

## Chapter 500

### BUILDING CODES AND BUILDING REGULATIONS

#### ARTICLE I Building Code

**Section 500.010. Building and Mechanical Code Adopted.** [R.O. 2013 §500.010; CC 1991 §500.010; CC §44.010; Ord. No. 30-05, 6-14-2005; Ord. No. 122-12, 3-13-2012]

- A. A certain document, a copy of which is on file in the office of the City Clerk, being marked and designated as the "2012 ICC International Building Code® (IBC)", is hereby designated as the Building Code of the City of Tarkio for regulating the construction, alteration, repair, erection, enlargement, removal, demolition, conversion, equipment use, occupancy and maintenance of all buildings in the City of Tarkio; and each and all of the regulations, terms and conditions of said "2012 ICC International Building Code® (IBC)" are hereby referred to, adopted and made a part hereof as if fully set out in this Section, except that any part of said code that is conflict with any part of this Chapter or that deals with administration and enforcement or that deals with fire districts is hereby deleted.
- B. A certain document, a copy of which is on file in the office of the City Clerk, being marked and designated as the "2012 ICC International Mechanical Code® (IMC)", is hereby designated as an additional part of the aforementioned Building Code of the City of Tarkio; and each and all of the regulations, terms and conditions of said "2012 ICC International Mechanical Code® (IMC)" are hereby referred to, adopted and made a part hereof as if fully set out in this Section, except that any part of said code that is conflict with any part of this Chapter or that deals with administration and enforcement or that deals with fire districts is hereby deleted.

#### ARTICLE II Plumbing Code

**Section 500.020. Plumbing Code.** [R.O. 2013 §500.020; CC 1991 §500.020; CC §44.020; Ord. No. 30-05, 6-14-2005; Ord. No. 122-12, 3-13-2012]

A certain document, a copy of which is on file in the office of the City Clerk, being marked and designated as the "2012 ICC International Plumbing Code® (IPC)", is hereby designated as the Plumbing Code of the City of Tarkio; and each and all of the regulations, terms and conditions of said "2012 ICC International Plumbing Code® (IPC)" are hereby referred to, adopted and made a part hereof as if fully set out in this Section.

#### ARTICLE III Electrical Code

**Section 500.030. Electrical Code.** [R.O. 2013 §500.030; CC 1991 §500.030; CC §44.030; Ord. No.

30-05, 6-14-2005; Ord. No. 122-12, 3-13-2012]

A certain document, a copy of which is on file in the office of the City Clerk, being marked and designated as the "2011 NEC — National Electrical Code Softbound Edition (NFPA 70)", is hereby designated as the Electrical Code of the City of Tarkio; and each and all of the regulations, terms and conditions of said "2011 NEC — National Electrical Code Softbound Edition (NFPA 70)" are hereby referred to, adopted and made a part hereof as if fully set out in this Section.

#### ARTICLE IV Fire Prevention Code

**Section 500.040. Adoption of Fire Prevention Code.** [R.O. 2013 §500.040; CC 1991 §510.010; CC §46.010; Ord. No. 30-05, 6-14-2005]

There is hereby adopted by the Board of Aldermen for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, a certain code known as the "BOCA National Fire Prevention Code 1996" Tenth Edition, published by the Building Officials Conference of America, Inc., save and except such portions as are hereinafter deleted, modified or amended by Section 500.040 of this Chapter, of which code not less than two (2) have been and now are filed in the office of the City Clerk of the City of Tarkio and the same are herein, and from June 14, 2005, the provisions thereof shall be controlling within the limits of the City of Tarkio.

**Section 500.050. Enforcement.** [R.O. 2013 §500.050; CC 1991 §510.020; CC §46.020]

The code hereby adopted shall be enforced by the Building Inspector and Chief of the Fire Department.

**Section 500.060. Definition.** [R.O. 2013 §500.060; CC 1991 §510.030; CC §46.030]

Wherever the word "*municipality*" is used in the code hereby adopted, it shall be held to mean the City of Tarkio.

**Section 500.070. Establishment of Limits of Districts in Which Storage of Flammable Liquids in Outside Aboveground Tanks, Bulk Storage of Liquefied Petroleum Gases and Storage of Explosives and Blasting Agents Is to Be Restricted.** [R.O. 2013 §500.070; CC 1991 §510.040; CC §46.040]

The limits referred to in Section 73 of the code hereby adopted by reference, in which the storage of flammable liquids in outside aboveground tanks is prohibited, and the limits referred to in Section 103 of the code hereby adopted by reference, in which the bulk storage of liquefied petroleum gas is restricted, and the limits referred to in Section 53b of the code hereby adopted by reference, in which storage of explosives and blasting agents is prohibited, are hereby established as follows: The south half of Block Numbers 6, 7, 8, 9 and 10 and the north half of Block Numbers 13, 14, 15, 16 and 17, and including therein Lot Numbers 13 and 14 in the south half of Block Number 14; and also including Lot Numbers 8, 9, 10, 11 and 12 in Block Number 9; Lot Numbers 1, 2 and 3 in Block Number 8, Lot Numbers 17 and 18 in Block Number 15; Lot Numbers 9, 10, 11 and 12 in Block Number 8, Lot Numbers 1, 2, 3 and 4 in Block Number 7, all in the original plat of the City of Tarkio in Atchison County, State of Missouri. Provided that

explosives and blasting agents are prohibited from being stored at any place within the City limits.

