nation, governmental or non-commercial organization.
3. Scoreboards on athletic fields.
4. Show window signs in a window display of merchandise when incorporated and related in content to such display and not attached to the window.
5. Gravestones.
6. Signs of less than ten (10) square feet in outline area indicating the name of building, date of erection, monumental citation, commemorative tablet and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the structure.
7. Small signs attached to a wall or building, not exceeding one (1) square foot in outline area, stationary and not illuminated, announcing only the name, occupation and/or address of building occupant.
8. Barber poles that are not more than six (6) inches in diameter or more than two (2) feet in overall height. (R.O. 2009 §417.050; Ord. No. 235 §3.5, 3-13-90)

**SECTION 417.060: SIGNS IN RESIDENCE DISTRICTS—GENERALLY**

*A. Permitted Signs And Regulations.*

Permitted Signs And Regulations	Residence Districts
Business signs—number	Not permitted, except by conditional use permit in conjunction with specifically designated uses in the "A" and "B" Districts
Maximum outline area per facing (square feet)	8
Information signs: Maximum outline area per facing (square feet)	8
Directional signs: Maximum outline area per facing (square feet)	8
Maximum height for all freestanding signs (feet)	5 Above ground level
Maximum width for all freestanding signs (feet)	4

*B. Supplemental Regulations.*

1. Except as may be specifically noted in these regulations, setback for all signs shall be governed by the minimum yard requirements in each particular zoning district.
2. Freestanding signs shall not exceed the maximum allowed height above ground elevation. The ground elevation of freestanding signs shall be measured at the elevation of the adjacent street or elevation of the average finished ground elevation along the side of the building on the property facing the street, whichever is highest.
3. The height of all informational signs shall not exceed five (5) feet when located within the minimum front yard setback of each particular zoning district.
4. The height of all signs on corner lots shall not exceed three (3) feet when located within the minimum front yard setback of each particular zoning district.
5. The height of all signs on corner lots shall not exceed three (3) feet above the elevation of the street pavement when located within the sign distance triangle.
6. All signs shall only be illuminated by non-intermittent light sources.
7. All freestanding signs shall be placed not less than fifteen (15) feet from the edge of the street or roadway. (R.O. 2009 §417.060; Ord. No. 235 §3, 3-13-90)

## CHAPTER 420: BOARD OF ADJUSTMENT

### SECTION 420.010: APPOINTMENT—TERM—VACANCIES—ORGANIZATION

The Board of Aldermen shall provide for the appointment of a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of Sections 89.010 to 89.140, RSMo., may provide that the Board of Adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained. The Board of Adjustment shall consist of five (5) members, who shall be residents of the municipality except as provided in Section 305.410, RSMo. The membership of the first Board appointed shall serve respectively, one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years. Thereafter members shall be appointed for terms of five (5) years each. Three (3) 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 (1) year. The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Sections 89.010 to 89.140, RSMo. 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/her 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.

### SECTION 420.020: POWERS

A. 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, requirement, decision, or determination made by an administrative official in the enforcement of Sections 89.010 to 89.140, RSMo., or of any ordinance adopted pursuant to such Sections;
2. To hear and decide all matters referred to it or upon which it is required to pass under such ordinance;
3. To permit the extension of a district where the boundary line of a district divides a lot held in a single ownership on March 22, 1949;
4. To interpret the provisions of this Title in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts accompanying and made a part of this Title where the street layout actually on the ground varies from the street layout as shown on the map aforesaid;
5. To permit the erection and use of a building or the use of premises for public utility purposes;

6. To permit a variation in the yard requirements of any district where there are unusual practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare;
  7. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the construction or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done.
- B. In exercising the above-mentioned powers such Board may, in conformity with the provisions of Sections 89.010 to 89.140, RSMo., 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 (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance except as provided in Section 305.410, RSMo. (R.O. 2009 §420.040; Ord. No. 20 §§7-46—7-48, 3-22-49)

#### **SECTION 420.030: APPEALS, PROCEDURE**

- A. Appeals to the Board of Adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in Section 32.105, RSMo., representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer 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. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would, in his/her opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- B. A fee of four hundred dollars (\$400.00) shall be paid to the Building Commissioner/Inspector at the time the notice of appeal is filed, which the Building Commissioner/Inspector shall forthwith pay over to the City Treasurer to the credit of the General Revenue Fund of the City of Bella Villa. Costs in excess of this amount shall be billed to and paid by the person filing such appeal and failure to pay such amount shall be considered an ordinance violation and an abandonment of the appeal. (R.O. 2009 §420.030; Ord. No. 20 §7-45, 3-22-49)

**SECTION 420.040: DECISIONS SUBJECT TO REVIEW—PROCEDURE**

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, any neighborhood organization as defined in Section 32.105, RSMo., representing such person or persons or any officer, department, board or bureau of the municipality, may present to the Circuit Court of the County or City in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (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 of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) 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 of Adjustment 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 additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a 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 Sections 89.080 to 89.110, RSMo., shall have preference over all other civil actions and proceedings.



## CHAPTER 425: OCCUPANCY PERMITS

### SECTION 425.010: OCCUPANCY PERMITS

Subsequent to March 22, 1949, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than single-family dwelling use until a certificate of occupancy has been issued by the Building Commissioner/Inspector. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this Chapter. (R.O. 2009 §425.010; Ord. No. 20 §7-49, 3-22-49)

*Cross Reference—As to fee for occupancy permits, §505.020.*

### SECTION 425.020: RECORDS ON FILE

A record of all certificates of occupancy shall be kept on file in the office of the Building Commissioner/Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or a building affected by such certificate of occupancy. (R.O. 2009 §425.020; Ord. No. 20 §7-50, 3-22-49)

### SECTION 425.030: REQUIREMENTS

A certificate of occupancy shall be required of all non-conforming uses of land or buildings created on or before March 22, 1949. Application for such certificates of occupancy for non-conforming uses shall be filed with the Building Commissioner/Inspector by the owner or lessee of the land or building occupied by such non-conforming use within one (1) year from March 22, 1949. It shall be the duty of the Building Commissioner/Inspector to issue a certificate of occupancy for non-conforming use, but failure to apply for such certificate of occupancy for non-conforming use or failure of the Building Commissioner/Inspector to issue such certificate of occupancy for the non-conforming use, shall not be considered evidence that such non-conforming use did not exist on March 22, 1949. (R.O. 2009 §425.030; Ord. No. 20 §7-51, 3-22-49)

### SECTION 425.040: PLATS

Each application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this Title. A record of applications and plat shall be kept in the office of the Building Commissioner/Inspector. (R.O. 2009 §425.040; Ord. No. 20 §7-52, 3-22-49)





**CHAPTER 430: CHANGES AND AMENDMENTS, ENFORCEMENT,  
VIOLATION AND PENALTY**

**SECTION 430.010: CHANGES AND AMENDMENTS**

- A. No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in the City of Bella Villa.
- B. Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change duly signed and acknowledged by the owners of thirty percent (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 one hundred eighty-five (185) feet distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds ( $\frac{2}{3}$ ) of all the members of the legislative body of such municipality. The provisions of Section 89.050, RSMo., relative to public hearing and official notice shall apply equally to all changes or amendments.
- C. Before any action shall be taken as provided in this Chapter, the party or parties proposing or recommending a change in the district regulations or district boundaries shall pay to the City Treasurer the sum of four hundred dollars (\$400.00) to cover the approximate cost of advertising the public hearing. (R.O. 2009 §430.010; Ord. No. 20 §§7-55—7-57, 3-22-49)

**SECTION 430.015: ZONING AND POLICE POWER REGULATIONS**

- A. *Definitions.* The following terms shall have the following meanings unless otherwise defined by context:

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

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

*FACILITIES PERMIT:* A permit granted by the City for placement of facilities on private property.

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

*SERVICE:* Providing or delivering an economic good or an article of commerce, including, but not limited to, gas, telephone, cable television, Internet, open video systems, video services, alarm systems, steam, electricity, water, telegraph, data transmission, petroleum pipelines, sanitary or

storm water sewerage or any similar or related service, to one (1) or more persons located within or outside of the City using facilities located within the City.

**B. *Facilities Permits.***

1. Any person desiring to place facilities on private property must first apply for and obtain a facilities permit in addition to any other building permit, license, easement, franchise or authorization required by law. The Director may design and make available standard forms for such applications, requiring such information as allowed by law and as the Director determines in his or her discretion to be necessary and consistent with the provisions of this Section and to accomplish the purposes of this Section. Each application shall at minimum contain the following information, unless otherwise waived by the Director:
  - a. The name of the person on whose behalf the facilities are to be installed and the name, address and telephone number of a representative whom the City may notify or contact at any time (i.e., twenty-four (24) hours per day seven (7) days per week) concerning the facilities;
  - b. A description of the proposed work, including a site plan and such plans or technical drawings or depictions showing the nature, dimensions and description of the facilities, their location and their proximity to other facilities that may be affected by their installation.
2. Each such application shall be accompanied by an application fee approved by the City to cover the cost of processing the application.
3. *Application review and determination.*
  - a. The Director shall promptly review each application and shall grant or deny the application within thirty-one (31) days. Unless the application is denied pursuant to subparagraph (d) hereof, the Director shall issue a facilities permit upon determining that the applicant (i) has submitted all necessary information, (ii) has paid the appropriate fees, and (iii) is in full compliance with this Section and all other City ordinances. The Director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.
  - b. It is the intention of the City that proposed facilities will not impair public safety, harm property values or significant sight lines or degrade the aesthetics of the adjoining properties or neighborhood, and that the placement and appearance of facilities on private property should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Section. To accomplish such purposes, the Director may impose conditions on facilities permits, including alternative landscaping, designs or locations, provided that such conditions are reasonable and necessary, shall not result in a decline of service quality and are competitively neutral and non-discriminatory.
  - c. An applicant receiving a facilities permit shall promptly notify the Director of any material changes in the information submitted in the application or included in the permit. The Director may issue a revised facilities permit or require that the applicant reapply for a facilities permit.

- d. The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:
- (1) Delinquent fees, costs or expenses owed by the applicant;
  - (2) Failure to provide required information;
  - (3) The applicant being in violation of the provisions of this Section or other City ordinances;
  - (4) For reasons of environmental, historic or cultural sensitivity as defined by applicable Federal, State or local law;
  - (5) For the applicant's refusal to comply with reasonable conditions required by the Director; and
  - (6) For any other reason to protect the public health, safety and welfare, provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission and is imposed on a competitively neutral and non-discriminatory basis.

4. *Permit revocation and ordinance violations.*

- a. The Director may revoke a facilities permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Section. Prior to revocation, the Director shall provide written notice to the responsible person identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown. A substantial breach includes, but is not limited to, the following:
- (1) A material violation of the facilities permit or this Section;
  - (2) An evasion or attempt to evade any material provision of the permit or this Section or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;
  - (3) A material misrepresentation of fact in the permit application;
  - (4) A failure to complete facilities installation by the date specified in the permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the applicant's control; and
  - (5) A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards or the City's pertinent and applicable ordinances including, but not limited to, this Section, provided that City standards are no more stringent than those of a national safety ordinance.
- b. Any breach of the terms and conditions of a facilities permit shall also be deemed a

violation of this Section, and in lieu of revocation, the Director may initiate prosecution of the applicant or the facilities owner for such violation.

5. *Appeals and alternative dispute resolution.*

- a. Any person aggrieved by a final determination of the Director may appeal in writing to the City Clerk within five (5) business days thereof. The appeal shall assert specific grounds for review and the City Clerk shall render a decision on the appeal within fifteen (15) business days of its receipt affirming, reversing or modifying the determination of the Director. The City Clerk may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision. Any person aggrieved by the final determination of the City Clerk may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the City Clerk's final determination.
- b. On agreement of the parties and in addition to any other remedies, any final decision of the City Clerk may be submitted to mediation or binding arbitration.
  - (1) In the event of mediation, the City Clerk and the applicant shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties, and each party shall pay its own costs, disbursements and attorney fees.
  - (2) In the event of arbitration, the City Clerk and the applicant shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the City Clerk, one (1) arbitrator selected by the applicant or facilities owner and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third (3rd) arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees.

C. *Facilities Regulations.*

1. The following general regulations apply to the placement and appearance of facilities:
  - a. Facilities shall be placed underground, except when other similar facilities exist above ground or when conditions are such that underground construction is impossible, impractical or economically unfeasible, as determined by the City, and when in the City's judgment the above ground construction has minimal aesthetic impact on the area where the construction is proposed. Facilities shall not be located so as to interfere, or be likely to interfere, with any public facilities or use of public property.
  - b. Facilities shall be located in such a manner as to reduce or eliminate their visibility. Non-residential zoning districts are preferred to residential zoning districts. Preferred locations in order of priority in both type districts are (a) thoroughfare landscape easements, (b) rear yards, and (c) street side yards on a corner lot behind the front yard setback. Placement within side yards not bordered by a street or within front yards are discouraged.

- c. Facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities. Sight-proof screening, landscape or otherwise, may be required for facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the Director prior to installation of any facility requiring landscape screening. The person responsible for the facilities shall be responsible for the installation, repair or replacement of screening materials. Alternative concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.
  - d. Facilities shall be constructed and maintained in a safe manner and so as to not emit any unnecessary or intrusive noise and in accordance with all applicable provisions of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and all other applicable Federal, State or local laws and regulations.
  - e. No person shall place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities, except such necessary minimal markings approved by the City as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.
  - f. If the application of this Subsection excludes locations for facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but the City shall not be required to incur any financial cost or to acquire new locations for the applicant.
2. Any person installing, repairing, maintaining, removing or operating facilities, and the person on whose behalf the work is being done, shall protect from damage any and all existing structures and property belonging to the City and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced and the responsible person shall immediately notify the owner of the fact of the damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.
  3. The applicant shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work.
  4. At the City's direction, a person owning or controlling facilities shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.
  5. If a person installs facilities without having complied with the requirements of this Section or abandons the facilities, said person shall remove the facilities, and if the person fails to remove

the facilities within a reasonable period of time, the City may, to the extent permitted by law, have the removal done at the person's expense.

6. 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 regulations provided herein. (R.O. 2009 §430.015; Ord. No. 431 §4, 1-24-08)

#### **SECTION 430.020: ENFORCEMENT**

It shall be the duty of the Building Commissioner/Inspector to enforce this Title. Appeal from the decision of the Building Commissioner/Inspector may be made to the Board of Adjustment as provided in Chapter 420. (R.O. 2009 §430.020; Ord. No. 20 §7-58, 3-22-49)

#### **SECTION 430.030: VIOLATIONS—PENALTIES**

- A. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of Sections 89.010 to 89.140, RSMo., or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of Sections 89.010 to 89.140, RSMo.
- B. 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 an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation, or who maintains any building or premises in which any such violation shall exist shall be guilty of an ordinance violation punishable by a fine of not less than ten dollars (\$10.00) and not more than two hundred fifty dollars (\$250.00) for each and every day that such violation continues, or by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of Section 82.300, RSMo., for the second (2nd) and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each and every day that such violation shall continue, or by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court.
- C. Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten (10) days after such service or shall continue to violate any

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provision of the regulations made under authority of Sections 89.010 to 89.140, RSMo., in the respect named in such order shall also be subject to a civil penalty of two hundred fifty dollars (\$250.00).





## CHAPTER 435: FLOODWAY FLOODPLAIN MANAGEMENT

*Editor's Note—Ord. no. 297 §1, adopted July 18, 1995, repealed ch. 435 and enacted the new provisions set out herein. Former ch. 435 derived from ord. no. 242 §§1—12, 6-11-91.*

### SECTION 435.010: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

- A. *Statutory Authorization.* The legislature of the State of Missouri has in Sections 89.010, RSMo., et seq., delegated the responsibility to local government units to adopt zoning regulations designed to protect the health, safety and general welfare. Therefore, the Board of Aldermen of the City of Bella Villa, State of Missouri ordains as follows.
- B. *Findings Of Fact.*
1. *Flood losses resulting from periodic inundation.* The flood hazard areas of the City of Bella Villa, Missouri, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.
  2. *General causes of the flood losses.* These flood losses are caused by:
    - a. The cumulative effect of obstructions in floodways causing increases in flood heights and velocities; and
    - b. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.
  3. *Methods used to analyze flood hazards.* This Chapter uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.
    - a. Selection of regulatory flood which 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 regulatory flood selected for this Chapter is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this Chapter. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one (1) year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated September 30, 1993, as amended, and any future revisions thereto.
    - b. Calculation of water surface profiles based on hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
    - c. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
  - e. Delineation of flood fringe, (i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the regulatory flood).
- C. *Statement Of Purpose.* It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize those losses described in Subsection (B)(1) by applying the provisions of this Chapter to:
- 1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
  - 2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
  - 3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
  - 4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program. (R.O. 2009 §435.010; Ord. No. 297 §2, 7-18-95)

#### SECTION 435.020: GENERAL PROVISIONS

- A. *Lands To Which Chapter Applies.* This Chapter shall apply to all lands within the jurisdiction of the City of Bella Villa of St. Louis County identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones (including AE, AO and AH Zones). In all areas covered by this Chapter no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the Board of Aldermen or its duly designated representative under such safeguards and restrictions as the Board of Aldermen or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 435.040 and 435.050.
- B. *Local Floodplain Administrator.* The Mayor of the community is hereby designated as the community's duly designated Floodplain Administrator under this Chapter.
- C. *Rules For Interpretation Of District Boundaries.* The boundaries of the floodway and flood fringe districts shall be determined by scaling distances on the official Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Local Floodplain Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Appeal Board, as defined in Section 435.050, will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence, if he/she so desires.