**Section 500.080. Modifications.** [R.O. 2013 §500.080; CC 1991 §510.050; CC §46.050]

The Chief of the Fire Department shall have the power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee, or his/her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

**Section 500.090. Appeals.** [R.O. 2013 §500.090; CC 1991 §510.060; CC §46.060]

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Chief of the Fire Department to the Board of Aldermen within thirty (30) days from the date of the decision appealed.

**Section 500.100. (Reserved)**

ARTICLE V  
**Property Maintenance Code**

**Section 500.110. Property Maintenance Code Adopted.** [Ord. No. 137.13 §1, 3-19-2013]

A certain document, a copy of which is on file in the office of the City Clerk, being marked and designated as the International Property Maintenance Code, 2012 Edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Tarkio in the State of Missouri regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Tarkio, Missouri; providing for the issuances of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City Clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 500.120 of this Chapter.

**Section 500.120. Revisions.** [Ord. No. 137.13 §2, 3-19-2013]

The following Sections are hereby revised:

Section 101.1. Insert: "City of Tarkio, Missouri".

Section 103.5. Insert: "No fees associated with this service".

Section 112.4. Insert: "\$50.00 and \$500.00".

Section 304.14. Insert: "April 1st to August 31st".

Section 602.3. Insert: "October 1st to March 31st".

Section 602.4 Insert: "October 1st to March 31st, replace "65 with 50".

**Section 500.130. Modifications.** [Ord. No. 137.13 §3, 3-19-2013]

The following Sections are hereby modified:

Section 304.18.1. This Section is modified to read as follows:

Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with an operable lock. Such lock shall be installed according to manufacturer's specifications and maintained in good working order.

Section 101.3. This Section is modified to read as follows:

This code shall be construed to secure in its express intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Repairs, alterations and additions to and change of occupancy in existing buildings shall comply with the International Building Code as adopted by the City of Tarkio.

Section 104.7. The reference to "Code Official" within this Section is deleted and the term "City of Tarkio, Missouri" inserted therefore.

Section 403.2. The last sentence of this Section beginning with the phrase "Air exhausted by a mechanical ventilation system ." is deleted in its entirety.

Section 104.1. This Section is modified to read as follows:

The Code Official shall have authority as necessary in the interest of public health, safety and welfare to interpret and implement the provisions of this code; and to secure the intent thereof. Such rule shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code or of violating accepted engineering methods involving public safety.

Section 201.3. This Section shall be modified to read as follows:

Where terms are not defined in this code and are defined by codes accepted by the City of Tarkio including the International Building Code, International Fire Code, International Plumbing Code, International Mechanical Code or the National Electrical Code, such terms shall have the meanings ascribed to them as in those codes as accepted by the City of Tarkio.

Section 304.3. The requirement that numbers shall be a minimum of four (4) inches (102 mm) high is deleted and the requirement that numbers be a minimum of three (3) inches (77 mm) high is inserted therefore.

**Section 500.140. Deletions.** [Ord. No. 137.13 §4, 3-19-2013]

The following Sections are hereby deleted:

Section 102.6: Historic Buildings

Section 103: Department of Property Maintenance Inspection

Section 104.6: Notices and Orders

Section 106: Violations

Section 107: Notices and Order

Section 108: Unsafe Structures and Equipment

Section 109: Emergency Measures

Section 110: Means of Appeals

Section 111: Means of Appeals

Section 302.4: Weeds

Section 302.9: Defacement of Property

Section 308: Rubbish and Garbage.

ARTICLE VI  
**Building Inspector**

**Section 500.150. Position Established.** [R.O. 2013 §500.110; CC 1991 §515.010; CC §47.010]

The Board of Aldermen of the City of Tarkio hereby creates the position of Building Inspector.

**Section 500.160. Appointment.** [R.O. 2013 §500.120; CC 1991 §515.020; CC §47.020]

The Building Inspector shall be appointed by the Mayor with the approval of the Board of Aldermen and shall continue to serve at the pleasure of the Mayor and Board.

**Section 500.170. Authority.** [R.O. 2013 §500.130; CC 1991 §515.030; CC §47.030]

The Building Inspector shall be authorized and directed to administer the Building Code, Plumbing Code, Electrical Code, Housing Code, Fire Prevention Code, and such other codes and ordinances as the Board of Aldermen may from time to time specify. The Building Inspector shall have power as may be necessary in the interests of public health, safety and general welfare to interpret and implement the provisions of said codes and ordinances and shall have the authority to enter any building or premises within the City of Tarkio for the purpose of inspection or for prevention of violations of the provisions of said codes and ordinances.

**Section 500.180. Liability.** [R.O. 2013 §500.140; CC 1991 §515.040; CC §47.040]

The Building Inspector shall not be personally liable while acting for the City of Tarkio, and he/she is hereby relieved from all personal liability for any damage that may accrue to persons as a result of any act required or permitted in the discharge of his/her official duties.

ARTICLE VII  
**Building Regulations**

**Section 500.190. Earthquake and Seismic Design Requirements.** [R.O. 2013 §500.150]

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.

**Section 500.200. Building Permit Required.** [R.O. 2013 §500.160; CC 1991 §500.040; CC §44.040]

No building or structure or part thereof shall hereafter be constructed, altered, repaired, erected, enlarged, converted, moved or demolished until a building permit has been obtained by the owner or his/her agent. Application for a permit shall be made on a form provided by the City of Tarkio and shall be accompanied by complete, dimensioned plans showing all habitable floors, basement, cellar, and foundations; by specifications describing the kind, size, quality and grade of all construction materials and service equipment; and by a dimensioned plot diagram showing the size and location of all new construction and all existing structures on the site, distance from lot lines, established street grades, and existing sewers, gas, water, and other public utilities in the street. In the case of demolitions, there shall be a diagram showing all construction to be demolished and all construction that is to remain on the site.

ARTICLE VIII  
**Building Fees**

**Section 500.205. Fees.** [R.O. 2013 §510.080; CC 1991 §505.080; CC §45.080]

Before receiving a building permit, the owner or his/her agent shall pay the fees specified in Table I. In applying the provisions of this code, the physical value shall be determined by the Building Inspector.

**Table I. Schedule of Permit Fees**

**Valuation of Work Fee**

Under \$50	\$2.50
\$50 to \$500	\$5.00
\$501 to \$1,000	\$7.50
\$1,001 and over	\$10.00 plus \$1.00 for each additional thousand or major part thereof
\$10,001 and over	\$21.00 plus \$1.00 for each additional thousand or major part thereof

\$50.00 limit for religious, eleemosynary and educational institutions.

ARTICLE IX  
**Penalties**

**Section 500.210. Penalties.** [R.O. 2013 §500.100; CC 1991 §510.070; CC §46.070]

A. Any person who shall violate any of the provisions of the codes adopted in this Chapter or

fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate of permit issued thereunder and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Board of Aldermen or by a court of competent jurisdiction within the time fixed herein shall severally for each and every such violation and non-compliance respectively be guilty of an ordinance violation punishable by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not less than one (1) day nor more than thirty (30) days, or by both such fine and imprisonment. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

## Chapter 505

### DANGEROUS BUILDINGS

#### **Section 505.010. Dangerous Buildings Defined.** [Ord. No. 135.13 §1, 3-19-2013]

- A. For the purpose of this Code, any building or structure which is detrimental to the health, safety or welfare of the public or the residents of the City of Tarkio, Missouri, and that has any or all of the following defects shall be deemed a "dangerous building":
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 one-third (1/3) 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%) or more damage or deterioration of the non-supporting enclosing or outside walls or coverage.
  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 this 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 or structure.
  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 attached so that they may fall and injure members of the public or property.
  9. Any portion of a building or structure remaining on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of ninety (90) days so as to constitute such building or portion thereof to be an attractive nuisance or hazard to the public.

10. Those that because of their condition is unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this City.

**Section 505.020. Dangerous Buildings Declared Nuisances.** [Ord. No. 135.13 §2, 3-19-2013]

Each "dangerous building", as defined in Section 505.010 of this Chapter, is hereby declared to be a public nuisance and shall be repaired, vacated and/or demolished as further provided for herein.