- D. *Compliance.* No development located within known flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this Chapter and other applicable regulations.
- E. *Abrogation And Greater Restrictions.* It is not intended by this Chapter to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provision of this Chapter shall prevail. All other ordinances inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.
- F. *Interpretation.* In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and 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.
- G. *Warning And Disclaimer Of Liability.* The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Chapter shall not create liability on the part of the City of Bella Villa, any officer or employee thereof, for any flood damages that may result from reliance on this Chapter or any administrative decision lawfully made thereunder.
- H. *Severability.* If any Section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- I. *Appeal.* Where a request for a floodplain development permit to develop or a variance is denied by the Mayor or designated representative the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Section 435.050. (R.O. 2009 §435.020; Ord. No. 297 §2, 7-18-95)

#### SECTION 435.030: ADMINISTRATION

- A. *Floodplain Development Permit—Required.* No person, firm or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for development as defined in Section 435.020.
- B. *Designation Of Floodplain Administrator.* The Mayor is hereby appointed to administer and implement the provisions of this Chapter.
- C. *Duties And Responsibilities Of Local Administrator.* Duties of the Mayor shall include, but not be limited to:
1. Review all floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this Chapter have been satisfied.
  2. Review floodplain development permits for proposed development to assure that all necessary

permits have been obtained from those Federal, State or local government agencies from which prior approval is required.

3. Notify adjacent communities and the Missouri State Emergency Management Agency prior to any alteration or relocation of a watercourse and shall submit evidence of such notification to the Federal Emergency Management Agency.
  4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  5. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
  6. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
  7. When floodproofing is utilized for a particular structure the Mayor shall be presented certification from a registered professional engineer or architect.
- D. *Application For Floodplain Development Permit.* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
1. Identify and describe the work to be covered by the floodplain development permit;
  2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
  3. Indicate the use or occupancy for which the proposed work is intended;
  4. Be accompanied by plans and specifications for proposed construction;
  5. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority; and
  6. Give such other information as reasonably may be required by the Mayor (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one (1) foot penalty is assessed at the time of rating the structure for the policy premium). (R.O. 2009 §435.030; Ord. No. 297 §2, 7-18-95)

#### **SECTION 435.040: PROVISIONS FOR FLOOD HAZARD REDUCTION**

##### **A. *General Standards.***

1. No permit for development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within all numbered and

unnumbered A Zones (including AE, AO and AH Zones) unless the conditions of this Section are satisfied.

2. All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the one hundred (100) year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this Chapter. If Flood Insurance Study data is not available the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
3. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
  - c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - d. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
  - e. That until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30 and AE on the Community's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1) foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference in Section 435.010(B)(3) of this Chapter.
  - f. *Storage and material and equipment.*
    - (1) The storage or processing of materials 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 material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
  - g. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage;
  - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage;
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
  - (4) Proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory flood elevation.
- B. *Specific Standards.* In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 435.010(B)(3), the following provisions are required:
1. *Residential construction.* New construction or substantial improvement of any residential building or manufactured home shall have the lowest floor, including basement, elevated to or one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Subsection (B)(3).
  2. *Non-residential construction.* New construction or substantial improvement of any commercial, industrial or non-residential building or manufactured home, shall have the lowest floor, including basement, elevated to or one (1) foot above the base flood elevation. Buildings located in all A Zones may be floodproofed in lieu of being elevated provided that all areas of the building below the required elevation are water-tight with walls substantially impermeable to the passage of water, and use with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect 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 official as set forth in Section 435.030(C)(7).
  3. *Elevated buildings.* New construction or substantial improvements of elevated building that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
    - a. Designs for complying will this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
      - (1) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
      - (2) The bottom of all openings shall be no higher than one (1) foot above grade; and
      - (3) Openings may be equipped with screens, louver, valves or other coverings or devices provided that they permit the automatic flow of floodwaters in both directions.
    - b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles, garage door or limited storage of maintenance equipment used in connection with the premises, standard exterior door or entry to the living area, stairways or elevator.

- c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - C. *AH Zones.* Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
  - D. *Manufactured Homes.*
    1. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements or their equivalent shall be met:
      - a. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.
      - b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side.
      - c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.
      - d. Any additions to the manufactured homes be similarly anchored.
    2. Require that all manufactured homes to be placed within Zones A1-30, AH, and AE on the community's FIRM on sites:
      - a. Outside of a manufactured home park or subdivision;
      - b. In a new manufactured home park or subdivision;
      - c. In an expansion to an existing manufactured home park or subdivision; or
      - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "*substantial damage*" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection (D)(1).
    3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Subsection (D)(1) be elevated so that either:
      - a. The lowest floor of the manufactured home is at or four hundred thirty-two (432) feet above the base flood elevation; or
      - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height

above grade and be securely attached to an adequately anchored foundation system in accordance with the provisions of Subsection (D)(2).

E. *Recreational Vehicles.*

1. Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either:
  - a. Be on the site for fewer than one hundred eighty (180) consecutive days, and 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
  - b. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this Chapter.

F. Reserved.

G. *Floodways.*

1. *Permitted uses.*

- a. Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. All encroachments, including fill, new constructions, substantial improvements and other developments must be prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of this Section. The following are recommended uses for the Floodway District:
  - (1) Agricultural uses such as general farming, pasture, nurseries, forestry.
  - (2) Residential uses such as lawns, gardens, parking and play areas.
  - (3) Non-residential areas such as loading areas, parking and airport landing strips.
  - (4) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
2. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Subsection (A)(3)—(G)(4) of this Chapter, in meeting the standards of this Section.
3. Denial of a floodplain development permit for development which results in an increase in flood heights is not appealable. The remedy for floodway encroachment would be for the applicant to provide sufficient data, through the permit issuing office to support a floodway revision to existing maps. Any such floodway revision can be granted only by the Federal Emergency Management Agency (FEMA), in accordance with Part 65.7 of 44CFR. If appropriate, and



in the best interest of the health, safety and welfare of citizens of the community, the map revision request will be forwarded to the FEMA Region VII for their review and action. (R.O. 2009 §435.040; Ord. No. 297 §2, 7-18-95; Ord. No. 299 §§1—4, 10-10-95; Ord. No. 407 §§1—3, 11-17-05)

#### SECTION 435.050: VARIANCE PROCEDURES

- A. *Establishment Of Appeal Board.* The Board of Adjustment as established by the Board of Aldermen of the City of Bella Villa shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- B. *Responsibility Of Appeal Board.* The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Mayor in the enforcement or administration of this Chapter.
- C. *Further Appeals.* Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court of St. Louis County, as provided in Chapter 536, RSMo.
- D. *Variance Criteria.* In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other Sections of this Chapter, and:
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 flooding or erosion damage;
  3. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  7. The compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  10. 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.

**E. Conditions For Variances.**

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Subparagraphs (2)—(6) of this Subsection have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical jurisdiction required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (R.O. 2009 §435.050; Ord. No. 297 §2, 7-18-95)

**SECTION 435.060: PENALTIES FOR VIOLATION**

- A. Violation of the provisions of this Chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or special exceptions, shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars (\$1,000.00), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- B. Nothing herein contained shall prevent the City of Bella Villa or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. (R.O. 2009 §435.060; Ord. No. 297 §2, 7-18-95; Ord. No. 369 §2, 5-8-01)

**SECTION 435.070: AMENDMENTS**

The regulations, restrictions and boundaries set forth in this Chapter 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 in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Bella Villa. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this Chapter are in compliance with the National Flood Insurance Program regulations. (R.O. 2009 §435.070; Ord. No. 297 §2, 7-18-95)

**SECTION 435.080: DEFINITIONS**

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Chapter its most reasonable application.

*100-YEAR FLOOD:* See "*BASE FLOOD*".

*ACCESSORY STRUCTURE:* The same as "*APPURTENANT STRUCTURE*".

*ACTUARIAL OR RISK PREMIUM RATES:* Those rates established by the administrator pursuant to individual studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principles. "*Risk premium rates*" include provisions for operating costs and allowances.

*ADMINISTRATOR:* The Federal Insurance Administrator.

*AGENCY:* The Federal Emergency Management Agency.

*AGRICULTURAL COMMODITIES:* Agricultural commodities and livestock.

*AGRICULTURAL STRUCTURE:* Any structure used exclusively in connection with the production, harvesting, storage, raising or drying of agricultural commodities.

*APPEAL:* A request for a review of the local administrator's interpretation of any provision of this Chapter or a request for a variance.

*APPURTENANT STRUCTURE:* A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

*AREA OF SHALLOW FLOODING:* A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain within a community subject to one percent (1%) or greater chance of flooding in any given year.

**BASE FLOOD:** The flood having one percent (1%) chance of being equalled or exceeded in any given year.

**BASEMENT:** Any area of the building having its floor subgrade (below ground level) on all sides.

**BUILDING:** See "**STRUCTURE**".

**CHIEF EXECUTIVE OFFICER OR CHIEF ELECTED OFFICIAL:** The official of the community who is charged with authority to implement and administer laws, ordinances and regulations for that community.

**DEVELOPMENT:** Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING:** A non-basement building:

1. Built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X or D to have the top of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of water; and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. This also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

**ELIGIBLE COMMUNITY OR PARTICIPATED COMMUNITY:** Community for which the administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

**EXISTING CONSTRUCTION (for purposes of determining rates):** Structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures".

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** 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 complete before the effective date of the floodplain management regulations adopted by a community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of

normally dry land areas from (1) the overflow of inland or tidal waters and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

*FLOOD ELEVATION DETERMINATION:* A determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

*FLOOD ELEVATION STUDY:* An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

*FLOOD FRINGE:* That area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every one hundred (100) years (i.e., that has a one percent (1%) chance of flood occurrence in any one (1) year).

*FLOOD HAZARD BOUNDARY MAP (FHBM):* An official map of a community issued by the administrator where the boundaries of the flood areas having special hazards have been designated as Zones A.

*FLOOD INSURANCE RATE MAP (FIRM):* An official map of a community on which the Flood Insurance Study has delineated both the Special Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

*FLOOD INSURANCE STUDY (FIS):* The official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

*FLOODPLAIN OR FLOOD-PRONE AREA:* Any land area susceptible to being inundated by water from any source (see "FLOODING").

*FLOODPLAIN MANAGEMENT:* The operation of an overlay program of corrective and preventive measures for reducing flood damage including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

*FLOODPLAIN MANAGEMENT REGULATIONS:* Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances and erosion control ordinances) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*FLOODPROOFING:* Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

*FLOODWAY OR REGULATORY FLOODWAY:* 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 (1) foot.

*FLOODWAY ENCROACHMENT LINES:* The lines marking the limits of floodways on Federal, State and local floodplain maps.

**FREEBOARD:** 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 wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

**FUNCTIONALLY DEPENDENT USE:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE:** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. 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;
3. Individually listed on a State Inventory of Historic Places in States with Historic Preservation Programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with Historic Preservation Programs that have been certified either:
  - a. By an approved State program as determined by the Secretary of the Interior; or
  - b. Directly by the Secretary of the Interior in States without approved programs.

**LEVEE:** A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM:** A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST FLOOR:** 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 non-elevation design requirements of this Chapter.

**MANUFACTURED HOME:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when

connected to the required utilities. The term "*manufactured home*" does not include "*recreational vehicle*".

**MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

**MAP:** The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

**MEAN SEA LEVEL:** For purposes of the National Flood Insurance Program, 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 are referenced.

**NEW CONSTRUCTION:** For the purpose 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 regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**OVERLAY DISTRICT:** A district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

**PARTICIPATING COMMUNITY:** See "*ELIGIBLE COMMUNITY*".

**PERSON:** Includes any individual or group of individuals, corporation, partnership, association or any other entity, including Federal, State and local governments and agencies.

**PRINCIPALLY ABOVE GROUND:** That at least fifty-one percent (51%) of the actual cash value of the structure, less land value, is above ground.

**RECREATIONAL VEHICLE:** A vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**REGULATORY FLOOD:** See "*BASE FLOOD*".

**REGULATORY FLOODWAY:** See "FLOODWAY".

**REMEDY A VIOLATION:** To bring the structure or other development into compliance with State or local floodplain management regulations.

**SHEET FLOW AREA:** See "AREA OF SHALLOW FLOODING".

**SPECIAL FLOOD HAZARD AREA:** See "AREA OF SPECIAL FLOOD HAZARD".

**SPECIAL HAZARD AREA:** An area having special flood hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99 or AH.

**START OF CONSTRUCTION** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348): Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means the first (1st) placement of permanent construction of a structure on a site, such as the pouring of slab 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; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STATE COORDINATING AGENCY:** The agency of the State 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 in that State.

**STRUCTURE:** A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not however, include either:

1. Any projects for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**VARIANCE:** A grant of relief to a person from the requirements of this Chapter which permits



construction in a manner otherwise prohibited by this Chapter where specific enforcement would result in unnecessary hardship.

**VIOLATION:** 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 Chapter is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION:** The height in relation to the National Geodetic Vertical Datum of 1929, or other datum, where specified of flood of various magnitudes and frequencies in the floodplains of riverine area. (R.O. 2009 §435.080; Ord. No. 297 §2, 7-18-95)

#### **SECTION 435.090: ADDITIONAL STANDARDS RECOMMENDED BY FEMA REGION VII**

The following are additional standards recommended by the Regional Office. While more stringent than the minimum standards of the National Flood Insurance Program, they will greatly reduce the potential for significant flood damages in the future.

1. *Non-conforming use.* A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions:
  - a. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Chapter. The utility department shall notify the enforcement official in writing of instances of non-conforming uses where utility services have been discontinued for a period of twelve (12) months.
  - b. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
  - c. A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five (5) calendar years does not exceed fifty percent (50%) of the structure's current market value. If the cumulative value of the improvement does exceed fifty percent (50%) of the structure's current market value, the structure must be brought into compliance with Section 435.040(B) which requires elevation of residential structures to or above the base flood elevation or the elevation/floodproofing of non-residential structures to or above base flood elevation.
2. *Critical facilities.*
  - a. All new or substantially improved critical non-residential facilities including, but not limited to, governmental buildings, Police stations, Fire stations, hospitals, orphanages, penal institutions, communications centers, water and sewer pumping stations, water and

sewer treatment facilities, community centers, transportation maintenance facilities, places of public assembly, emergency aviation facilities and schools shall be elevated above the elevation of the 500-year flood or together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and 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 official as set forth in Section 435.030(C)(7).

- b. All critical facilities shall have access routes which are above the elevation of the 500-year flood.
  - c. No critical facilities shall be constructed in the floodway.
3. *Hazardous materials.* All hazardous material storage and handling sites shall be located out of the special flood hazard area.
  4. *Freeboard recommendation.*
    - a. *Residential.* Section 435.040(B)(1) contains elevation requirement for residential development. The minimum requirement, except where State law has a more stringent requirement, is for elevation to the base flood elevation. It is recommended that communities require at least an additional one (1) foot of elevation. This will reduce the flood insurance premiums for residents and provide an additional measure of safety.
    - b. *Non-residential.* Section 435.040(B)(2) contains elevation requirement for non-residential development. The minimum requirement, except where State law has a more stringent requirement, is for elevation or floodproofing to the base flood elevation. It is recommended that communities require at least an additional one (1) foot of elevation. This will reduce the flood insurance premiums for residents and provide an additional measure of safety. This is especially true when a non-residential structure is floodproofed. Unless the floodproofed structure is floodproofed to one (1) foot above the base flood elevation, the flood insurance is rated at below base flood elevation. (R.O. 2009 §435.090; Ord. No. 297 §2, 7-18-95)

## TITLE V. BUILDING AND CONSTRUCTION

*Editor's Note—Ord. no. 367 §1, adopted September 12, 2000, repealed chs. 500, 501, 502, 503, 505 and 506 and set out the new provisions in chs. 500, 505 and 507. Former chs. 501 through 506 derived from ord. no. 130 §1, 4-8-78; ord. no. 194 art. 1—9, 7-9-85; ord. no. 210 §1, 12-13-88; ord. no. 211 §1, 12-13-88; ord. no. 241 §§1—3, 12-11-90; ord. no. 251 §§1—III, 6-9-92; ord. no. 287 §1, 2-14-95; ord. no. 288 §1, 2-14-95; ord. no. 315, 11-19-96; ord. no. 329 §1, 10-21-97; ord. no. 333 §1, 12-9-97; ord. no. 334 §1, 12-9-97; ord. no. 338 §§1—3, 4-24-98; ord. no. 339 §1, 4-24-98; ord. no. 340 §1, 5-12-98; ord. no. 341 §1, 5-12-98; ord. no. 342 §§1—5, 5-12-98; ord. no. 343 §§1—5, 5-12-98; ord. no. 344 §§1—4, 5-12-98; ord. no. 346 §1, 7-14-98; ord. no. 347 §§1—3, 7-14-98; ord. no. 348 §§1—2, 7-14-98; ord. no. 349 §1, 7-14-98; ord. no. 358, 11-9-99; ord. no. 359 §1, 1-11-99.*

### CHAPTER 500: BUILDING REGULATIONS

#### ARTICLE I. BUILDING CODE ADOPTION

##### SECTION 500.010: ADOPTION OF BUILDING CODE

The St. Louis County Building Code, as adopted and amended by the County of St. Louis on or about March 17, 1994, August 14, 1995, May 30, 1996, August 7, 1997, February 26, 1998 and January 14, 1999 (County Ord. No. 19,298), is hereby adopted as the Building Code of the City of Bella Villa as if fully set out herein. (R.O. 2009 §500.010; Ord. No. 367 §2, 9-12-00)

##### SECTION 500.020: PENALTY

Any person violating any of the provisions of this Article or the code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.020; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

#### ARTICLE II. ELECTRICAL CODE ADOPTION

##### SECTION 500.030: ADOPTION OF ELECTRICAL CODE

The St. Louis County Electrical Code, as adopted and amended by the County of St. Louis on or about March 17, 1994, March 6, 1997 and June 22, 2000 (County Ord. No. 19,998), is hereby adopted as the Electrical Code of the City of Bella Villa as if fully set out herein. (R.O. 2009 §500.030; Ord. No. 367 §2, 9-12-00)

**SECTION 500.040: PENALTY**

Any person violating any of the provisions of this Article or the code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.040; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

**ARTICLE III. PLUMBING CODE****SECTION 500.050: ADOPTION OF PLUMBING CODE**

The St. Louis County Plumbing Code, as adopted and amended by the County of St. Louis on or about February 11, 1993, February 3, 1994, January 25, 1996, June 11, 1998, December 21, 2000 and June 1, 2005 (County Ord. No. 22,338), is hereby adopted as the Plumbing Code for the City of Bella Villa as if fully set out herein. (R.O. 2009 §500.050; Ord. No. 367 §2, 9-12-00; Ord. No. 387 §1, 2-26-04; Ord. No. 402 §1, 7-28-05)

**SECTION 500.060: PENALTY**

Any person violating any of the provisions of this Article or the code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.060; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

**ARTICLE IV. FIRE PREVENTION CODE****SECTION 500.070: ADOPTION OF FIRE PREVENTION CODE**

The BOCA National Fire Prevention Code/1996 as prepared by the Building Officials and Code Administrators International, Inc., is hereby adopted by the City of Bella Villa as if fully set forth herein. (R.O. 2009 §500.070; Ord. No. 367 §2, 9-12-00)

**SECTION 500.080: PENALTY**

Any person violating any of the provisions of the code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the City or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.080; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

**ARTICLE V. MECHANICAL CODE****SECTION 500.090: ADOPTION OF MECHANICAL CODE**

The St. Louis County Mechanical Code, as adopted or amended by the County of St. Louis on or about March 21, 1994 (County Ord. No. 16,914), is hereby adopted as the Mechanical Code of the City of Bella Villa as if fully set out herein. (R.O. 2009 §500.090; Ord. No. 367 §2, 9-12-00)

**SECTION 500.100: PENALTY**

Any person violating any of the provisions of this Article or the code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.100; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

**ARTICLE VI. EXPLOSIVES CODE****SECTION 500.110: ADOPTION OF EXPLOSIVES CODE**

- A. The St. Louis County Explosives Code, as adopted and amended by the County of St. Louis on or about October 24, 1962, November 29, 1967, January 8, 1981, December 23, 1981, June 2, 1994 and November 6, 1997 (County Ord. No. 18,693), is hereby adopted as the Explosives Code of the City of Bella Villa as if fully set out herein.
- B. *Agreement With County For Enforcement Of Explosives Code.* The Mayor, on behalf of the City of Bella Villa, is hereby authorized to enter into an agreement with the County for the enforcement of the Explosives Code of the City of Bella Villa by St. Louis County. The County shall collect and retain all fees.
- C. Any person violating any of the provisions of this Article or the code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.110; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

**ARTICLE VII. WEIGHTS AND MEASURES CODE****SECTION 500.120: ADOPTION OF WEIGHTS AND MEASURES CODE**

- A. The Weights and Measures Code, as adopted and amended by the County of St. Louis on

or about May 27, 1963, April 4, 1966, February 5, 1968, October 18, 1971, February 13, 1987 and May 25, 1998 (County Ord. No. 18,939), is hereby adopted as the Weights and Measures Code of the City of Bella Villa as if set forth here in full.