**Section 505.030. Standards for Repair, Vacation and/or Demolition.** [Ord. No. 135.13 §3, 3-19-2013]

- A. The following standards shall be followed by the Code Enforcement Officer and the Building Commissioner in ordering repair, vacation and/or demolition of a dangerous building:
  1. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this Chapter, it shall be ordered repaired and all design, construction and workmanship shall conform with accepted industry standards or the International Residential Code, 2012 Edition and the International Building Code, 2012 Edition.
  2. If the dangerous building is in such condition as to make it dangerous to the health, safety or welfare of its occupants, it shall be ordered to be vacated and either repaired or demolished, as is appropriate under the circumstances.
  3. If the dangerous building is damaged, decayed or deteriorated by fifty percent (50%) or more based upon value of the structure, and it cannot reasonably be restored or repaired so that it will no longer exist in violation of the terms of this Chapter, it shall be demolished.
  4. If both the owner and any other persons having an interest in the dangerous building are unwilling to restore or repair the building or structure, it shall be demolished.
  5. If the dangerous building is a fire hazard existing or erected in violation of any code or ordinance of the City or any Statute of the State of Missouri, it shall be demolished.

**Section 505.040. Emergency Situations.** [Ord. No. 135.13 §4, 3-19-2013]

In any case where it reasonably appears that there is immediate danger to the health, life or safety of any person or to any adjacent property unless the "dangerous building", as defined herein, is immediately repaired, vacated or demolished, the Code Enforcement Officer shall report such facts to the Building Commissioner, and such Commissioner, by resolution, may cause the immediate repair, vacation or demolition of such dangerous building. The cost of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 505.110 herein.

**Section 505.050. Insurance Proceeds.** [Ord. No. 135.13 §5, 3-19-2013]

- A. If there are any insurance proceeds based upon a covered claim where payment is made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, and if the covered claim payment is in excess of fifty percent (50%) of the face value of the policy covering the building or other structure, then the following procedure shall apply:
1. The insurer shall withhold from the covered claim payment twenty-five percent (25%) of the covered claim payment, and shall pay that amount to the City for deposit into an interest-bearing account.
  2. As to said monies, any mortgagee or lienholder named on the insurance policy shall maintain priority superior to any obligation under this Chapter.
  3. Within thirty (30) days after receipt of such insurance monies, the City shall release the proceeds and any interest which has accrued on such proceeds to the insured, or as the terms of the policy, including any endorsements thereto, provide, unless the City has instituted proceedings under the provisions of this Section. In the event the City has proceeded under the provisions of Section 505.060, all monies in excess of that necessary to comply with the provisions of this Chapter for the removal of the building or structure, less salvage value, shall be paid to the insured, subject to the limitations of this Section.
  4. If a special tax bill or assessment is issued by the City for the expenses of demolition of such building as a dangerous building, the monies held by the City shall be applied toward payment of a special tax bill or assessment. If there is any excess, it shall be paid by the City to the insured or as the terms of the policy, including any endorsements thereto, provide.
  5. In lieu of payment of all or part of the covered claim payment under this Subsection, the City may certify that it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event and subject to the limitations of Subsection (2), the City may issue a certificate within thirty (30) days after receipt of said proof, allowing payment of the insurance monies to the insured without deduction. It shall be the obligation of the insured or other person making claim to the monies to provide the insurance company with the written certificate provided for in this Subsection.
  6. No provision of this Section shall be construed to make the City a party to any insurance contract.

**Section 505.060. Duties of Code Enforcement Officer.** [Ord. No. 135.13 §6, 3-19-2013]

- A. The Code Enforcement Officer shall have and perform the following duties.
1. *Notice of inspection.*
    - a. Prior to conducting the inspection pursuant to this Section, the Code Enforcement Officer shall make reasonable, diligent efforts to provide the record owner of the building to be inspected, forty-eight (48) hours' notice in advance of the inspection, and to inform the owner of their right to accompany

the Code Enforcement Officer during the inspection. In the event the Code Enforcement Officer is unable to provide the notice envisioned herein, the Code Enforcement Officer may proceed to inspect the premises. However, in such event, the Code Enforcement Officer shall document all attempts to provide notice to the owner.

- b. In the event an inspection involves an "emergency situation", wherein it reasonably appears there is immediate danger to health, life or safety of any person or any adjacent property, said inspection may occur without the forty-eight (48) hours' notice in advance of the inspection to the property owner. As used in this Section, the term "*emergency situation*" shall include the following:
  - (1) Structural failure, including a roof, floor, stairs, foundation have collapsed or in danger of collapse;
  - (2) Electrical wiring failure, including complaints of "hot" wires, sparks, shock, repetitive failure of fuses or repetitive failure of circuit breakers;
  - (3) Sewage backups, including chronic problems of sewage backing up into the premises, or the collection of methane gas in the dwelling or noxious odors emanating from the sewer system;
  - (4) Gas leaks, including natural gas odors in the premises of gas appliances which are suspected of malfunction;
  - (5) Mechanical failures, including elevators, which have malfunctioned or which are in danger of malfunction;
  - (6) Possession, maintenance or retention of hazardous materials on the premises, including explosives and toxic chemicals;
  - (7) A complaint which has been prompted by a serious injury occurring on the premises;
  - (8) Excessive infestation of rodents and/or insects;
  - (9) Excessive accumulation of garbage or debris.

In each instance the Code Enforcement Officer shall document the basis for concluding the existence of the emergency situation.

2. *Inspection.* The Code Enforcement Officer shall:

- a. Inspect or cause to be inspected, as often as may be necessary, all residential, commercial, institutional, accessory, garage, assembly, special or miscellaneous occupancy buildings for the purpose of determining whether any condition exists which render such places to be a dangerous building within the terms of Section 505.010 of this Chapter.
- b. Inspect any building, wall or structure about which complaints are filed by any person alleging that such building, wall or structure is or may be existing in

violation of this Chapter.

3. *Determination and order.*
  - a. The Code Enforcement Officer shall set forth a description of the building or structure deemed to be dangerous, and a statement of the particulars which made the building or structure a dangerous building.
  - b. If the Code Enforcement Officer determines that the building or structure is a dangerous building which must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within a specific time not to exceed thirty (30) days from the date of the order unless, in the judgment of the Code Enforcement Officer, it is determined to be necessary to extend such time to commence the required work. The order shall further require that the work proceed continuously without unnecessary delay, so as to complete said work within a reasonable time, but not to exceed one hundred eighty (180) days.
  - c. If the Code Enforcement Officer determines that the building or structure is a dangerous building which must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined to be reasonable by the Code Enforcement Officer.
  - d. If the Code Enforcement Officer determines that the building or structure is a dangerous building which must be demolished, the order shall require that the building be demolished within such time as the Code Enforcement Officer shall determine reasonable, but not to exceed thirty (30) days from the date of the order and that all required permits be secured therefore within thirty (30) days from the date of the order.
  - e. If the Code Enforcement Officer determines that the building or structure is not a dangerous building, then no order shall be issued.
4. *Posting of notice.* Upon completion of the inspection of a building or structure and upon making a determination that said building or structure is a dangerous building as defined in Section 505.010 herein, the Code Enforcement Officer shall post a notice on such building or structure which shall be substantially in the following form, but may include other information:
  4. "This building has been found to be a dangerous building by the Code Enforcement Officer. This notice is to remain on this building until it is repaired, vacated and repaired, or vacated and demolished, in accordance with the notice which has been given the known owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in such building as shown by the land records of the Recorder of Deeds of Atchison County. It is unlawful to remove this notice until such notice is complied with. All persons are hereby notified to keep out as long as this notice remains posted. Any person(s) willfully destroying, mutilating and removing this notice or entering this structure will be prosecuted to the full extent of the law."
  4. Provided however, that the posting of such notice shall not be construed to deprive

any person, entitled thereto by this Chapter, to the notice and hearing as prescribed herein.

5. *Service of notice and order.* The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner of the dangerous building and posted on the property. Additionally, one (1) copy shall be served on each of the following if known to the Code Enforcement Office or disclosed from the land records of the Recorder of Deeds of Atchison County, Missouri:
  - a. The holder of any mortgage, deed of trust or other lien or encumbrance of record;
  - b. The owner or holder of any lease of record;
  - c. The holder of any other estate or legal interest of record in or to the building or the land on which it is located;
  - d. Any tenant in possession of the premises.
6. *Method of service.*
  - a. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of Atchison County or as known to the Code Enforcement Officer.
  - b. If no address of any such person so appears or is known to the Code Enforcement Officer, then notice shall be had by publication in a newspaper qualified to publish legal notices at least fourteen (14) days in advance of any hearing date, specifically addressed to the person for whom no address is known and all other persons having an interest in said building that has been found to be a dangerous building within the standards set forth in Section 505.010 of this Chapter and shall set forth the requirements of the determination and order of the Code Enforcement Officer.
  - c. The Code Enforcement Officer shall ensure that each person entitled to notice pursuant to this Section is advised in writing of their right to request a hearing pursuant to Section 505.070 and shall provide information concerning the procedures therefore.
7. *Proof of service.* If service is obtained by personal service, proof of service of the notice and order shall be certified as to the time of service by a written declaration executed by the person effecting service, declaring the time, date and manner in which service was made. This declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Code Enforcement Officer.
8. *Failure of service.* The failure of the Code Enforcement Officer to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served, nor shall it relieve any such person from any duty or

obligation imposed by the provisions of this Section.

9. *Report.* The Code Enforcement Officer shall make a report in writing to the Building Commissioner for any non-compliance with the notice and order to vacate, repair and/or demolish.
10. *Appearance.* The Code Enforcement Officer shall appear at all hearings conducted by the Building Commissioner pursuant to this Chapter and shall testify as to the condition of dangerous buildings.