- B. The Mayor, on behalf of the City of Bella Villa, is hereby authorized to enter into an agreement with the County for the enforcement of the Weights and Measures Code of the City of Bella Villa by St. Louis County. The County shall collect and retain all fees.
- C. Any person violating any of the provisions of this Article or the code adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.120; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

#### **ARTICLE VIII. PROPERTY MAINTENANCE CODE**

##### **SECTION 500.130: ADOPTION OF PROPERTY MAINTENANCE CODE**

The St. Louis County Property Maintenance Code, as adopted or amended by the County of St. Louis on or about March 24, 1992, August 3, 1992, February 5, 1993, December 13, 1993, May 5, 1994, June 17, 1994, May 25, 1995, August 7, 1997 and September 3, 1998 (County Ord. No. 19,084), is hereby adopted as the Property Maintenance Code of the City of Bella Villa as if fully set out herein. (R.O. 2009 §500.130; Ord. No. 367 §2, 9-12-00)

##### **SECTION 500.140: PENALTY**

Any person violating any of the provisions of this Article or the code as adopted in this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned in the County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (R.O. 2009 §500.140; Ord. No. 367 §2, 9-12-00; Ord. No. 369 §2, 5-8-01)

#### **ARTICLE IX. MISCELLANEOUS PROVISIONS**

##### **SECTION 500.150: CODES MAINTAINED BY CITY**

The technical codes referenced in this Chapter are and have been on file in the office of the City Clerk for the requisite period of time as required by Section 67.280, RSMo., as amended, and shall be so maintained for public use, inspection and examination. (R.O. 2009 §500.150; Ord. No. 367 §2, 9-12-00)

**SECTION 500.160: EARTHQUAKE AND SEISMIC DESIGN REQUIREMENTS**

All construction in the City shall comply with the requirements of Sections 319.200 through 319.207, RSMo., and any amendments thereto, relating to earthquakes and seismic construction requirements. (R.O. 2009 §500.160; Ord. No. 367 §2, 9-12-00)

**SECTION 500.170: WORKMANSHIP AND SAFETY OF DESIGN**

All workmanship and building materials shall be of good quality and shall meet any specifications set out in any of the codes adopted herein or which the City prescribes. The more generally standard specifications for quality of materials are those of the American Society for Testing Materials. All parts of every building shall be designed to safely carry loads to be imposed thereon and shall in all other respects conform to good engineering practices. Whenever any work is performed, the contractor performing such work shall clean up the area in which the work was performed and remove any debris from the work site to a proper depository. (R.O. 2009 §500.170; Ord. No. 367 §2, 9-12-00)

**SECTION 500.180: LATERAL SEWER REPAIR FEE**

- A. The Board of Aldermen acknowledges the results of the election held on April 8, 2003 at which the voters of the City approved the assessment of a fee of not more than twenty-eight dollars (\$28.00) annually to pay the cost of repairs for defective lateral sewer services lines, and said fee is hereby imposed in the amount of seven dollars (\$7.00), to be assessed quarterly, or twenty-eight dollars (\$28.00), to be assessed annually, as may be allowed by the collection procedures of St. Louis County.
- B. The Board of Aldermen authorizes and directs the immediate collection of the annual fee from all owners of residential property for the year 2003 in order to ensure program operation beginning at the earliest possible time. All funds received from such collection shall be separated from all other revenues, credited to an appropriate fund or account of the City and expended only in accordance with the policy adopted by the City.
- C. The Board of Aldermen further declares that said fee shall be collected by the St. Louis County Collector of Revenue and remitted to the City as provided in the contract on file in the City offices and incorporated herein by reference.
- D. To allow for the accumulation of funds necessary for proper program implementation, the Board of Aldermen declares that applications for sewer lateral assistance shall not be accepted or processed by the City prior to January 1, 2005.
- E. The Saint Louis County Sewer Lateral Repair Program as amended by the County of St. Louis, Missouri, through date of last amendatory County ordinance 20,325, adopted January 4, 2001 (amended by County ordinance 19,701) is hereby adopted as the Sewer Lateral Repair Program of the City of Bella Villa, Missouri.
- F. The City of Bella Villa agrees to transfer to St. Louis County all fees collected pursuant to Section 249.423, RSMo., and further acknowledges that St. Louis County shall administer a sewer lateral

repair program for the City of Bella Villa only to the extent it can be funded by said fees or by other City of Bella Villa funding and that the program will not be funded in any manner by St. Louis County. (R.O. 2009 §500.180; Ord. No. 383 §§1—4, 8-18-03; Ord. No. 385 §§1—2, 2-26-04)



## CHAPTER 505: PERMITS, FEES AND INSPECTIONS

### SECTION 505.010: BUILDING PERMITS

A. *Building Permits.* The City shall issue all building and related permits, except the Explosives Code permits and the Weights and Measures Code permits, which shall be issued by the County. The remaining permits shall be issued by the City.

1. *Required.* No building or structure shall be erected, reconstructed or structurally altered, nor shall any work be started upon same until the required building permit has been issued by the City. Said permit shall state that the proposed structure complies with all the provisions of this Code and any codes adopted herein.
2. *Filing of plans.* All applications for building permits shall be accompanied by plans, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the exact size and location on the lot of the existing buildings and accessory buildings and the lines within which the structure shall be erected or altered; the existing and intended use of each building or part of building; the number of families the building is designed to accommodate; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Code. Applications shall also include construction costs and shall be submitted to the City Clerk with documentation that all the codes adopted within this Title have been complied with. The City Clerk shall present the plans to duly appointed Building Commissioner for his/her consideration and approval.
3. *Fees.* Building permit fees, as determined under the provisions of this Chapter, shall be as follows:

<i>Total Valuation</i>	<i>Fee</i>
Up to and including \$10,000.00	\$15.00 per \$1,000.00 of construction cost
\$10,001.00 to \$400,000.00	\$100.00 plus \$5.00 per \$1,000.00 of construction cost
\$400,001.00 to \$1.5 million	\$500.00 plus \$4.00 per \$1,000.00 of construction cost
Over \$1.5 million	\$2,000.00 plus \$3.00 per \$1,000.00 of construction cost
Minimum fee	\$25.00 for all permits

4. *Expiration of building permits.*
  - a. All residential construction shall have the exterior construction completed within six (6) months, with a time limit of one (1) year for completion of interiors. Prior to expiration, a six (6) month extension can be requested. The Building Commissioner may approve an extension for a period not exceeding six (6) months. Any subsequent extension and fee shall be referred to the Board of Aldermen for approval.
  - b. The Building Commissioner shall stipulate a completion date for non-residential construction, based on the size and complexity of the project. Requests for extensions of time may be processed as for residential construction.

B. *Demolition Permits.*

1. A demolition permit shall be required prior to the performance of any work relative to demolition. Permits and extensions shall be issued by the Building Commissioner upon approval of the application, payment by the applicant of a fee as set out in Subsection (B)(2) hereof and posting by the applicant of a performance bond in an amount and form specified and approved by the Building Commissioner. Permits shall expire ninety (90) days from the date of issuance. Extensions may be granted by the Building Commissioner for thirty (30) days. After the first (1st) extension of thirty (30) days has expired, and the demolition work has not been completed, the Building Commissioner may utilize the performance bond so deposited to complete performance of the demolition work or grant an additional thirty (30) day extension. Applications for demolition permits shall be submitted to the City Clerk who shall present them to the Building Commissioner for approval or disapproval.

2. *Fees.* The fees for demolition permits shall be as follows:

Minimum fee . . . . .	\$25.00
Residential structures . . . . .	\$25.00 per dwelling unit or portion thereof
Other structures . . . . .	\$25.00 per 10,000 cubic feet of volume of the structure

C. *Plumbing Permits.*

1. Applications for plumbing permits shall be submitted to the City Clerk who shall present them to the Building Commissioner for approval or disapproval, provided that all requirements of permits and approvals of all other agencies and officials are included. This application shall include the construction cost and type of construction, renovation or repair being done.

2. *Fees.* The fees for plumbing permits shall be as follows:

Fixture or rough in for future fixture . . . . .	\$5.00 each
Interceptor or separator . . . . .	\$15.00 each
Sewer installation, repair or replacement . . . . .	\$25.00 each
Stack installation, repair or replacement . . . . .	\$25.00 each
Water service installation, repair or replacement . . . . .	\$25.00 each
Water supply line or replacement . . . . .	\$25.00 each
Water heater . . . . .	\$25.00 each

D. *Electrical Permits.*

1. Applications for electrical permits shall be submitted to the City Clerk who shall present them to the Building Commissioner for approval or disapproval, provided that all requirements of permits and approvals of all other agencies and officials are included. This application shall include the construction cost and type of construction, renovation or repair being done.

2. *Fees.* The fees for electrical permits shall be as follows:

Electrical outlets (outlet, switch, circuit, light, etc.)	
Each outlet . . . . .	\$ .50
Service equipment and service panels:	
Up to 200 amp . . . . .	\$15.00 each
201 to 400 amp . . . . .	25.00 each
401 to 600 amp . . . . .	35.00 each
Over 600 amp . . . . .	45.00 each
Sub panels . . . . .	\$ 5.00 each
Communications:	
Amplifiers . . . . .	\$ 1.00 each
Speakers . . . . .	.50 each
Alarm control center . . . . .	2.00 each
Alarm detection device/pull station . . . . .	.50 each
Cable TV power booster station . . . . .	10.00 each
Cable TV hookup . . . . .	2.00 each
Miscellaneous:	
Motors . . . . .	\$ 5.00 each
Air conditioners . . . . .	5.00 each
Furnace, unit heater, etc. . . . .	5.00 each
Water heater . . . . .	5.00 each

(R.O. 2009 §505.010; Ord. No. 367 §3, 9-12-00)

**SECTION 505.020: INSPECTIONS—FEES—OCCUPANCY PERMIT**

A. *Inspections.* The City shall perform all inspections related to construction in the City, except in the case of Explosives and Weights and Measures. The fees for inspections shall be as follows:

Single residences . . . . .	\$ 40.00 each
Multiple residences . . . . .	40.00 each
Commercial buildings . . . . .	95.00

B. *Occupancy Permits.* In single residences and multiple residences, the occupancy permit fee shall be included in the inspection fee. (R.O. 2009 §505.020; Ord. No. 367 §3, 9-12-00)

**SECTION 505.030: LICENSES AND PERMITS—FAILURE TO APPLY—VIOLATION**

A. It shall be an ordinance violation if any person or corporation fails to obtain a permit or license, as required by any Section of this Title, before starting work.

B. Any person violating this Section shall pay a fine of not less than thirty-five dollars (\$35.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each continuance of work after being notified to cease and desist shall constitute a separate offense. (R.O. 2009 §505.030; Ord. No. 367 §3, 9-12-00; Ord. No. 369 §2, 5-8-01)



## CHAPTER 507: DANGEROUS BUILDINGS

### SECTION 507.010: PURPOSE AND SCOPE

It is the purpose of this Chapter to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this Chapter shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the City of Bella Villa, Missouri. (R.O. 2009 §507.010; Ord. No. 367 §4, 9-12-00)

### SECTION 507.020: DANGEROUS BUILDINGS DEFINED

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

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the City.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
9. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City. (R.O. 2009 §507.020; Ord. No. 367 §4, 9-12-00)

**SECTION 507.030: DANGEROUS BUILDINGS DECLARED NUISANCE**

All dangerous buildings or structures, as defined by Section 507.020 of this Chapter, are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided herein. (R.O. 2009 §507.030; Ord. No. 367 §4, 9-12-00)

**SECTION 507.040: STANDARDS FOR REPAIR, VACATION OR DEMOLITION**

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

1. If the dangerous building can reasonably be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished.
4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this City or Statute of the State of Missouri, it shall be repaired or demolished. (R.O. 2009 §507.040; Ord. No. 367 §4, 9-12-00)

**SECTION 507.050: BUILDING INSPECTOR AND BUILDING COMMISSIONER**

The Mayor shall advise on, and the Board of Aldermen shall appoint, a Building Inspector and a Building Commissioner to enforce the provisions of this Chapter. (R.O. 2009 §507.050; Ord. No. 367 §4, 9-12-00)

**SECTION 507.060: DUTIES OF BUILDING INSPECTOR—PROCEDURE AND NOTICE**

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

1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such place to be a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.
2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Building Inspector determines that there are reasonable grounds to believe that such building is dangerous.
3. Inspect any building, wall or structure reported by the Fire or Police Departments of this City as probably existing in violation of this Chapter.

4. Notify the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building or structure, as shown by the land records of the Recorder of Deeds of St. Louis County, of any building or structure found by him/her to be a dangerous building or structure within the standards set forth in Section 507.020. Such notice shall be in writing and shall be given either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) consecutive weeks.

The notice required shall state that:

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

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

Provided however, that the order by the Building Commissioner and the posting of said notice shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein. (R.O. 2009 §507.060; Ord. No. 367 §4, 9-12-00)

#### **SECTION 507.070: DUTIES OF THE BUILDING COMMISSIONER**

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

1. Supervise all inspections required by this Chapter and cause the Building Inspector to make inspections and perform all the duties required of him/her by this Chapter. Upon receiving a complaint or report from any source that a dangerous building exists in the City, the Building Commissioner shall cause an inspection to be made forthwith. If the Building Commissioner deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Building Commissioner may request an inspection and report be made by any other City department or retain services of an expert whenever the Building Commissioner deems such service necessary.
2. Upon receipt of a report from the Building Inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other persons(s) having an interest in said building to commence work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, hold a hearing giving the affected parties full and adequate hearing on the matter.
3. Give written notice of said hearing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of those modes of service, then by publication in a newspaper qualified to publish legal notices, at least ten (10) days in advance of the hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County, who may appear before the Building Commissioner on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice as provided herein. Any party may be represented by counsel and all parties shall have an opportunity to be heard.
4. Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 507.020 of this Chapter.
5. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building and a nuisance and detrimental to the health, safety or welfare of the residents of the City, the Building Commissioner shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons(s) having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this City or may vacate and demolish said dangerous building at his/her own risk to prevent the acquiring by the City of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building or a nuisance or detrimental to the health, safety or welfare of the residents of the City, no order shall be issued.



6. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Building Commissioner shall cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant. If the Building Commissioner or other designated officer or officers issues an order whereby the building or structure is demolished, secured or repaired, or the property is cleaned up, the cost of performance shall be certified to the City Clerk or officer in charge of finance who shall cause a special tax bill or assessment therefor against the property to be prepared and collected by the City Collector or other official collecting taxes, unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the City and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Sections 429.010 to 429.360, RSMo. Except as provided in Section 507.090, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a lien on the property until paid. Said tax bill or assessment shall bear interest at a rate of eight percent (8%) per annum until paid. (R.O. 2009 §507.070; Ord. No. 367 §4, 9-12-00)

#### **SECTION 507.080: INSURANCE PROCEEDS—HOW HANDLED**

- A. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to twenty-five percent (25%) of the insurance proceeds as set forth in this Subsection. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:
  1. The insurer shall withhold from the covered claim payment up to twenty-five percent (25%) of the covered claim payment and shall pay such monies to the City to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this Chapter.
  2. The City shall release the proceeds and any interest that has accrued on such proceeds received under Subdivision (1) of this Subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies, unless the City has instituted legal proceedings under the provisions of Subsection (6) of Section 507.070. If the City has proceeded under the provisions of Subsection (6) of Section 507.070, all monies in excess of that necessary to comply with the provisions of Subsection (6) of Section 507.070 for the removal, securing, repair and cleanup of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.
- B. If there are no proceeds of any insurance policy as set forth in Subsection (A) of this Section, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from the date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
- C. This Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- D. This Section does not make the City a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

- E. The Building Commissioner may certify that in lieu of payment of all or part of the covered claim payment under Subsection (A) that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Building Commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection (A) of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided for in this Subsection. (R.O. 2009 §507.080; Ord. No. 367 §4, 9-12-00)

#### **SECTION 507.090: APPEAL**

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of St. Louis County may appeal such decision to the Circuit Court of St. Louis County as provided for in Sections 536.100 to 536.140, RSMo., if a proper record as defined in Section 536.130, RSMo., is maintained of the hearing provided for in Section 507.070 hereof. Otherwise, the appeal shall be made pursuant to the procedures provided for in Section 536.150, RSMo. (R.O. 2009 §507.090; Ord. No. 367 §4, 9-12-00)

#### **SECTION 507.100: EMERGENCIES**

In cases where it reasonably appears that there is immediate danger to the health, life, safety or welfare of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building Inspector shall report such facts to the Building Commissioner and the Building Commissioner may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Sections 507.080 and 507.090. (R.O. 2009 §507.100; Ord. No. 367 §4, 9-12-00)

#### **SECTION 507.110: VIOLATIONS—DISREGARDING NOTICES OR ORDERS**

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Building Commissioner or who shall fail to proceed continuously without unnecessary delay; and any person removing any notices provided for in this Chapter; and any person violating any other provisions of this Chapter shall be guilty of an ordinance violation and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000.00). Each day that a person fails to comply with an order of the Building Commissioner may be deemed a separate offense. (R.O. 2009 §507.110; Ord. No. 367 §4, 9-12-00; Ord. No. 369 §2, 5-8-01)

## CHAPTER 510: BUILDING COMMISSIONER

### SECTION 510.010: DUTIES OF THE BUILDING COMMISSIONER/INSPECTOR

- A. *Issuance Of Application For Permit.* The Building Commissioner/Inspector shall issue applications for permits upon the request to any person wishing to build within the corporate limits of the City of Bella Villa. He/she shall advise said prospective contractor of requirements found in the ordinances pertaining to the Building Code of the City of Bella Villa, the Lemay Fire Department, Metropolitan Sewer District in order to obtain a permit from the City of Bella Villa.
- B. *Issuance Of Permits.* Upon receipt of application for permit, two (2) prints of plans showing locations and dimensions of improvements. One (1) copy of the plan shall be retained by the City. The other copy should be kept on the worksite at all times. The Building Commissioner/Inspector shall determine whether all requirements of the Building Code have been fully met. When these requirements are fully met, the Building Commissioner/Inspector shall issue a permit. The Building Commissioner/Inspector shall also issue permits for all construction improvements which shall include construction costs.
- C. *Collection Of Fees.*
1. The Building Commissioner/Inspector shall collect fees in accordance with the schedules on file in the office of the City Clerk as set out in Chapter 505.
  2. The Building Commissioner/Inspector shall also hold on deposit the sum of five hundred dollars (\$500.00), in lieu of a surety bond, in the case of each street opening by any plumber, electrician, or utility of any kind unless covered by other Section until such time as the Commissioner of Streets and Sewers accepts the repairs of such street, upon the completion of the installation. Upon acceptance of the repairs by said Commissioner of Streets and Sewers, the City shall refund the deposit to the installing contractor involved.
  3. All fees received by the Building Commissioner/Inspector shall be turned over to the Treasurer of the City of Bella Villa.
- D. *Inspection Of Construction.*
1. The Building Commissioner/Inspector shall, during the course of construction or demolition of any residence, addition, garage or any other building or construction improvements, inspect from time to time the progress of the work. He/she shall make certain that the contractor has been complying with the prints presented with the application, eliminating any poor workmanship, cheap construction or violation of the Building Code. In the case of a building permit, particular attention shall be paid to the type of soil the footings rest upon, the width of the footings and the thickness of foundation walls. The Building Commissioner/Inspector shall, for any violation of Building Code provisions, be assisted by the Chief of Police and, in accordance with the laws of the City of Bella Villa, cause such contractors to cease and desist, until such time as such violations are corrected to the satisfaction of the City of Bella Villa.
  2. Upon final inspection, if acceptable, the Building Commissioner/Inspector shall issue an occupancy permit in the case of a residence to the person or persons who have bought, rented or leased or shall otherwise occupy such residence.

E. *Miscellaneous.*

1. The Building Commissioner/Inspector shall by the first (1st) of the month inform the Bureau of the Census, on their forms, when required, the number of building permits issued in his/her area. He/she shall also inform any bona fide governmental agency upon request the number of construction starts in any given length of time.
2. The Building Commissioner/Inspector shall also observe in his/her area any unauthorized construction and take appropriate steps to either stop such construction or obtain the necessary permit and fee for same. (R.O. 2009 §510.010; Ord. No. 58 §§1—5, 6-8-60; Ord. No. 221, 4-11-89; Ord. No. 345 §§1—3, 5-12-98; Ord. No. 350 §1, 7-14-98)

## **CHAPTER 515: EXCAVATIONS**

### **SECTION 515.010: EXCAVATIONS WITHOUT PERMIT**

Except in case of public work done by authority of the Board of Aldermen, no person shall make or cause to be made any opening or excavation in any public street, alley, highway, sidewalk, tree lawn, parkway or public place or thoroughfare without written permit from the Commissioner of Streets and Sewers. Any person violating the provisions of this Section shall be deemed guilty of an ordinance violation. (R.O. 2009 §515.010; Ord. No. 6 Art. 4, 1947)

### **SECTION 515.020: APPLICATION FOR PERMIT—FEES TO BE PAID**

Any person having occasion to make any such opening or excavation shall make written application for permit therefor to the City Engineer or his/her designee who is hereby given authority to issue such permits. The application shall state the location and size of the proposed excavation and when the work is to be commenced. Permit fees shall be paid to the City Engineer or his/her designee before such permit is issued in amount as follows: For each excavation involving disturbance of the pavement of any street, curb or sidewalk, twenty dollars (\$20.00), and one dollar (\$1.00) additional for each square foot over ten (10) in area, and for each excavation in parkway, tree lawn or other improved area back of curb, two dollars twenty cents (\$2.20) additional for each square foot over ten (10) in area. The permit fees aforesaid shall compensate for the issuance of permit and inspections. The City Engineer or his/her designee shall inspect the location as may be required and see that the conditions of the permit and the provisions of the Code are complied with. The person doing the excavating shall backfill the opening, restore and resurface the area so excavated with a surface similar to its original state. (R.O. 2009 §515.020; Ord. No. 6 Art. 4, 1947; Ord. No. 284 §515.020, 12-13-94)

### **SECTION 515.030: CITY ENGINEER OR HIS/HER DESIGNEE TO KEEP RECORD OF PERMITS AND PAY OVER MONIES**

The City Engineer or his/her designee shall keep a full and complete account in a book provided for that purpose of all permits issued showing the date, party to whom issued, location and fees received on account thereof, which fees, together with all deposits and monies, shall be turned over to the City Collector when and as received to the credit of the General Revenue Fund. (R.O. 2009 §515.030; Ord. No. 6 Art. 4, 1947; Ord. No. 284 §515.030, 12-13-94)

### **SECTION 515.040: TIME OF APPLICATION IN EMERGENCY**

The provisions of this Chapter requiring permit before any work is commenced shall not apply in emergencies where the public safety or welfare is endangered, but such work may immediately proceed, provided permit is applied for and issued as soon as practicable after the work is commenced. (R.O. 2009 §515.040; Ord. No. 6 Art. 4, 1947)

**SECTION 515.050: DUTY OF POLICE AND STREET DEPARTMENT**

It shall be the duty of the Police and members of the Street Department to report any excavation or opening in or being made in any street, alley, highway, sidewalk, curb, parkway, tree lawn or public place and to ascertain whether the provisions of this Chapter have been complied with, and arrest shall be made of persons violating the provisions hereof and said work shall be stopped until compliance is made herewith. (R.O. 2009 §515.070)

**SECTION 515.060: EXCAVATIONS—SAFEGUARDS TO PUBLIC**

No person shall make any opening or excavation, with or without permit, in any street, highway, alley, sidewalk, parkway, tree lawn or public place in the City of Bella Villa without providing during the progress of the work and until said excavation has been backfilled and the surface restored, barricades around the same as a warning to the public, and between sunset and sunrise lights or red lanterns around said excavation, lighted and sufficient in number and placed in such a manner as to be clearly visible in all directions. Any person violating any provision of this Section shall be deemed guilty of an ordinance violation. (R.O. 2009 §515.080; Ord. No. 6 Art. 4, 1947)

**SECTION 515.070: LIABILITY INSURANCE OR BOND**

- A. Every applicant for an excavation permit shall register with the City proof that the applicant is maintaining liability insurance in the sum of one million dollars (\$1,000,000.00) for bodily injury to each person, one million dollars (\$1,000,000.00) for bodily injury to all persons in one (1) occurrence and one million dollars (\$1,000,000.00) for all property damage in one (1) occurrence arising out of or on account of excavation work or on account of or in consequence of any neglect in safeguarding the work. Such insurance shall be carried in a firm or corporation which has been licensed or permitted to carry on such business in the State and shall be kept and maintained continuously in force and effect so long as the excavation work shall be in process. A verified copy of the insurance policy shall be filed with the Director of Public Works, with the certificate of the insurer that the policy is in full force and effect and that such insurance will not be altered, amended, terminated or ended without notice having been given to the City. In lieu of the insurance as herein provided, the applicant may deposit a corporate or other surety bond in the penal sum of one hundred thousand dollars (\$100,000.00) conditioned that he/she will pay any judgment recovered by any person injured or any property damage incurred on account of the excavation work or on account of or in consequence of any neglect in safeguarding the work. In the event the insurance policy provided for herein lapses and is not immediately renewed or any bond terminates in any manner whatsoever and a substitute in lieu thereof is not deposited, the permit for such excavation shall be revoked immediately.
- B. The provisions of this Section shall not apply to individual property owners who are doing their own work and do not hire an outside contractor to complete the improvement.

## CHAPTER 520: FENCES

*Editor's Note—Ord. no. 362 §1, adopted on June 13, 2000, repealed this entire ch. 520 enacting the new provisions herein. Former ch. 520 derived from ord. no. 59 §§1—3, 6, 10-12-60.*

### SECTION 520.010: DEFINITIONS

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

*FENCE:* An artificially constructed barrier of any material or combination of materials erected so as to enclose or screen from view or access areas of land and which is in excess of twenty-four (24) inches in vertical height from the underlying ground.

*FRONT FENCE:* A fence located between the front building line of the principal structure on a lot and the street. Front fences are prohibited.

*PRIVACY FENCE:* Any fence so constructed as to provide less visibility through the fence than that afforded by a semi-private fence.

*REAR (BACK) FENCE:* A fence located between the rear building line of the principal structure on a lot and the rear lot line.

*SEMI-PRIVATE FENCE:* A fence so constructed as to substantially obscure visibility through the fence, the vertical plane of which is comprised of components not more than six (6) inches wide and having an opening of at least one-half ( $\frac{1}{2}$ ) inch between each vertical component.

*SIDE (LINE) FENCE:* A fence located on or adjacent to a side lot line. (R.O. 2009 §520.010; Ord. No. 362 §1, 6-13-00)

### SECTION 520.020: LOCATION

- A. Rear (back) fences and side (line) fences shall be constructed a minimum of three (3) inches within the property line of the lot upon which they are constructed; provided however, that side and rear fences may be constructed on a lot line if an application for the fence permit is submitted jointly by the owners of all lots adjacent to the side or rear lot line upon which the fence is to be constructed.
- B. Front fences are not permitted. No fence may be erected at any location on a lot which is closer to the street than the front of the principal structure on the lot exclusive of steps or entrance way.
- C. Any fence constructed within an easement is subject to damage or removal by one lawfully using the easement for its intended purpose. Such fences are erected at the property owner's sole risk.
- D. A semi-private fence may only be permitted upon filing written consent by the owner of each lot which adjoins any lot line toward which the semi-private fence is faced. (R.O. 2009 §520.020; Ord. No. 362 §1, 6-13-00; Ord. No. 434 §1, 1-28-08)

**SECTION 520.030: CONSTRUCTION**

- A. Fences other than semi-private fences may not exceed four (4) feet in height and may be constructed only of the following materials: aluminum, vinyl, concrete, iron, steel, wood or wooden rails, or other material specifically approved by the Zoning Board. Wooden fences shall be limited to wooden posts, wooden posts with ornamental top and bottom railing of at least two (2) by four (4) inches, or pickets, but shall not include continuous wood board fencing.
- B. Semi-private fences may not exceed six (6) feet in height and may be constructed only of vinyl or treated wood. Posts for semi-private fences may not exceed eight (8) feet in height above grade.
- C. Wooden posts shall be at least four (4) by four (4) inches adequately protected and approved by the Building Commissioner/Inspector.
- D. All posts shall be set in concrete a depth of not less than thirty (30) inches, the distance between the posts shall not exceed ten (10) feet.
- E. No barbed wire is permitted.
- F. All gates shall be compatible with the fencing used.
- G. All fences shall be so installed that the finished side faces away from the lot upon which they are located.
- H. Fences shall be so maintained at all times as to be structurally sound. Any rotting, rusted or damaged elements of a fence must be repaired or replaced. (R.O. 2009 §520.030; Ord. No. 362 §1, 6-13-00)

**SECTION 520.040: PRIVACY FENCES**

Privacy fences may be permitted only on property lawfully used for commercial or industrial purposes and as part of a site plan approved by the Board of Aldermen for the purpose of insulating nearby residential properties from commercial or industrial activities. (R.O. 2009 §520.040; Ord. No. 362 §1, 6-13-00)

**SECTION 520.050: APPLICATION FOR PERMIT**

- A. The Building Commissioner/Inspector shall grant permits upon written application of the property owner describing the fencing intended to be constructed. An application to erect a semi-private fence must be accompanied by two (2) sets of plans for the intended fence.
- B. If the permit application shows compliance with the requirements of this Chapter, the Building Commissioner/Inspector shall issue the permit.
- C. All fences must be erected and maintained in conformity with the permit issued therefor and the requirements of this Chapter. (R.O. 2009 §520.050; Ord. No. 362 §1, 6-13-00)



## CHAPTER 525: SWIMMING POOLS

### SECTION 525.010: REQUIREMENTS

Building permit shall be required for all in-ground and partial ground swimming pools. All in-ground and partial ground swimming pools must be in compliance with the Bella Villa Basic Building Code, Section 429, as follows:

*General.* Pools used for swimming or bathing shall be in conformity with the requirements of this Section, provided however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred fifty (250) square feet, except when such pools are permanently equipped with a water recirculating system or involve structural materials. For purposes of this code, pools are classified as private swimming pools or public and semi-public swimming pools as defined in Section 429.2. Public and semi-public swimming pools shall be subject to the ordinances, rules and regulations of the Department of Health, Chapter 808, SLCRO 1964, as amended. Materials and construction used in swimming pools shall comply with the applicable requirements of the Basic Code. Pools used for swimming or bathing and their equipment or accessories which are constructed, installed and maintained in accordance with the applicable standard listed in Appendix B shall be deemed to conform with the requirements of the Basic Code, provided the requirements of Section 429.8 are included in the installation. Nothing contained herein shall be deemed to nullify any ordinances of St. Louis County, Missouri, relating to the regulating of swimming pools. (R.O. 2009 §525.010; Ord. No. 123 §1, 6-11-74)

### SECTION 525.020: REGULATIONS

A building permit shall be required for all above ground swimming pools that are twenty-four (24) inches or more in depth or have two hundred fifty (250) square feet or more surface area. Such pools shall also be required to comply with the following requirements:

1. *Swimming pool safety devices.* Every person owning land on which there is situated a swimming pool which contains twenty-four (24) inches or more of water in depth at any point or having two hundred fifty (250) square feet or more in area shall erect and maintain thereon an adequate enclosure surrounding the pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must extend at least forty-two (42) inches above the underlying ground; all gates must be self-latching with latches placed at least thirty-eight (38) inches above the underlying ground or otherwise made inaccessible from the outside to small children. Fences installed as pool enclosures must also comply with the fencing regulations provided elsewhere in this Code of Ordinances.
2. Neither the pool nor the pool decking shall be less than ten (10) feet from the rear lot line of any property and less than six (6) feet from the side lot line of any property.
3. No pool or pool decking shall be less than ten (10) feet within horizontal distance from overhead wiring.
4. All permanent electrical and plumbing equipment on any such pool shall be in compliance with the National Electric Code and the St. Louis County Plumbing Code.
5. All ground fault circuit interrupters shall be required for pool equipment circuits.

6. Underground service shall be at least five (5) feet from pool and must be a grounded recirculating system.
7. Backward filter drains shall be connected to a sanitary sewer; drainage water shall not be a nuisance to adjoining property owners.
8. All pool accessories shall be designed, constructed and installed so as not to be a safety hazard.
9. Ladders must be removed or suspended out of reach of small children when pool is not in use. (R.O. 2009 §525.020; Ord. No. 357 §1, 11-9-99; Ord. No. 364 §1, 6-13-00)

**SECTION 525.030: PERMITS ISSUED**

The Building Commissioner/Inspector of the City of Bella Villa will issue permits and by inspection see that all provisions of this Chapter are complied with. (R.O. 2009 §525.030; Ord. No. 123 §2, 6-11-74)

**SECTION 525.040: AUTHORITY OF HEALTH AND SANITATION COMMISSIONER**

The Health and Sanitation Commissioner of the City of Bella Villa shall have the authority to see that conditions of the swimming pool or surrounding areas do not pose a health problem or hazard; to close any pool when in the Commissioner's opinion the health conditions are detrimental and until they are corrected; and if not corrected within forty-eight (48) hours after notice to owner or occupant of premises on which pool exists, said Health and Sanitation Commissioner shall have authority to apply for summons for any owner or occupant of such premises to appear before the Municipal Court of the City of Bella Villa and answer for such violations under penalties above described. (R.O. 2009 §525.050)

## CHAPTER 530: GARAGES, CARPORTS, PATIO COVERS AND DRIVEWAYS

### SECTION 530.010: CARPORT

A carport may be defined simply as a roof on stilts. It may be attached on one (1) side to the existing house, or it may be a freestanding unit. It shall have the following minimum specifications and standards:

1. Minimum size shall be (from house to eave, or eave to eave) eight (8) feet wide and twenty (20) feet long.
2. Minimum distance between upright posts shall be six (6) feet, with a maximum distance of seven (7) feet.
3. Each upright post shall be set into concrete having minimum dimensions of eight (8) inches by eight (8) inches square and extending a minimum of twenty-four (24) inches below grade.
4. Each carport shall be floored with a minimum of four (4) inches of concrete, applied in a workmanlike manner. Exception to this would include covering of an existing side driveway already installed. Any extension of said driveway must meet the foregoing qualification. Loose laid blocks, bricks, chat, etc., not allowed.
5. The roof rafters shall be spaced on twenty-four (24) inch centers (two (2) by six (6) foot rafters).
6. The structural materials used in the construction of a carport shall be any or all of the following: lumber (new only), steel, aluminum, iron (wrought or cast), ornamental concrete blocks (uprights only), or poured concrete (uprights only), also precast.
7. The roof may be of wood, plywood, steel, aluminum, fiberglass, plexiglass, formica, glass or any other substance capable of carrying a deadweight load of thirty (30) pounds per square foot.
8. If plywood or wood is used, it must be covered with substantial shingles. Ordinary black building paper not allowed.
9. Roof must be amply sloped for runoff and guttered with downspout.
10. *Fire lanes must be observed.* A carport must remain free and clear of all walls, partial or otherwise on three (3) sides. Storage area may be built against the adjoining or attached house, parallel with house — thirty-six (36) inches wide. Owners' signature on permit application constitutes acceptance and concurrence that structure will forever remain solely a carport and never be enclosed. This concurrence on the part of the present owner shall apply to any future owner purchasing said property, including said carport.
11. A carport may be located on a lot in relation to the house to which it is attached and to the side line to which it extends in the following manner:
  - a. The structure may not extend forward of the building line, generally accepted as the front face of the house to which it is attached.
  - b. It may run the full length of the house and extend into the rear yard if so desired.