**Section 505.070. Appeal to the Building Commissioner.** [Ord. No. 135.13 §7, 3-19-2013]

- A. *Appeal.* Any person entitled to service of the notice and order of the Code Enforcement Officer may appeal from any such notice and order, or any other action of the Code Enforcement Officer under this Chapter by filing at the office of the City Clerk a written appeal containing:
  1. A heading in the words: "Before the Building Commissioner of the City of Tarkio, Missouri . . ."
  2. A caption reading: "Appeals of . . ." giving the names of all appellants participating in the appeal.
  3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
  4. A brief statement in ordinary and concise language of that specific order or action protested, together with any material fact claimed to support the contentions of the appellant. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
  5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
  6. The signatures of all parties named as appellants and their official mailing addresses.
  7. The verification by declaration under penalty of perjury of at least one (1) appellant as to the truth of the matters stated in the appeal.
- B. *Fees.* The fee for such appeal shall be twenty-five dollars (\$25.00) and shall accompany the application for appeal. The application fee shall not be refundable.
- C. *Timing Of Appeal.* The appeal shall be filed within thirty (30) days from the date of the service of such notice and order or action of the Code Enforcement Officer. However, if the building or structure is in such condition as to make it immediately dangerous to the health, life, or safety of any person, or any adjacent property as defined in Section 505.040, and is ordered vacated and is posted in accordance with Section 505.060, such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the Code Enforcement Officer.
- D. *Stay Of Order.* Except for orders to vacate the premises made pursuant to Section 505.040,

enforcement of any notice and order of the Code Enforcement Officer issued under this Chapter shall be stayed during the pendency of a properly and timely filed appeal.

- E. *Failure To Appeal.* Failure of any person to file an appeal in accordance with the provisions of this Section shall constitute a waiver of the right to request an administrative hearing and adjudication on the notice and order or to any portion thereof.

**Section 505.080. Building Commissioner.** [Ord. No. 135.13 §8, 3-19-2013]

The Mayor or a representative assigned by the Mayor shall act as the Building Commissioner under this Chapter.

**Section 505.090. Duties of the Building Commissioner.** [Ord. No. 135.13 §9, 3-19-2013]

- A. The Building Commissioner shall have and perform the following duties pursuant to this Chapter:

1. *Date of hearing.* As soon as practicable after receiving the written appeal under Section 505.070, or after the receipt of the report of the Code Enforcement Officer pursuant to Section 505.060, the Building Commissioner shall fix a date, time and place for the hearing. Such date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the office of the City Clerk or from the date the Code Enforcement Officer filed the report with the Commissioner, whichever is applicable, unless continued by the Commissioner for good cause shown.
2. *Notice.* The notice shall be substantially in the following form, but may include other information:
  2. "You are hereby notified that a hearing will be held before the Building Commissioner at on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, at the hour \_\_\_\_ related to the property described as \_\_\_\_\_, to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated and/or demolished in accordance with the state of particulars set forth in the Code Enforcement Officer's notice as provided for in this Chapter. You may be present at the hearing. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you."
  2. Said notice shall advise the recipient of the procedures involved in the hearing pursuant to this Section.
3. *Service of notice.* Written notice of the time and location of the hearing and any amended or supplemental notice shall be served upon each appellant and/or the record owner of the dangerous building. Additionally, one (1) copy shall be served on each of the following if known to the Building Commissioner or disclosed from the land records of the Recorder of Deeds of Atchison County, Missouri:
  - a. The holder of any mortgage, deed of trust or other lien or encumbrance of record;
  - b. The owner or holder of any lease of record;

- c. The holder of any other estate or legal interest of record in or to the building or the land on which it is located; and
  - d. Any tenant in possession of the premises.
4. *Method of service.*
- a. Service of the notice of the hearing shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of Atchison County or as known to the Building Commissioner. Such notice shall be served or received at least fourteen (14) days prior to the hearing date.
  - b. If no address of any such person so appears or is known to the Building Commissioner, then notice shall be given by publication in a newspaper qualified to publish legal notices at least fourteen (14) days prior to the hearing date, specifically addressed to the person for whom no address is known and all other persons having an interest in said building, to appear before the Building Commissioner on the date specified and to show cause why the structure or building reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Code Enforcement Officer's notice or decision. Said notice shall notify the recipient of the procedures involved in the hearing pursuant to this Section.
5. *Proof of service.* If service is obtained by personal service, proof of service of the notice and order shall be certified as to the time of service by a written declaration executed by the person effecting service, declaring the time, date and manner in which service was made. This declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the Building Commissioner.
6. *Failure of service.* The failure of the Building Commissioner to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this Section.
7. *Hearing.* Upon receipt of the report of the Code Enforcement Officer or a duly filed appeal, and after having given the required notice, the Building Commissioner shall hold a full and adequate hearing, and hear such relevant testimony as the Code Enforcement Officer, any appellant, the record owner, and any other person entitled to service of notice shall offer relative to the dangerous building.
8. *Decision.* Upon conclusion of the hearing, the Building Commissioner shall make written findings of fact based upon competent and substantial evidence offered at the hearing as to whether or not the building in question is a "dangerous building" as defined by Section 505.010 herein, and:
- a. If the evidence supports a finding that the building or structure is a dangerous building detrimental to the health, life or safety of any person or to any adjacent