- c. If located on a wedge shaped lot, the structure, including guttering, shall not extend over the side line at any given point. However, it may extend all the way to the side line at any given point. When proposed structure parallels the side line, a three (3) inch minimum clearance from said side line shall apply, similar to our standard fence ordinance. The minimal size as per eight (8) by twenty (20) foot shall apply.
  - d. In the event that a resident of the City has an established carport serving his/her premises, the adjoining property owner shall not be allowed to construct a similar structure, for any purpose whatsoever, extending toward the existing carport.
12. All materials used in construction of any carport shall be subject to approval of the Building Commissioner/Inspector and shall be based on established codes and practices. Approval shall be at the Commissioner's discretion and applicable to the existing situation, as it presents itself. In the event that any violations of this Chapter take place, the City reserves the right to stop all construction of any carport until such violation is corrected. (R.O. 2009 §530.010; Ord. No. 85 §1, 7-14-65)

#### **SECTION 530.020: PATIO COVERS**

Patio covers shall be located solely in the rear yard, attached or freestanding to rear wall of house; cannot extend beyond side walls of house; cannot be larger than twelve (12) feet square, but must be permanently located and well constructed along lines of previous outlines; all subject to approval of Building Commissioner/Inspector. (R.O. 2009 §530.020; Ord. No. 85 §2, 7-14-65)

#### **SECTION 530.030: GARAGE**

A "garage" shall be defined as a structure having a prescribed area, totally enclosed by four (4) walls and a roof, which sole use shall be to house auto, tools, garden supplies and other chattels, but not to accommodate any person or persons as habitable quarters. Its construction shall be authorized only along the following specifications:

1. A single garage shall have a minimum size of twelve (12) feet by twenty (20) feet. A double garage shall have a minimum area of twenty (20) feet by twenty (20) feet. These are the outside measurements.
2. Its structural specifications shall be the same as apply to home construction.
3. Said garage may be built of wood, concrete blocks, brick, stone or any other acceptable building material. If built of wood, it must be new wood and properly finished and/or covered with presentable vinyl or aluminum siding or equivalent.
4. Roofing and siding materials must be of a standard nature, and off-falls, mill seconds and polyglot accumulations of various shingles and shingling materials not to be allowed.
5. Each garage constructed shall have a concrete floor (four (4) inch minimum).
6. Each garage driveway connecting existing driveway to garage floor shall be of the same material as the driveway from the street.
7. Garage shall be located a minimum of five (5) feet behind rear wall of house.

8. Garage shall be located up to side line of lot as regulated by Title IV.
9. All materials used in construction of any garage shall be subject to approval of the Building Commissioner/Inspector and shall be based on established codes and practices. Approval shall be at the Commissioner's discretion and applicable to the existing situation, as it presents itself. In the event that any violations of this Chapter take place, the City reserves the right to stop all construction of any garage until such violation is corrected.
10. If heating, lighting or plumbing is used, all are subject to St. Louis County Building Codes and their inspection. (R.O. 2009 §530.030; Ord. No. 85 §2, 7-14-65)

#### **SECTION 530.040: FEES**

A twenty-five dollar (\$25.00) minimum fee shall be charged by the City for building permit fees for garages, carports and patio covers. (R.O. 2009 §530.040; Ord. No. 85 §2, 7-14-65; Ord. No. 367 §3, 9-12-00)

*Cross Reference—For building permit fee breakdown, §505.010.*

#### **SECTION 530.050: UTILITY SHEDS**

- A. Two (2) separate copies of plot (site) plan showing existing structures with size and materials of a proposed utility shed shown, and the distances from existing structures indicated, must be filed with and approved by the Building Commissioner/Inspector prior to erection of a utility shed.
- B. Site plans must show direction of watershed on property at location of proposed site for utility shed.
- C. All electrical work must be performed in accordance with the Electrical Code approved by the City of Bella Villa. Such work to be performed by a licensed and bonded electrician.
- D. Any utility shed which will exceed one hundred (100) square feet in area or any utility shed which requires a permanent foundation shall require a building permit to be issued by the Building Commissioner/Inspector. (R.O. 2009 §530.050; Ord. No. 365 §1, 6-13-00)

#### **SECTION 530.055: DRIVEWAYS**

New or replaced driveways in front, side or rear of property and driveway approaches shall be constructed of:

1. A minimum of four (4) inches of reinforced concrete or asphalt with a four (4) inch base of gravel or crushed rock and proper reinforcing material.
2. Approaches to driveways shall be constructed of a minimum of six (6) inches of reinforced concrete or asphalt with a four (4) inch base of gravel or crushed rock and proper reinforcing material.
3. All driveways shall be constructed so that drainage runoff is contained within the property lines. (R.O. 2009 §530.055; Ord. No. 435 §1, 1-28-08)



## CHAPTER 535: MINIMUM HOUSING STANDARDS

### SECTION 535.010: PURPOSE OF THIS CHAPTER

The general purpose of this Chapter is to protect the public health, safety and the general welfare of the people of the City of Bella Villa. These general objectives include, among others, the following specific purposes:

1. To protect the character and stability of residential property within the City of Bella Villa.
2. To provide minimum standards for cooking, heating and sanitary equipment necessary to the health and safety of occupants of buildings.
3. To provide facilities for light and ventilation necessary to health and safety.
4. To prevent additions or alterations to existing dwellings that would be injurious to the life, health, safety or general welfare of the occupants of such dwellings or neighboring properties.
5. To prevent the overcrowding of dwellings by providing minimum space standards per occupant of each dwelling unit.
6. To provide minimum standards for the maintenance of existing residential buildings and to thus prohibit the spread of slums and blight.
7. To thus preserve the property value of land and buildings throughout the City of Bella Villa.
8. To provide mechanisms for the enforcement and administration of the Code to ensure that the above purposes are accomplished. (R.O. 2009 §540.010; Ord. No. 122 §101, 1-8-74)

### SECTION 535.020: DEFINITIONS

For the purpose of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

**ACCESSORY STRUCTURE:** A structure subordinate to the main or principal structure, the use of which is customary to the main building.

**BASEMENT:** That portion of a building which is partly underground, but having at least fifty percent (50%) of its ceiling height above the average grade of the adjoining ground.

**BATHROOM:** A room affording privacy containing bathing and sanitary facilities provided within each living unit consisting of a water closet, a tub or shower, and a lavatory basin.

**CELLAR:** That portion of a building which is partly underground, but having less than fifty percent (50%) of its ceiling height above the average grade of the adjoining ground.

**CHANGE OF OCCUPANCY:** Any circumstances wherein the composition of the residents of a dwelling unit changes either through the sale, lease, rental or other provision for the occupancy of

any dwelling unit or by the addition of one (1) or more persons to the number of residents of a dwelling unit, except by birth or legal custody of minors.

*CONDITIONAL OCCUPANCY PERMIT:* A document which states the names, ages, relationships and number of occupants of a dwelling unit which does not comply with all of the provisions of this Chapter. It is issued only under the specified circumstances listed in Section 535.140 (Occupancy Permit Required) for a limited, specified length of time.

*DETERIORATION:* The condition of appearance of a building or part thereof characterized by evidence of physical decay or neglect, excessive use or lack of maintenance.

*DWELLING:* A structure or portion thereof which is wholly or partly designed for or used for human habitation.

*DWELLING UNIT:* One (1) or more rooms or any part thereof in a building usable for occupancy by one (1) family for living purposes and having its own permanently installed cooking and sanitary facilities.

*ENFORCEMENT OFFICIAL:* The official designated herein or otherwise charged with the responsibilities of administering the Chapter or his/her authorized representative.

*EXTERIOR APPURTENANCES:* Objects which are added to a structure for aesthetic or functional purposes. These include, but are not limited to, screens, awnings, trellises, television antennae, storm windows and storm doors.

*EXTERMINATION:* The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the Health and Sanitation Commissioner of the City of Bella Villa.

*FAMILY:* An individual or married couple and the children thereof and no more than two (2) other persons related directly to the individual or married couple by blood or marriage and not more than one (1) unrelated person (excluding servants) or a group of not more than four (4) persons not related by blood or marriage living together as a single housekeeping unit in a dwelling unit.

*FENCE:* An independent structure forming a barrier at grade between lots, between a lot and a street or an alley, or between portions of a lot or lots. A barrier includes a wall or latticework screen but excludes a hedge or natural growth or a barrier less than eighteen (18) inches in height which is used to protect plant growth.

*GARBAGE:* Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

*GARDEN LEVEL:* That portion of a building which is partly underground, but having at least sixty percent (60%) of its ceiling height above the average grade of the adjoining ground.

*GUTTER:* A trough under an eave to carry off water.

*HABITABLE BUILDING:* Any structure or part thereof that shall be used as a home or place of abode by one (1) or more persons.



**HABITABLE ROOM:** Every room in any building in which persons sleep, eat or carry on their usual domestic or social vocations or avocations. It shall not include private laundries, bathrooms, toilet rooms, water closet compartments, pantries, storerooms, foyers, closets, corridors, rooms for mechanical equipment for service in the building, or other similar spaces not used by person frequently or during extended periods.

**HARBORAGE PLACES—INSECTS, PESTS OR RODENTS:** Any place where insects, pests or rodents can live, nest or seek shelter.

**INFESTATION:** The presence, within or contiguous to, of a structure or premises of insects, rodents, vermin or other pests.

**KITCHEN:** A space which contains a sink and adequate space for installing cooking and refrigeration equipment and for the storage of cooking utensils.

**MULTIPLE-FAMILY DWELLING:** A building or portion thereof designed or altered for occupancy by two (2) or more families living independently of each other in separate dwelling units.

**OCCUPANCY PERMIT:** A document which states the names, ages, relationships and number of occupants of a dwelling unit, and that the occupancy complies with all of the provisions of this Chapter. It is issued under the circumstances listed in Section 535.140 (Occupancy Permit Required).

**OCCUPANT:** Any person living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

**OPENABLE AREA:** That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR:** Any person who has charge, care or control of building, or part thereof, which is let or offered for occupancy.

**OWNER:** Any person, firm or corporation who, alone, jointly or severally with others, shall be in actual possession of, or have charge, care or control of, any dwelling or dwelling unit within the City of Bella Villa as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be bound to comply with the provisions of this Chapter to the same extent as the owner.

**PERSON:** A corporation, firm, partnership, association, organization and any other group acting as a unit as well as any individual. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used in any Section of this Chapter prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officer, agents or members thereof who are responsible for any violation of such Section.

**PLUMBING:** Facilities and equipment including, but not limited to, the following: gas pipes, gas-burning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar fixtures, together with all connections to water, sewer, vent or gas lines.

**PREMISES:** A lot, plot or parcel of land or any part thereof including the buildings or structures thereon.

**PROVIDED:** Any material furnished, supplied, paid for or under the control of the owner.

**PUBLIC HALL:** A hall, corridor or passageway for egress from a dwelling not within the exclusive control of one (1) family or dwelling unit.

**ROOMING UNIT:** Any room or group of rooms or any part thereof forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

**REPAIR:** To restore to a sound and acceptable state of operation, serviceability or appearance. Repairs shall be expected to last approximately as long as would the replacement by new items.

**REPLACE:** To remove an existing item or portion of a system and to construct or install a new item of similar or improved quality as the existing item when new. Replacement will ordinarily take place when the item is beyond repair.

**RUBBISH:** Non-putrescible solid wastes consisting of both combustible and non-combustible wastes.

**STRUCTURE:** Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a fence or freestanding wall. A sign, billboard or other advertising medium, detached or projecting, shall be construed to be a structure.

**SUBSTANDARD:** All structures which do not conform to the minimum standards established by this Chapter or any other ordinances.

**SUPPLIED:** Paid for, installed, furnished or provided by or under the control of the owner or operator.

**VENTILATION:** The process of supplying and removing air by natural or mechanical means to or from any space. Ventilation by power-driven devices shall be deemed mechanical ventilation. Ventilation by opening to out air through windows, skylights, doors, louvers or stacks without wind-driven devices shall be deemed natural ventilation.

**YARD:** An open space at grade on the same lot as a building or structure located between the main building and the adjoining lot line and/or street line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure. (R.O. 2009 §540.020; Ord. No. 122 §110, 1-8-74)

#### **SECTION 535.030: APPLICABILITY OF CHAPTER**

Every building or its premises used in whole or in part as a dwelling or as an accessory structure thereof shall conform to the requirements of this Chapter. (R.O. 2009 §540.030; Ord. No. 122 §120, 1-8-74)

#### **SECTION 535.040: INTERPRETATION**

A. *Scope.* This Chapter establishes minimum standards for dwelling, dwelling units and accessory

buildings and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings except such as are in conflict with the provisions of this Chapter. In any case where a provision of this Chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the City of Bella Villa existing on the effective date of this Chapter, the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail.

- B. *Severability.* If any Section, Subsection, paragraph, sentence, clause or phrase of this Chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall remain in full force and effect. (R.O. 2009 §540.040; Ord. No. 122 §130, 1-8-74)

### SECTION 535.050: MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNITS

It shall be unlawful for any person to occupy as owner-occupant or to let or hold out to another for occupancy any dwelling unit for the purpose of living, sleeping, cooking or eating which is not safe, clean and fit for human occupancy, and which does not comply with the particular requirements of the following paragraphs of this Section.

1. *Foundation, exterior walls and roofs.* The foundation, exterior walls and roof shall be substantially water-tight, weather-tight and protected against rodents and shall be kept in sound condition and repair. The foundation elements shall adequately support the building at all points. Every exterior wall shall be maintained in a sound condition of repair and shall be free of any other condition which admits rain or dampness to the interior portions of the building. All exterior surface material must be treated, painted in a workmanlike manner or otherwise maintained in a sound condition. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls. All cornices, rustications, quoins, moldings, belt courses, lintels, sills, oriel windows, pediments, gutters and similar projections shall be kept in good repair and free from defects which make them hazardous and dangerous.
2. *Floors, interior walls and ceilings.* Every floor, interior wall and ceiling shall be adequately protected against the passage and harborage of vermin and rodents and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotting floor boards. Every interior wall and ceiling shall be free of large cracks and holes and shall be free of loose plaster or other structural or surface materials. Every toilet room and bathroom floor surface shall be substantially impervious to water and be capable of being maintained easily in a clean and sanitary condition. Toxic paint and materials shall not be used where readily accessible to children.
3. *Windows, doors and hatchways.* Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window shall be fully supplied with window panes which are without cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame. Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware. Every exterior door, door hinge and door latch shall be in good condition. Every exterior door, when closed, shall fit reasonably well within its frame. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain and substantially to exclude wind from entering the dwelling. Every

basement hatchway and window shall be so constructed, screened or maintained as to prevent the entrance of rodents, rain and surface drainage water into the building.

4. *Exterior appurtenances.* Exterior appurtenances including, but not limited to, screens, awnings, trellises, television antennae, storm windows, and storm doors shall be installed in a safe and secure manner and shall be maintained in sound condition.
5. *Stairways and porches.* Every stairway, inside or outside of the dwelling, and every porch shall be kept in safe condition and sound repair. Every flight of stairs and every porch floor shall be free of deterioration. Every stairwell and every flight of stairs which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet high, measured vertically from the nose of the tread to the top of the rail; and every porch which is more than four (4) risers high shall have a rail not less than two and one-half (2½) feet above the floor of the porch. Every rail and balustrade shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled more than one (1) inch out of its intended position or have pulled away from supporting or adjacent structures. No flight of stairs shall have rotting, loose or deteriorating supports. The treads and risers of every flight of stairs shall be uniform in width and height. Every stair tread shall be strong enough to bear a concentrated load of at least four hundred (400) pounds. Every porch shall have a sound floor. No porch shall have rotting, loose or deteriorating supports.
6. *Basements, garden levels and cellars.* Every basement, garden level and cellar shall be maintained in a safe and sanitary condition. Water shall not be permitted to accumulate or stand on the floor. All sewer connections shall be properly trapped. All cellar and slab drains shall be covered with grating. Junk, rubbish and waste shall not be permitted to accumulate to such an extent as to create fire hazard or to endanger health or safety.
7. *Facilities, equipment and chimneys.* Every supplied facility, fixture, system, piece of equipment or utility, and every chimney and chimney flue shall be maintained in a safe, sound and sanitary working condition consistent with the requirement of this Section.
8. *Driveways.* Driveways shall be maintained in good repair and free of safety hazards.
9. *Yards.* All areas which are not covered by lawn or vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang a public thoroughfare shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians. Hazardous dead trees and shrubs shall be promptly removed.
10. *Infestation.* Each dwelling and all exterior appurtenances on the premises shall be adequately protected against insects, rats, mice, termites and other vermin infestation. Building defects which permit the entrance of insects, rats, mice, termites and other vermin shall be corrected by the owner. Tenants shall be responsible for the elimination of rodents and vermin from that part of the premises under their exclusive control except when more than one (1) unit is infested at the same time and in this instance the owner shall be responsible for elimination of the infestation. (R.O. 2009 §540.050; Ord. No. 122 §200, 1-8-74)

#### **SECTION 535.053: SPACE REQUIREMENTS AT CHANGE OF OCCUPANCY**

- A. *Space Requirements.* Every dwelling unit shall contain a minimum gross floor area of not less than

one hundred fifty (150) square feet for the first (1st) occupant and one hundred (100) square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

- B. *Required Space In Sleeping Rooms.* In every dwelling unit, every room occupied for sleeping purposes by one (1) occupant shall have a minimum gross floor area of at least seventy (70) square feet. Every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant thereof.
- C. *Ceiling Height.* Habitable rooms shall have a clear ceiling height over the minimum area required of at least seven (7) feet. Attics or top half stories calculated as habitable rooms shall have a clear ceiling height of at least seven (7) feet over at least one-third ( $\frac{1}{3}$ ) of the floor area. Only those portions of the floor area of such rooms having a clear ceiling height of five (5) feet or more may be included.
- D. *Basement Rooms.* Basement rooms and below ground level areas that do not comply with Section 535.055 (Basement and Garden Level Rooms) shall not be considered in computing the minimum habitable floor area required. (R.O. 2009 §540.053; Ord. No. 122 §230, 1-8-74)

#### **SECTION 535.055: BASEMENT AND GARDEN LEVEL ROOMS**

It shall be unlawful for any person to use or permit any room in any basement or garden level to be used to satisfy the habitable room requirements of Section 535.053 (Space Requirements at Change of Occupancy) unless such room meets all the applicable requirements of this Chapter, particularly with regard to ceiling height, ventilation, window area and meets the following additional requirements:

1. The lowest point of the ceiling shall be at least three (3) feet six (6) inches above the surface of the ground immediately adjoining the room.
2. The required minimum window area is entirely above ground level.
3. No floor area three (3) feet below grade shall be used in determining habitable living space.
4. Two (2) means of exit are provided, at least one (1) of which leads directly to the outside of the building.
5. The floors and walls shall be constructed in a manner to prevent the entry of moisture and insulated to prevent the condensation of moisture within the room. (R.O. 2009 §540.055; Ord. No. 122 §240, 1-8-74)

#### **SECTION 535.057: ILLUMINATION**

- A. *Public Halls.* All habitable rooms, passageways and stairways shall be provided with electrical fixtures so that they can be adequately lighted at night. A minimum of five (5) foot-candles of daylight or artificial illumination shall be required at all times in all public halls.

B. *Natural Lighting.* All habitable rooms except as otherwise provided in this Chapter shall be provided with a means of transmitting natural light from outside complying with the following requirements:

1. *Window area.* Every habitable room shall have at least one (1) window or skylight of approved size facing directly to the outdoors except in kitchens where artificial light may be provided in accordance with the provisions of the Building Code. The minimum total window area, measured between stops, for every habitable room shall be at least three and one-half percent (3.5%) of the floor area of such room and not less than three and one-half (3½) square feet. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area for the room.
2. *Windows leading to porches.* Whenever the natural light area opening from a habitable room is to an enclosed porch, such area shall not be counted as a required light area unless the enclosed porch has a natural light area of at least thirty percent (30%) of the floor area of the room in question. (R.O. 2009 §540.057; Ord. No. 122 §250, 1-8-74)

#### **SECTION 535.060: ELECTRICAL SERVICE**

It shall be unlawful to occupy or permit another to occupy any dwelling unit for the purpose of living therein, which is not adequately and safely provided with an electrical system in compliance with the requirements of this Section.

1. *Minimum requirements.* The following shall be considered as absolute minimum requirements: Conditions such as size of the dwelling unit and usage of appliances and equipment within the unit shall be used as the basis for requiring additional electrical works.
2. *Deficiencies.* Wherever it is found, in the judgement of the Enforcement Official, that the electrical system in the building constitutes a hazard to the occupants or the building by reason of inadequate service, improper fusing, improper or inadequate grounding of the system, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the defects shall be corrected to eliminate the hazard. The Enforcement Official shall base his/her findings of hazard on accepted engineering practice standards as listed in the last edition of the National Electrical Code of the National Electrical Contractors Association.
3. *Number of electrical outlets.* Every habitable room shall contain not less than two (2) separate and remote wall or approved floor convenience outlets, one (1) of which may be a ceiling or wall-type electric light fixture. Every kitchen shall be provided with at least three (3) separate and remote wall-type electric convenience outlets, one (1) of which may be a ceiling or wall-type electric light fixture.
4. *Laundry area.* Every laundry area shall contain at least one (1) grounded type convenience outlet.
5. *Non-habitable space.* Every bathroom, laundry room, furnace room, and public hall shall contain not less than one (1) ceiling or wall lighting fixture.

6. *Good working order.* Every outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.
7. *Hazards defined.* In addition to the hazards established by the Enforcement Official, the following installations are prohibited and their presence shall be deemed a hazard:
  - a. Flush or semi-flush mounted floor convenience outlets, unless provided with an approved waterproof cover.
  - b. Extension cords for other than short-term, temporary use.
  - c. Conductor supported pendant switches or conductor supported light fixtures.
  - d. Loose or hanging wires.
  - e. Frayed or bare wires.
  - f. Inadequately grounded, grounded type convenience outlets. (R.O. 2009 §540.060; Ord. No. 122 §260, 1-8-74)

#### **SECTION 535.070: WATER FACILITIES**

*Scope.* No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit which does not comply with the following requirements regarding water facilities:

1. *Bathrooms.* Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet, lavatory basin and bathtub or shower, all of which are in good working condition and are properly connected to hot and cold water lines and to an approved water and sewer system.
2. *Kitchen sink.* Every dwelling unit shall contain a kitchen sink apart from the lavatory basin required which is in good repair and in working condition, properly connected to hot and cold water lines and to an approved water and sewer system.
3. *Water heating facilities.* Every dwelling unit shall have supplied water heating facilities which are properly installed and are maintained in safe and good working condition, capable of heating water to a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred twenty degrees Fahrenheit (120°F).
4. *Plumbing fixtures.* Every dwelling unit and structure covered by this Section shall have water lines, plumbing fixtures, vents and drains which are properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the Building Code or Plumbing Code of the City of Bella Villa. (R.O. 2009 §540.070; Ord. No. 122 §270, 1-8-74)

**SECTION 535.080: HEATING**

Every dwelling unit shall have heating facilities which are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments within its walls to a temperature of at least seventy degrees Fahrenheit (70°F) when the outside temperature is minus ten degrees Fahrenheit (-10°F), and a temperature of at least sixty degrees Fahrenheit (60°F) when the outside temperature is less than minus ten degrees Fahrenheit (-10°F).

1. *Prohibited equipment.* Gas appliances designed primarily for cooking or water-heating purposes shall not be considered as heating facilities within the meaning of this Section. Portable heating equipment employing flame and the use of liquid fuels or coal does not meet the requirements of this Section and is prohibited.
2. *Good working condition.* The owner shall see that the heating facilities shall be properly installed, safely maintained and in good working condition. (R.O. 2009 §540.080; Ord. No. 122 §280, 1-8-74)

**SECTION 535.090: VENTILATION REQUIREMENTS**

Every habitable room shall have natural ventilation or a mechanical ventilation system adequate for the purpose for which the room is used.

1. *Toilet rooms, bathrooms and kitchens.* Every toilet room, bathroom and kitchen shall have adequate ventilation which may be either an openable window with an openable area of five percent (5%) of the floor area, mechanical ventilation or a gravity vent flue constructed with incombustible material leading to the roof of the building or a combination of any of these. The gravity vent shall be computed at an aggregate clear area of not less than five percent (5%) of the floor area of the room with a minimum area of at least one hundred twenty (120) square inches. Gravity vents shall be provided with a weather cap, directional vane or rotary-type ventilation on the roof.
2. *Adequacy.* A ventilating system maintained in a safe and good working condition which provides a complete change of air for the bathroom or water closet compartment every fifteen (15) minutes shall meet the requirements of this Section. (R.O. 2009 §540.090; Ord. No. 122 §290, 1-8-74)

**SECTION 535.100: REFUSE, GARBAGE AND RUBBISH STORAGE**

Adequate containers and covers for storage of rubbish, refuse and garbage shall be required for every dwelling unit. (R.O. 2009 §540.100; Ord. No. 122 §300, 1-8-74)

**SECTION 535.110: ACCESSORY STRUCTURES**

- A. *Obstruction Or Disrepair Not Permitted.* Accessory structures shall not obstruct light and air of doors and windows of any dwelling unit or obstruct a safe means of access to any dwelling unit or create fire and safety hazards or provide rat or vermin harborage. Accessory structures shall be functional and shall be maintained in a state of good repair and alignment. All structures must have vermin-proof floors.



- B. *Removal Of Non-Functioning Structures.* All exterior appurtenances or accessory structures which serve no useful purpose and are in a deteriorated condition, which are not economically repairable, shall be removed. Such structures shall include, but not be limited to, porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, miscellaneous sheds and sidewalks. (R.O. 2009 §540.110; Ord. No. 122 §310, 1-8-74)

#### **SECTION 535.120: EGRESS**

Every dwelling unit shall have a safe and unobstructed means of egress leading to safe and open space outside at the ground level. Passage through such exit shall not lead through any other dwelling unit.

1. *Structures with three (3) or more stories.* All habitable structures of three (3) or more stories with dwelling units occupying the third (3rd) or higher story shall be provided with two (2) separate usable unobstructed means of egress for each dwelling unit located above the second (2nd) story.
2. *Easy egress mandatory.* Every door available as an exit shall be capable of being opened from the inside easily and without the use of a key. (R.O. 2009 §540.120; Ord. No. 122 §320, 1-8-74)

#### **SECTION 535.130: ENFORCEMENT AUTHORITY**

It shall be the duty and responsibility of the Enforcement Official and his/her delegated representatives of the City of Bella Villa to enforce the provisions of this Chapter. No order for correction of any violation under this Chapter shall be issued without approval of the Enforcement Official.

1. *Inspections.* The Enforcement Official is authorized and directed to make inspections to determine whether dwelling, dwelling units, rooming units, accessory structures and premises located within the City of Bella Villa conform to the requirements of this Chapter. For the purpose of making such inspections, the Enforcement Official is authorized to enter, examine and survey at reasonable times all dwelling, dwelling units, rooming units, accessory structures, and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit, accessory structure and its premises shall give the Enforcement Official access thereto at reasonable times for the purpose of such inspection, examination and survey.
2. If any owner, occupant or other person in charge of a structure subject to the provisions of this Chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to every part of the structure or premises where inspection authorized by this Section is sought, the Enforcement Official may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.
3. Inspections shall be initiated under the following circumstances:
  - a. Upon application for any occupancy permit for the dwelling unit or other notification that there will be a change of occupancy of said dwelling unit.

- b. When, on the basis of a complaint or his/her personal observation, the Enforcement Official reasonably suspects that a dwelling unit has code violations and, as such, constitutes a health and/or safety hazard.
4. *Access by owner or operator.* Every occupant of a structure or premises shall give the owner or operator thereof, or his/her agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this Chapter. (R.O. 2009 §540.130; Ord. No. 122 §400, 1-8-74)

#### SECTION 535.140: OCCUPANCY PERMIT REQUIRED

This Section shall not apply to any occupancy in existence at the time of the adoption of this Chapter and until a change of occupancy occurs.

1. *Scope.* Except as otherwise provided, it shall be unlawful for any person or family to occupy, or for any owner or agent thereof to permit the occupation of, any dwelling, dwelling unit or addition thereto, or part thereof, for any purpose until an occupancy permit has been issued by the Enforcement Official. The occupancy permit shall not be issued until all violations of this Chapter have been brought into compliance. The occupancy permit so issued shall state that the occupancy complies with all of the provisions of this Section.
2. *Fee.* The fee for said occupancy permit shall be forty dollars (\$40.00) for each dwelling unit occupied.
3. *Content of occupancy permit.* The occupancy permit shall state the names, ages, relationships and number of occupants of the dwelling unit. It shall be unlawful for any person to knowingly make any false statement in his/her application for an occupancy permit as to the names, ages, relationships, or number of occupants of the dwelling unit. No more than one (1) family as defined in this Chapter shall occupy each dwelling unit. All persons who occupy the premises of a dwelling unit must be listed on the occupancy permit or be subject to the penalties provided in this Chapter.
4. *Report change of occupancy.* Every dwelling unit in which a change of occupancy is to occur must be reported by the owner to the City Clerk so that the Enforcement Official may inspect the structure according to the provisions of this Chapter. Upon inspection, he/she shall determine the number of occupants which can be housed in the dwelling unit without creating a health or safety hazard. Failure to make such a report shall constitute a violation of this Chapter, and the person responsible for the failure shall be subject to the penalties of this Chapter.
5. *Responsibilities of real estate brokers.* All real estate brokers and agents and similar businesses and owners of multiple-family dwelling units shall report each dwelling unit which is to change occupancy as in this Chapter defined so that the Enforcement Official may inspect the unit according to the provisions of this Chapter. Failure to register or make such a report shall constitute a violation of this Chapter, and the person or firm responsible for the failure shall be subject to the penalties of this Chapter.
6. *Conditional occupancy permit.* A conditional occupancy permit may be issued by the

Enforcement Official if, in his/her judgment, any deficiencies in structures covered by this Chapter would not seriously endanger the health or safety of the occupants or the community, and provided that the occupant makes an affidavit stating that he/she will correct deficiencies within a specified time and thus bring the structure into compliance with the provisions of this Chapter. The occupant may then occupy the dwelling unit while repairs are being made. At such time as the dwelling complies with all the provisions of this Chapter, an occupancy permit will be issued as provided above. (R.O. 2009 §540.140; Ord. No. 122 §410, 1-8-74; Ord. No. 367 §3, 9-12-00)

#### **SECTION 535.150: NON-COMPLIANCE WITH CHAPTER—NOTICE TO BE GIVEN**

Whenever the Enforcement Official or his/her delegated representative finds evidence of a violation of any provision of this Chapter, he/she shall declare a public nuisance and give notice of same to the person or persons responsible hereunder. Such notice shall be in writing and shall include a statement of each of the provisions of this Chapter being violated, together with a statement of the corrective action required to cure such violation. Such notice shall specify the period of time within which such remedial action shall be taken, which time shall be reasonable period of time under all of the circumstances. Appeal procedures available shall be specified. Such notice shall be served by delivering a copy to the owner, or his/her agent, or the occupant, as the case may require, or, if such person cannot be found, by sending a copy of the notice by registered or certified mail with return receipt requested, or if same cannot be delivered, by posting a copy of such notice in a conspicuous place in or about the building affected by the notice. The notice shall be deemed served on the date served or received or ten (10) days after posting as herein provided. (R.O. 2009 §540.150; Ord. No. 122 §420, 1-8-74)

#### **SECTION 535.160: NON-COMPLIANCE WITH CHAPTER**

- A. *Remedy Of Defects.* The owner of any building shall have thirty (30) days from the issuance of the notice provided for in Section 535.150 in which to remedy the condition therein specified, except when emergency conditions shall require immediate action as provided in Section 535.250, provided however, that the Enforcement Official may, at his/her discretion, extend the time for compliance with any such notice.
- B. *Reinspection.* At the time when the defects have allegedly been brought into compliance, the Enforcement Official shall reinspect the dwelling, dwelling unit, rooming unit, accessory structure and its premises. At this time, he/she shall make a complete inspection, taking particular notice that the violations previously noted have been brought into compliance, and that no new violations have come into existence in the time which has elapsed since the first (1st) inspection. (R.O. 2009 §540.160; Ord. No. 122 §420, 1-8-74)

#### **SECTION 535.170: BUILDINGS UNFIT FOR HUMAN HABITATION**

- A. *Placard On Building.* The designation of dwellings or dwelling units as unfit for human habitation and the procedure for such declaration and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:
  - 1. Any dwelling or dwelling unit which shall be found to have any of the following defects shall

be declared unfit for human habitation and shall be so designated and placarded by the Enforcement Official when the person responsible has failed to correct the condition set forth in a notice issued in accordance with Section 535.150.