property, the Building Commissioner shall issue an order based upon the findings of fact, commanding the appellant and/or the record owner, as well as any other person entitled to notice of the hearing, to vacate and ordering the demolition of the building or structure.

- b. It is further provided that the appellant and/or the record owner as well as any other person entitled to notice of the hearing shall have the privilege of either repairing or vacating and repairing said building, if such repair will bring such building into compliance with the ordinances and codes of the City of Tarkio, provided that such repair is completed within sixty (60) days of the order being entered by the Building Commissioner.
- c. The appellant and/or the record owner, as well as any other person entitled to notice of the hearing, shall have the privilege of vacating and demolishing said dangerous building at their own risk to prevent the City of Tarkio from acquiring a lien against said land on which the dangerous building is located, provided that such demolition is completed within sixty (60) days of the order being entered by the Building Commissioner.
- d. If the evidence does not support a finding that the building or structure is a dangerous building, then no order shall be issued.
- e. The findings of fact shall be in writing and shall contain findings, a determination of the issues presented, and an order as to any requirements to be satisfied. A copy of the decision shall be personally delivered to the appellant and/or the record owner, as well as any other person entitled to notice of the hearing, or shall be sent by certified mail, postage prepaid, return receipt requested to each such person. The effective date of the decision shall be as stated therein.

**Section 505.100. Recording of Certificate of Dangerous Building.** [Ord. No. 135.13 §10, 3-19-2013]

- A. *Non-Compliance.* If compliance is not had with the order of the Building Commissioner within the time provided, and no appeal is properly and timely filed, a certificate shall be filed in the Recorder's office of Atchison County, Missouri, certifying:
  1. The legal description and street address of the property;
  2. The building is a dangerous building;
  3. The landowner and all other persons with known interests of record in the property have been so notified; the decision rendered by the Building Commissioner.
- B. *Subsequent Compliance.* In the event that subsequent to the filing of the certificate of dangerous building the corrections ordered shall be completed or the building demolished, so that the building or structure no longer exists as a dangerous building on the property described in the certificate, a new certificate shall be filed in the Recorder's office of Atchison County, Missouri, certifying that the building is no longer a dangerous building.

**Section 505.110. Failure to Comply With Building Commissioner's Decision — Lien.** [Ord. No.

135.13 §11, 3-19-2013]

- A. *Non-Compliance.* If within sixty (60) days the record owner, appellant, or any other person entitled to service of notice pursuant to Section 505.090 fails to comply with the decision and order of the Building Commissioner, the Building Commissioner or the Code Enforcement Officer shall so advise the City Clerk who shall cause such building or structure to be repaired, vacated and/or demolished as the facts may warrant.
- B. *Tax Bill.*
1. Whenever the City shall have caused repair or demolition work to be completed as provided in Demolition of Buildings of the Municipal Code of the City of Tarkio, the Superintendent shall certify the costs of the repair or demolition work to the City Clerk who shall cause a special tax bill to be issued against the lot, tract or parcel of land until paid, and shall cause the same to be registered in the office of the Recorder of Atchison County and to be mailed by certified mail to all owners of record of the property. The tax bill shall be collected by the official collecting taxes.
  2. Upon written request of the taxpayer delivered to the City Clerk within thirty (30) days after completion of the demolition or repair work, a tax bill for repair or demolition of a building or structure may be paid in ten (10) equal, annual installments, which installments with interest thereon to date on the unpaid balance shall be due annually on the anniversary of the date of issuance of the bill. Interest shall be paid at the maximum rate per annum allowable by law on the unpaid balance of the special assessment computed from the date of issuance. If any annual payment of principal or interest shall not be paid within thirty (30) days of its due date, the entire remaining balance of the tax bill shall immediately become due and payable.
  3. If said request for the payment plan is not made within thirty (30) days after the completion of the repair or demolition work, then the entire tax bill shall be payable within sixty (60) days of issuance, with interest thereon.
  4. Tax bills so issued shall be prima facie evidence of the validity of the bill, the doing of the work and the liability of the property for the damages stated in the bill. If default should occur, said amounts shall be collected by suit brought in a court of competent jurisdiction by the City Attorney on behalf of the City.