2. One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
- B. *Building To Be Vacated.* Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Enforcement Official, shall be vacated within a reasonable time as ordered by the Enforcement Official.
- C. *Reoccupation Of Building.* No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard removed by, the Enforcement Official. The Enforcement Official shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- D. *Unlawful To Remove Placard.* No person shall deface or remove the placard from any dwelling or dwelling unit which as been condemned as unfit for human habitation and placarded as such, except as provided in the preceding paragraph. (R.O. 2009 §540.170; Ord. No. 122 §440, 1-8-74)

#### **SECTION 535.180: VACATED BUILDINGS TO BE MADE SECURE**

The owner of every building or dwelling unit or rooming unit which is declared "unfit for human habitation" for continued occupancy shall make the dwelling, building or rooming unit safe and secure under the terms so that it shall not be dangerous to human life and shall not constitute a fire hazard or public nuisance. Any such vacant dwelling open at doors or windows, if unguarded, shall be deemed to be dangerous to human life as a fire hazard and public nuisance within the meaning of this provision. (R.O. 2009 §540.180; Ord. No. 122 §450, 1-8-74)

#### **SECTION 535.190: BROKEN GLASS AND BOARDING UP**

Every window, glazed exterior door, exterior transom or exterior side light shall be provided with properly installed glass or other approved glazing material. In the event of breakage, the owner shall cause the immediate removal of broken glass from the premises and shall temporarily board up the affected openings with suitable material to provide protection from the elements and to prevent entry of birds or animals and to provide security to occupants or contents of the building. Within ten (10) days after the boarding up, the owner shall cause the boarding material to be removed, and all affected openings shall be simultaneously reglazed by the owner. (R.O. 2009 §540.190; Ord. No. 122 §460, 1-8-74)

#### **SECTION 535.200: PROVISION OF ADEQUATE LIGHTING AND VENTILATION**

Adequate ventilation and natural lighting shall be provided for all occupied dwelling units. Wherever any exterior openings are found boarded up, it shall be the duty of the Enforcement Official to notify the owner or agent of this requirement giving him/her a period of not more than

ten (10) working days in which to properly replace the broken glass or cause the dwelling unit to be vacated. This notice shall be given in the manner required by Section 535.150. (R.O. 2009 §540.200; Ord. No. 122 §462, 1-8-74)

#### **SECTION 535.210: SPECIFICATIONS**

Since the presence of boarded-up buildings, particularly those where the boarding is unpainted or applied in an insecure, careless or unrepresentable fashion, invites vandalism and creates a blighting influence which adversely affects the general welfare of the people of the City of Bella Villa, it is hereby required that all boarding-up of exterior openings be accomplished in a neat workmanlike manner with not less than one-half ( $\frac{1}{2}$ ) inch thick, weather-resistant plywood cut to fit within the openings, fastened in place as securely as possible, and suitably coated with an appropriate neutral color blending with or harmonizing with the exterior colors of the building as inconspicuously as possible. It shall be the duty of the Enforcement Official to notify the owner or agent of any boarded-up dwelling unit not complying with the above requirements of the necessity of immediate compliance and ordering him/her to replace the broken glass or repair, replace or paint the boarding. This notice shall be given in the manner required in Section 535.150. (R.O. 2009 §540.210; Ord. No. 122 §460, 1-8-74)

#### **SECTION 535.220: PROSECUTION OF VIOLATION**

In case any violation of this Chapter is not remedied within the prescribed time period designated by the Enforcement Official, he/she shall request the legal representative of the City of Bella Villa to institute an appropriate action or proceeding at law against the person or firm responsible for the failure to comply, ordering him/her:

1. To restrain, correct or remove the violation or refrain from any further execution of work;
2. To restrain or correct the erection, installation or alteration of such building;
3. To require the removal of work in violation;
4. To prevent the occupation or use of the building, structure or part thereof erected, constructed, installed or altered in violation of, or not in compliance with, the provisions of this Chapter or in violation of a plan or specification under which an approval, permit or certificate was issued; or
5. To enforce the penalty provisions of this Chapter. (R.O. 2009 §540.220; Ord. No. 122 §470, 1-8-74)

#### **SECTION 535.230: PENALTY**

Any person, firm or corporation who shall violate any provision of this Chapter shall, upon conviction thereof, be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) at the discretion of the court. Every day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense. (R.O. 2009 §540.230; Ord. No. 122 §472, 1-8-74)

**SECTION 535.240: APPEALS**

- A. *Hearing.* Upon failure to commence work of reconditioning or demolition within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the Enforcement Official shall call and have a full and adequate hearing upon the matter, giving the affected parties at least twenty-one (21) days' written notice of the time, place and purpose of the hearing. Said notice shall be given in the same manner as notice of the declaration of nuisance is given. At the hearing, any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearing, if the evidence supports a finding that the building or structure is a nuisance or detrimental to the health, safety or welfare of the residents of the City of Bella Villa, the Enforcement Official shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the building or structure to be a nuisance and detrimental to the health, safety or welfare of the residents of the City and ordering the building or structure to be demolished and removed or repaired. If the evidence does not support a finding that the building or structure is a nuisance or detrimental to the health, safety or welfare of the residents of the City, no order shall be issued. Notice of any post-hearing orders shall be given in the same manner as notice of the declaration of a nuisance.
- B. *Special Tax Bill.* If any post-hearing order of the Enforcement Official is not obeyed within thirty (30) days after its issuance, and if appeal of any post-hearing order is not made to the Circuit Court as provided for in this Section within thirty (30) days after issuance of any such order, the Enforcement Official may cause such building or structure to be repaired, vacated or demolished as provided in his/her post-hearing order. The Enforcement Official shall certify the costs for such repair, vacation or demolition to the City Clerk or officer in charge of finance who shall cause a special tax bill therefor against the property to be prepared, filed and collected by the City Collector or other official collecting taxes. At the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. Said assessment shall bear interest at the maximum rate that the law will allow until paid. The tax bill shall be a lien on the property until paid.
- C. *Appeal To Circuit Court Of St. Louis County.* The decision by the Enforcement Official may be appealed by a party aggrieved thereby to the Circuit Court of St. Louis County, pursuant to Chapter 536, RSMo., provided that any party so aggrieved, other than the City of Bella Villa, may either appeal directly to the Circuit Court of St. Louis County or to the Housing Board of Appeals of the City of Bella Villa. The decision by the Housing Board of Appeals may be appealed by any party aggrieved thereby to the Circuit Court of St. Louis County pursuant to Chapter 536, RSMo. (R.O. 2009 §540.240; Ord. No. 122 §500, 1-8-74)

**SECTION 535.250: EMERGENCY MEASURES**

- A. *Applicability.* When any dwelling unit has become so damaged by fire, wind or other causes or has become so unsafe, unhealthful or unsanitary, that in the opinion of the Enforcement Official, life or health is immediately endangered by the occupation of the dwelling unit, the Enforcement Official is hereby authorized and empowered to revoke without notice any occupancy permit for such dwelling unit and to order and require the occupants to vacate the same forthwith and to order the owner or agent to proceed immediately with the corrective work and repairs required to make the dwelling unit temporarily safe and fit for human habitation, whether or not a notice of violation has been given as described in this Chapter, and whether or not legal procedures described by the City of Bella Villa ordinances have been instituted.

- B. *Procedures.* In the event the Enforcement Official determines that there is an immediate danger to the health, safety or welfare of any person, he/she may take emergency measures to vacate and repair the structure or otherwise remove the immediate danger. (R.O. 2009 §540.250; Ord. No. 122 §600, 1-8-74)

**SECTION 535.260: AMERENUE TO NOTIFY CITY WHEN USER CHANGES**

- A. For any month when there is a change of user of residential (rate 001) or non-residential (rate 043) electric service within the City, AmerenUE shall notify the Building Commissioner of the City in writing within seven (7) working days after the end of the month of said changes, indicating the address and apartment or unit number and the name(s) of electric user(s) per service and address and apartment or unit number in whose name service is connected or billed.
- B. Any person, firm or corporation violating any of the provisions of this Section shall, upon conviction thereof, be subject to the penalty provided in this Code. (R.O. 2009 §540.260; Ord. No. 271 §§1—2, 4-12-94)





## CHAPTER 540: EXISTING SIDEWALK MAINTENANCE

### SECTION 540.010: DUTIES AND RESPONSIBILITIES OF PROPERTY OWNERS

*Generally.* It is hereby made the duty of every property owner having property abutting on a public street to maintain existing sidewalk and curb along such street and abutting the property. Corner lots shall be liable for the extension of curbs and sidewalks to the curb line each way. Only such sidewalks as are described in this Chapter shall be placed in the City. (R.O. 2009 §545.010; Ord. No. 276 §I, 8-9-94)

### SECTION 540.020: DUTY TO RECONSTRUCT, REPAIR, ETC.

- A. The owner of any lot or tract of land within the City shall rebuild or reconstruct and repair the sidewalk lying along and adjacent to his/her property, and such property owner shall grade and fill that portion of the street lying between the property line and the street curb line and build approaches. The term "*approaches*" shall be understood to mean the extension of sidewalks at corner lots from the property line each way to the street curb line, being in fact the connection across the parkway or intervening space between the corner of the property and the crossing in the street.
- B. Any such "*approaches*" (extension of sidewalks at corner lots) reconstructed shall be reconstructed to conform to Americans with Disability Act (ADA) specifications.
- C. Any such owner of any lot or tract of land within the City who, after having been duly notified in writing by the delivery by the City Engineer or Director of Public Works to such property owner of a written order directing such property owner to rebuild or reconstruct or repair the sidewalk lying along and adjacent to his/her property or grade and fill that portion of the street adjacent to his/her property or grade and fill that portion of the street adjacent to his/her property and lying between the property line and the street curb line, shall fail, neglect or refuse to comply with the terms of such written order within thirty (30) days from the delivery thereof shall be deemed guilty of a misdemeanor.
- D. It shall be the duty of all persons owning or occupying any property in the City to keep in repair and free from obstruction the sidewalk and gutters in front of such property. Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor. (R.O. 2009 §545.020; Ord. No. 276 §II, 8-9-94)



## CHAPTER 545: CONCRETE SLABS

### SECTION 545.010: DUTIES AND RESPONSIBILITIES OF PROPERTY OWNERS

*Generally.* It is hereby made the duty of every property owner to submit plans of proposed improvements. Plans should reflect the size, depth and location as they relate to the property lines. (R.O. 2009 §550.010; Ord. No. 330 §1, 10-21-97)

### SECTION 545.020: CONSTRUCTION AND MATERIAL SPECIFICATIONS—CONCRETE SLABS

- A. Upon enactment of this Chapter, all future concrete slabs in the City shall be constructed of concrete which conforms to this Chapter and St. Louis County specifications relating to concrete composition. The concrete shall be well tamped and the exposed surface floated or finished with a wooden float. Joints within the slabs shall conform to this Chapter and St. Louis County specifications.
- B. Each garage slab, carport slab or patio slab constructed shall have a concrete floor (four (4) inch minimum). All slabs shall be constructed so that drainage runoff is contained within the property lines. Each approach slab constructed shall have a concrete slab (six (6) inch minimum).
- C. All concrete slabs constructed in the City shall be constructed under the supervision and direction of the City Engineer or Director of Public Works. Before any slab is constructed, the City Engineer or Director of Public Works must be given the grade thereof.
- D. All materials used in construction of the concrete slabs shall be subject to approval of the Building Commissioner/Inspector and shall be based on established codes and practices. Approval shall be at the Commissioner's discretion and applicable to the existing situation, as it presents itself. In the event that any violations of this Chapter take place, the City reserves the right to stop all construction of any slab until such violation is corrected. (R.O. 2009 §550.020; Ord. No. 330 §1, 10-21-97)

### SECTION 545.030: PARKING PADS

- A. An owner of a single-family residence whose lot is fronted by a curbless tree lawn may construct a parking pad on such lawn only as provided herein.
- B. For the purpose of this Section, a "tree lawn" is defined as the unimproved surface located on the public right-of-way immediately between an improved public street on one (1) side and a sidewalk or, if there is no sidewalk, then the front property line of the adjoining single-family residence on the other side.
- C. Parking pads shall be constructed of concrete or asphalt and shall be no more than fifty (50) feet long and eight (8) feet wide with a minimum thickness of four (4) inches. Construction and maintenance of the parking pad shall be the sole and exclusive responsibility of the property owner.
- D. An owner desiring to construct a parking pad shall apply to the Building Commissioner for a building permit. The application shall include a plot plan identifying the location and dimensions

of the proposed pad. The application shall also include the following acknowledgement and release to be signed by the property owner:

"The undersigned represents and acknowledges that:

1. The undersigned owns the single-family residential property identified in this application;
2. Any parking pad constructed on the public right-of-way is subject to disturbance, demolition and/or removal, at the cost of the undersigned, by any public authority having lawful right to enter and use the public right-of-way for intended and authorized public purposes;
3. After construction, a parking pad may be used by any person. The City shall not enforce the undersigned's right to exclusive use of the parking pad; and
4. Construction and maintenance of the parking pad is the sole and exclusive responsibility of the undersigned.

The undersigned further releases the City of Bella Villa and its officers, employees and elected officials from, and agrees to indemnify the City for, any liability whatsoever arising from the undersigned's construction, maintenance and use of the parking pad, the existence of the pad and any activity relating thereto and further waives any claim or action of any kind against said City and persons arising therefrom."

- E. No person shall construct a parking pad without a building permit issued by the Building Commissioner and without executing the acknowledgment and release contained in Subsection (D) hereof. (R.O. 2009 §550.030; Ord. No. 376 §1, 5-14-02)

## CHAPTER 550: PUBLIC RIGHT-OF-WAY USE REGULATIONS

### SECTION 550.010: DEFINITIONS

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

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

*CITY MANAGER:* The manager or administrator of the City or such other person designated by the City to hear appeals as provided in Section 550.050 hereof.

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

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

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

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

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

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

1. City facilities or the City's property other than ROW, such as City-owned or operated buildings, parks or other similar property,
2. Airwaves used for cellular, non-wire telecommunications or broadcast services,
3. Easements obtained by ROW users on private property,
4. Railroad rights-of-way or ground used or acquired for railroads, or
5. Facilities owned and used by the City for the transmission of one (1) or more services.

No reference herein to rights-of-way shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for the delivery of service.

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

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

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

1. Install, change, replace, relocate, remove, maintain or repair facilities within the rights-of-way, or
2. To conduct work of any kind within or adjacent to the rights-of-way that results in an excavation, obstruction, disruption, damage or physical invasion or impact of any kind to the rights-of-way or the use thereof.

The routine inspection of facilities shall not be considered ROW work unless the inspection requires the conduct of any of the activities or actions noted herein.

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

*WITHIN:* In, along, under, over or across rights-of-way. (R.O. 2009 §560.010; Ord. No. 431 §3(A), 1-24-08)

## **SECTION 550.020: ROW PERMITS**

### *A. Application Requirements.*

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

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

*B. Application Review And Determination.*

1. The Director shall promptly review each completed application for a ROW permit and shall

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

- a. Has submitted all necessary information,
- b. Has paid the appropriate fees, and
- c. Is in full compliance with this Chapter and all other City ordinances.

The Director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.

2. It is the intention of the City that interference with, damage to, excavation or disruption of, or the placement of facilities within the City's rights-of-way should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Chapter. When reasonable and necessary to accomplish such purposes, the Director may require as alternatives to the proposed ROW work either less disruptive methods or different locations for facilities, provided that any required alternative:
  - a. Shall not increase expenses by more than ten percent (10%) of the applicant's costs for the work as proposed,
  - b. Shall not result in a decline of service quality, and
  - c. Shall be competitively neutral and non-discriminatory.

The Director shall justify to the applicant that the required alternative is reasonable and necessary.

3. Upon receipt of an application, the Director shall determine whether any portion of the rights-of-way will be affected by the proposed work and whether the interference, disruption or placement of facilities will be more than minor in nature. In determining whether the proposed work is more than minor in nature, the Director shall consider the nature and scope of the work, its location and duration and its effect on the rights-of-way, the use thereof and neighboring properties.
  - a. If the applicant can show to the Director's reasonable satisfaction that the work involves no interference, disruption, excavation or damage to, or only minor interference with, the rights-of-way, or that the work does not involve the placement of facilities or involves time-sensitive maintenance, then the Director shall promptly grant the ROW permit.
  - b. If the Director determines that the effect on the rights-of-way will be more than minor in nature and no exemption under the above paragraph (3)(a) or any other provision of this Chapter applies, the Director shall schedule and coordinate the work and grant the ROW permit accordingly. When reasonable and necessary to accomplish the purposes of this Chapter, the Director may postpone issuance of a ROW permit and may give public notice of the application in an attempt to identify whether other person(s) intend to do work in the same area within a reasonable period of time, so that all ROW work in the area can be coordinated. Due regard shall be accorded applicants that are required by any law,



rule, regulation, license or franchise to provide service to the area defined in the application. The Director shall not impose any coordination or scheduling requirements that prevent or unreasonably delay an applicant's access to the ROW or that create a barrier to entry.

4. Each ROW permit issued by the Director shall include:
  - a. Projected commencement and termination dates or, if such dates are unknown at the time the permit is issued, a provision requiring the ROW user to provide the Director with reasonable advance notice of such dates once they are determined;
  - b. Length of affected rights-of-way, number of road crossings and identification and description of any pavement or curb cuts included in the work;
  - c. Information regarding scheduling and coordination of work, if necessary;
  - d. The location of any of the applicant's facilities, both those proposed and existing, and the location of any known facilities owned by another person that may be affected by the proposed work;
  - e. An acknowledgment and representation by the applicant to comply with the terms and conditions of the ROW permit and this Chapter; and
  - f. Such conditions and requirements as are deemed reasonably necessary by the Director to protect structures and other facilities in the rights-of-way from damage, to restore such rights-of-way and any structures or facilities, to ensure the reasonable continuity and sight lines of pedestrian and vehicular traffic, and to protect property values, the aesthetics of adjoining properties and neighborhoods and the public health, safety and welfare.
5. The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:
  - a. Delinquent fees, costs or expenses owed by the applicant;
  - b. Failure to provide information required by the application or this Chapter;
  - c. The applicant being in violation of the provisions of this Chapter or other pertinent and applicable City ordinances;
  - d. Failure to return the ROW to its previous condition under previously issued ROW permits or after prior excavations by the applicant;
  - e. For reasons of environmental, historic or cultural sensitivity as defined by applicable Federal, State or local law;
  - f. For the applicant's refusal to comply with alternative ROW work methods, locations or other reasonable conditions required by the Director; and
  - g. For any other reason to protect the public health, safety and welfare,

provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission or interfere with a ROW user's right of eminent domain of private property, and provided further that such denial is imposed on a competitively neutral and non-discriminatory basis.

C. *Permit Revocation And Ordinance Violations.* The Director may revoke a ROW permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Chapter. Prior to revocation, the Director shall provide written notice to the ROW user identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown by the ROW user. A substantial breach includes, but is not limited to, the following:

1. A material violation of a provision of the ROW permit or this Chapter;
2. An evasion or attempt to evade any material provision of the ROW permit or this Chapter or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;
3. A material misrepresentation of fact in the ROW permit application;
4. A failure to complete ROW work by the date specified in the ROW permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the ROW user's control; and
5. A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards, this Chapter or any other applicable ordinances, provided that City standards are no more stringent than those of a national safety ordinance.
6. Any breach of the terms and conditions of a ROW permit shall also be deemed a violation of this Chapter and, in lieu of revocation, the Director may initiate prosecution of the ROW user for such violation. (R.O. 2009 §560.020; Ord. No. 431 §3(B), 1-24-08)

#### **SECTION 550.030: WORK IN THE ROW**

A. *Jurisdiction, Inspection And Stop Work Orders.*

1. All facilities and ROW work shall be subject to inspection by the City and the supervision of all Federal, State and local authorities having jurisdiction in such matters to ensure compliance with all applicable laws, ordinances, departmental rules and regulations and the ROW permit.
2. The Director shall have full access to all portions of the ROW work and may issue stop work orders and corrective orders to prevent unauthorized work or substandard work as established in Subsection (G)(7) hereof. Such orders:
  - a. May be delivered personally or by certified mail to the address(es) listed on the application for the ROW permit or the person in charge of the construction site at the time of delivery;

- b. Shall state that substandard work or work not authorized by the ROW permit is being carried out, summarize the substandard or unauthorized work and provide a period of not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety; and
- c. May be enforced by equitable action in the Circuit Court of St. Louis County, Missouri, and in such case the person responsible for the substandard or unauthorized work shall be liable for all costs and expense incurred by the City in enforcing such orders, including reasonable attorney's fees, in addition to any and all penalties established in this Chapter.

B. *Underground Facilities.*

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

C. *Above Ground Facilities.*

1. The Director may designate certain locations or facilities in the ROW to be excluded from use by the applicant for its facilities including, but not limited to:
  - a. Ornamental or similar specially designed street lights,
  - b. Designated historic areas,
  - c. Facilities, equipment, structures or locations that do not have electrical service adequate or appropriate for the proposed facilities or cannot safely bear the weight or wind loading thereof,
  - d. Facilities, equipment, structures or locations that in the reasonable judgment of the Director are incompatible with the proposed facilities or would be rendered unsafe or unstable by the installation, and

- e. Facilities, equipment, structures or locations that have been designated or planned for other use or are not otherwise available for use by the applicant due to engineering, technological, proprietary, legal or other limitations or restrictions.
2. Above ground facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities. Facilities shall be located in such a manner as to reduce or eliminate their visibility. A sight-proof landscape screen may be required for any authorized above ground facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the Director prior to installation of any facility requiring landscape screening. The person having facilities within the ROW shall be responsible for the installation, repair or replacement of screening materials. Alternative screening or concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.
3. Above ground facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise and shall comply with all other applicable regulations and standards established by the City or State or Federal law.
4. If the application of this Subsection excludes locations for above ground facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but such alternatives may exceed the cost increase limitation established by Section 550.020 (B)(2) and the City shall not be required to incur any financial cost or to acquire new locations for the applicant.

D. *Re-location Of Equipment And Facilities.*

1. In the event of an emergency, or where construction equipment or facilities create or are contributing to an imminent danger to health, safety or property, the City may, to the extent allowed by law, remove, re-lay or re-locate such construction equipment or the pertinent parts of such facilities without charge to the City for such action or for restoration or repair. The City shall attempt to notify the person having facilities within the ROW prior to taking such action, but the inability to do so shall not prevent same. Thereafter, the City shall notify the person having facilities within the ROW as soon as practicable.
2. At the City's direction, all facilities shall be moved underground and the cost shall be solely the obligation of the person having facilities within the ROW (or as otherwise allowed or required by law).
3. At the City's direction, a person having facilities within the ROW shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.
4. A person having facilities within the ROW shall, on the reasonable request of any person and after reasonable advance written notice, protect, support, disconnect, relocate or remove facilities to accommodate such person, and the actual cost, reasonably incurred, of such actions

shall be paid by the person requesting such action. The person having facilities within the ROW taking such action may require such payment in advance.

5. Rather than relocate facilities as requested or directed, a ROW user may abandon the facilities if approved by the City as provided in Subsection (F) of this Section.
6. No action hereunder shall be deemed a taking of property and no person shall be entitled to any compensation therefore. No location of any facilities within the rights-of-way shall be a vested interest.

E. *Property Repair And Alterations.*

1. During any ROW work, the person doing the work shall protect from damage any and all existing structures and property belonging to the City and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced by the person doing the work or the person on whose behalf the work is being done, and such person shall immediately notify the owner of the fact of any damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.
2. Any alteration to the existing water mains, sewerage or drainage system or to any City, State or other public structures or facilities in the rights-of-way required on account of the construction, installation, repair or maintenance of facilities within the rights-of-way shall be made at the sole cost and expense of the owner of such facilities.

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

1. If a person having facilities within the ROW:
  - a. Installs the facilities within the ROW without having complied with the requirements of this Chapter, or
  - b. Abandons the facilities,

the City may require the removal of the facilities, remove the facilities at the expense of the person having facilities within the ROW, or require the transfer of the facilities as provided herein.

2. If the City requires removal of the facilities, the person shall obtain a ROW permit and shall abide by all requirements of this Chapter. The liability, indemnity, insurance and bonding requirements required herein shall continue in full force and effect during and after the period of removal and restoration and until full compliance by the person with the terms and conditions of the ROW permit and the requirements of this Chapter.
3. If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, have the removal done at the person's expense. Alternatively, the City may permit the abandonment, without removal, of the facilities if the Director determines that abandonment is not likely to prevent or significantly impair the future use, repair, excavation, maintenance or construction of the ROW.

4. If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, decide that the ownership of the facilities should be transferred to the City or to such person as directed by the City. In either case, the owner of the facilities shall submit a written instrument, satisfactory in form to the City, transferring to the City, or to such person as directed by the City, ownership of the facilities. The City may sell, assign or transfer all or part of the facilities so transferred.
5. The City shall not remove or seek to possess or transfer the facilities until thirty (30) days have passed following written notice by the Director to the person having facilities within the ROW of the City's intent to so act. The Director may choose not to act on good cause shown by the person having facilities within the ROW.

G. *Standards For ROW Work.*

1. Except for emergency ROW work as provided in Subsection (D)(1), ROW work shall be performed only upon issuance and in accordance with the requirements of a ROW permit. At all times during the work, ROW permits shall be conspicuously displayed at the work site and shall be available for inspection by the Director.
2. If at any time it appears that the duration or scope of the ROW work is or will become materially different from that allowed by the ROW permit, the ROW user shall inform the Director. The Director may issue a waiver, an extension or a revised ROW permit or require that the ROW user reapply for a ROW permit in accordance with all requirements of this Chapter.
3. ROW users shall not open or encumber more of the rights-of-way than is reasonably necessary to complete the ROW work in the most expeditious manner or allow excavations to remain open longer than is necessary to complete the work.
4. All ROW work that affects vehicular or pedestrian traffic shall be properly signed, barricaded and otherwise protected at the ROW user's expense. The ROW user shall be responsible for providing adequate traffic control to the area surrounding the work as determined by the Director.
5. The ROW user shall perform the ROW work at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood as permitted by the Director. Unless otherwise provided by the Director in the permit, non-emergency ROW work on arterial and collector streets may not be accomplished during the hours of 7:00 A.M. to 8:30 A.M. and 4:00 P.M. to 6:00 P.M. in order to minimize disruption of traffic flow.
6. The ROW user shall notify the City no less than three (3) working days in advance of any ROW work that would require any street closure or would reduce traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of emergency ROW work, no such closure shall take place without notice and prior authorization from the City.
7. All ROW work shall be in accordance with all applicable Sections of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and other Federal, State or local laws and regulations that may apply including, without limitation, local health, safety, construction and zoning ordinances and laws and accepted industry practices, all as hereafter

may be amended or adopted. In the event of a conflict among ordinances and standards, the most stringent ordinance or standard shall apply (except insofar as that ordinance or standard, if followed, would result in facilities that could not meet requirements of Federal, State or local law).

8. All facilities shall be installed and located to cause minimum interference with the rights and convenience of property owners, other ROW users and the City. Facilities shall not be placed where they will disrupt or interfere with other facilities or public improvements or obstruct or hinder in any manner the various utilities serving the residents and businesses in the City or public improvements.
9. All facilities shall be of good and durable quality.
10. All ROW work shall be conducted in accordance with good engineering practices, performed by experienced and properly trained personnel so as not to endanger any person or property or to unreasonably interfere in any manner with the rights-of-ways or legal rights of any property owner, including the City, or unnecessarily hinder or obstruct pedestrian or vehicular traffic.
11. All safety practices required by law shall be used during ROW work, including commonly accepted methods and devices to prevent failures and accidents that are likely to cause damage, injury or nuisance to the public.
12. Any contractor or subcontractor of a ROW user must be properly licensed under laws of the State and all applicable local ordinances, and each contractor or subcontractor shall have the same obligations with respect to its work as a ROW user would have pursuant to this Chapter.  
A ROW user:
  - a. Must ensure that contractors, subcontractors and all employees performing ROW work are trained and experienced,
  - b. Shall be responsible for ensuring that all work is performed consistent with the ROW permit and applicable law,
  - c. Shall be fully responsible for all acts or omissions of contractors or subcontractors,
  - d. Shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and
  - e. Shall implement a quality control program to ensure that the work is properly performed.
13. A ROW user shall not place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities or in the ROW, whether relating to the ROW user or any other person, except such necessary minimal markings approved by the City as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.
14. Unless otherwise approved in writing by the City, a ROW user shall not remove, cut or damage any trees, or their roots, within the ROW.
15. Street crossings will be bored at the direction of the Director.

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

1. To complete any ROW work, the ROW user shall restore the ROW and surrounding areas including, but not limited to, any pavement, foundation, concrete slabs or curbs, screening, landscaping or vegetation and shall comply with other reasonable conditions of the Director. Restoration of the ROW shall be completed within the dates specified in the ROW permit unless the Director issues a waiver, extension or a new or revised ROW permit.
2. It shall be the duty of any person making an excavation in the ROW to backfill such excavations and restore the surface in accordance with the City's minimum prescribed standards for such surfaces or the following standards as determined by the Director.
  - a. If the excavations are made in the improved portion of the ROW, twelve (12) inches of granular backfill will be placed over exposed facilities, and controlled low strength material (CLSM) will fill the hole within eight (8) inches of the finished surface for concrete pavements. There will be a plastic membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining eight (8) inches will be restored by placing a twenty-eight (28) day minimum strength, four thousand five hundred (4,500) psi concrete mix.
  - b. If the excavations are made in the improved portion of an asphalt or combination street, twelve (12) inches of granular backfill will be placed over exposed facilities, and CLSM will fill the hole within nine (9) inches of the finished surface. There will be a plastic membrane placed between the rock base and the CLSM to prevent the material from bleeding into the rock base. The remaining nine (9) inches will be restored by placing a six (6) inch thick, twenty-eight (28) day minimum strength, four thousand five hundred (4,500) psi concrete mix under a three (3) inch asphalt concrete lift of type C mix to meet existing grades.
  - c. Construction of asphalt driveway entrances in residential ROW will be constructed of six (6) inches of compacted rock base and three (3) inches of type C asphalt concrete mix. Construction of asphalt driveway entrances in commercial ROW will be constructed of four (4) inches of compacted rock base, seven and one-half (7.5) inches of type X and three (3) inches of type C asphalt concrete mix. Concrete driveway approaches will consist of a four (4) inch compacted rock base and be a minimum of six (6) inches thick in residential ROW and eight (8) inches thick in commercial ROW.
3. If a ROW user fails to restore the ROW within the date specified either by the ROW permit or any extension thereof as granted by the Director, the City may perform its own restoration. The City may also opt to perform its own restoration regardless of any failure by the ROW user, in which case the ROW permit, or any amendment or revision thereto, shall note such option. In either event, if the City performs the restoration, the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice.
4. Every ROW user to whom a ROW permit has been granted shall guarantee for a period of four (4) years the restoration of the ROW in the area where the ROW user conducted excavation. During this period the ROW user shall, upon notification from the Director, correct all restoration work to the extent necessary as required by the Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days from receipt of the Director's notice unless otherwise permitted by the Director. If a ROW user fails to restore the



ROW within the time specified, the City may perform the work and the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice. The Director may extend the cure period on good cause shown.

5. A ROW user shall not be relieved of the obligation to complete the necessary right-of-way restoration and maintenance because of the existence of any performance bond required by this Chapter.
- I. Any person performing ROW work shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work. (R.O. 2009 §560.030; Ord. No. 431 §3(C), 1-24-08)

#### **SECTION 550.040: BONDS—INSURANCE—SURETY—INDEMNIFICATION—PENALTIES**

##### *A. Performance And Maintenance Bonds.*

1. Prior to any ROW work, a ROW user shall establish in the City's favor a performance and maintenance bond in an amount to be determined by the Director to ensure the restoration of the rights-of-way. The bond shall continue in full force and effect for a period of twenty-four (24) months following completion of the work. The Director shall have the authority to extend the maintenance bond period for up to an additional twenty-four (24) months. The Director may waive this requirement when the work involves no or only minor disruption or damage to the rights-of-way. The Director shall waive this requirement when the ROW user has twenty-five million dollars (\$25,000,000.00) in net assets and does not have a history of non-compliance with State and local regulations.
2. If a ROW user fails to complete the ROW work in a safe, timely and competent manner, or if the completed restorative work fails without remediation within the time period for the bond (as determined by the Director), then after notice and a reasonable opportunity to cure there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the ROW user and the cost of completing work within or restoring the rights-of-way, plus a reasonable allowance for attorneys' fees, up to the full amount of the bond. The City may also recover against the bond any amount recoverable against a security fund or letter of credit where such amount exceeds that available under a security fund or letter of credit.
3. Upon completion of ROW work to the satisfaction of the Director and upon lapse of the bond period, including any extension by the Director, the City shall release the bond.
4. The bond shall be issued by a surety with an "A" or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the City's attorney and shall contain the following endorsement:

"This bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

5. In lieu of the bond required herein, the ROW user may establish in the City's favor such other security as the Director may determine to be commensurate with the noted bonding requirements including, but not limited to, an annual bond to be maintained in the minimum amount of twenty-five thousand dollars (\$25,000.00).

B. *Insurance.*

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

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

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

*C. Indemnification.*

1. Any ROW user granted a ROW permit and any person having facilities within the rights-of-way, as partial consideration for the privilege granted, shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of:
    - a. Any ROW work including, but not limited to, the construction, maintenance, repair or replacement of the facilities,
    - b. The operation of its facilities,
    - c. Failure to secure consents from landowners, or
    - d. Any actions taken or omissions made by the person pursuant to the authority of this Chapter.
  2. The foregoing indemnity provisions include, but are not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding prior to the person assuming such defense. The City shall notify a person of claims and suits within seven (7) business days of its actual knowledge of the existence of such claim, suit or proceeding. Once a person assumes such defense, the City may at its option continue to participate in the defense at its own expense.
  3. Notwithstanding anything to the contrary contained in this Chapter, the City shall not be so indemnified or reimbursed in relation to any amounts attributable to:
    - a. The City's own negligence, willful misconduct, intentional or criminal acts, or
    - b. The City acting in a proprietary capacity to deliver service(s) within the City.
  4. Recovery by the City of any amounts under insurance, a performance bond or otherwise does not limit a person's duty to indemnify the City in any way; nor shall such recovery relieve a person of amounts owed to the City or in any respect prevent the City from exercising any other right or remedy it may have.
- D. *Penalties.* Any person violating any provision of this Chapter shall, upon conviction by the City's Municipal Court, be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment. Each day the violation continues may be charged as a separate offense. (R.O. 2009 §560.040; Ord. No. 431 §3(D), 1-24-08)

**SECTION 550.050: DISPUTE RESOLUTIONS, APPEALS AND ARBITRATION**

- A. The Director shall make a final determination as to any matter concerning the grant, denial or revocation of a ROW permit as provided in this Chapter. On the request of an applicant or a ROW user and within a reasonable period of time, the Director also shall make a final determination as to any other issue relating to the use of the ROW, the imposition of any fee or the application of any

provision of this Chapter, provided however, that this review shall not apply to matters being prosecuted in the Municipal Court. Any final determination of the Director shall be subject to review as provided herein.

- B. Any person aggrieved by a final determination of the Director may appeal in writing to the City Manager within five business (5) days thereof. The appeal shall assert specific grounds for review and the City Manager shall render a decision on the appeal within fifteen (15) business days of receipt affirming, reversing or modifying the determination of the Director. The City Manager may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision.
- C. Any person aggrieved by the final determination of the City Manager may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the City Manager's final determination.
- D. *Arbitration And Mediation.*
1. On agreement of the parties and in addition to any other remedies, any final decision of the City Manager may be submitted to mediation or binding arbitration.
  2. In the event of mediation, the City Manager and the applicant or ROW user shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties, and each party shall pay its own costs, disbursements and attorney fees.
  3. In the event of arbitration, the City Manager and the applicant or ROW user shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the City Manager, one (1) arbitrator selected by the applicant or ROW user, and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third (3rd) arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees. (R.O. 2009 §560.050; Ord. No. 431 §3(E), 1-24-08)

#### **SECTION 550.060: MISCELLANEOUS**

- A. After the completion of ROW work, the ROW user shall provide to the City as-built drawings, maps or other comparable records as determined by the Director, drawn to scale and certified to the City as reasonably depicting the location of all facilities constructed pursuant to the ROW permit. Such records may be provided to the Director in the form maintained by the ROW user, but when available to the ROW user, shall be submitted in automated format that are compatible with City systems, as determined by the Director, or in hard copy otherwise.
- B. Upon failure of a ROW user to commence, pursue or complete any ROW work required by law or by the provisions of this Chapter to be done in any street within the time prescribed and to the reasonable satisfaction of the City, the City may, at its option, after thirty (30) days' notice, cause such work to be done and the ROW user shall pay to the City the cost thereof in the after-itemized

amounts reported by the City to the ROW user within thirty (30) days after receipt of such itemized report.

- C. Upon ten (10) days' written notice and with the supervision of the City or as otherwise provided by law, a ROW user shall have the authority to trim trees that overhang rights-of-way of the City so as to prevent the branches of such trees from coming in contact with its facilities, at its own expense subject to the supervision and direction of the City. Nothing in this paragraph shall authorize the trimming of trees on private property without permission of the property owner. All cut materials shall be properly disposed.
- D. During ROW work by a ROW user, the City shall have the right to install, and to thereafter maintain, at its own cost in any excavation to or other applicable disturbance of the ROW any parallel facilities of its own that do not unreasonably interfere with the operations of other facilities.
- E. Nothing in this Chapter shall be in preference or hindrance to the right of the City and any board, authority, commission or public service corporation of the City to use or occupy the rights-of-way or to perform or carry on any public works or public improvements of any description. (R.O. 2009 §560.060; Ord. No. 431 §3(F), 1-24-08)