**Section 505.120. Appeal to Circuit Court.** [Ord. No. 135.13 §12, 3-19-2013]

Within thirty (30) days of the receipt of the decision of the Building Commissioner, any person entitled to notice pursuant to Section 505.090 as to a dangerous building may appeal such decision to the Circuit Court of Atchison County pursuant to the procedure established in Chapter 536, RSMo.

**Section 505.130. Violations and Punishment.** [Ord. No. 135.13 §13, 3-19-2013]

- A. It is a violation of this Chapter to:
1. Fail to comply with an order to repair, vacate and/or demolish any building or structure which has been determined to be maintained in violation of the provisions of

- this Chapter, issued by the Code Enforcement Officer, unless an active appeal is pending thereon; or
2. Fail to diligently and timely repair any building or structure which has been determined to be maintained in violation of the provisions of this Chapter, as determined by the Building Commissioner, unless an active appeal is pending thereon; or
  3. Fail to proceed continuously with the repair or demolition of any building or structure determined to be in violation of this Chapter unless an active appeal is pending thereon; or
  4. Fail to comply with an order to repair, vacate or demolish any building or structure issued by the Building Commissioner unless an active appeal is pending thereon; or
  5. Remove, deface or mutilate the notice placed on any building or structure; or
  6. Violate any provision of this Chapter.
- B. Any person who shall violate any provision of this Chapter or fails to comply with any of the provisions or requirements thereof shall be punished by a fine not to exceed five hundred dollars (\$500.00) or be imprisoned for a term not to exceed ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after notice has been issued shall be deemed a separate offense.
- C. The imposition of the penalties herein prescribed shall not preclude the City from additionally instituting appropriate action to restrain, correct or abate a violation, to prevent illegal occupancy of a building, structure or premises, to stop an illegal act, conduct business or utilization of the building, structure or premises or take any other act as allowed by law in addition to the penalties prescribed herein.

**Section 505.140. Duties of the City Attorney.** [Ord. No. 135.13 §14, 3-19-2013]

The City Attorney shall prosecute all persons failing to comply with the terms of the notices and orders provided for herein; appear at all hearings before the Building Commissioner pursuant to this Chapter; bring suit to collect all municipal liens, assessments or costs incurred by the City in the repairing or demolishing of dangerous buildings; and take all such other legal actions as are necessary to carry out and enforce the terms and provisions of this Chapter.

**Section 505.150. Administrative Liability.** [Ord. No. 135.13 §15, 3-19-2013]

No officer, agent, commissioner, Alderman or employee of the City shall render themselves personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of their duties under this Chapter. Any suit brought against any officer, agent, board, Alderman or employee of the City as a result of any act required or permitted in the discharge of their duties under this Chapter shall be defended by the City Attorney until the final determination of the proceedings therein.

**Chapter 510**

**(RESERVED)**

## Chapter 515

### STREETS

**Section 515.010. Temporary Closing of Streets.** [R.O. 2013 §515.010; CC 1991 §520.180; CC §68.500]

- A. The Street Commissioner is authorized, with the approval of the Mayor or Acting Mayor, to close any street, alley, public place or highway within the limits of the City of Tarkio and withdraw the same from the public use temporarily for such period as public work thereon shall make such action necessary. Any person using or attempting to use said street, alley, public place or highway so withdrawn from public use, or driving or attempting to drive any animal or vehicle thereon, shall be deemed guilty of an ordinance violation.
- B. Before consent for opening any street is given, the person requesting consent shall post a bond with the City in an amount determined by the Street Commissioner to be sufficient to make the repairs as required herein.

**Section 515.020. Excavations.** [R.O. 2013 §515.020; CC 1991 §520.190; CC §68.510; Ord. No. 520.190, 11-15-1995; Ord. No. 520.190, 5-14-2002]

It shall be unlawful for any person to make any opening in any street, avenue or alley in the City of Tarkio for the purpose of laying water line, sewer pipe or any other utility across said street, avenue or alley without first having secured the consent of the Street Commissioner of said City. Before consent for opening any street is given, the person requesting consent shall post a bond with the City in an amount determined by the Street Commissioner to be sufficient to make the repairs as required herein. Any person opening any street, avenue or alley in the City of Tarkio will pay for any and all repairs of said street, avenue or alley in the City of Tarkio, and said sums so paid as provided in this Section shall be placed in the street funds of said City to be used for said purpose and kindred purposes. It shall be the duty of the City of Tarkio to replace said part of said street so damaged by being opened for the purpose of laying said water, sewer pipe or other utility.

**Section 515.030. Condemnation for Streets.** [R.O. 2013 §515.030; CC 1991 §520.210; CC §68.530]

- A. Whenever it is proposed to create, open, widen, extend, alter or vacate any street or alley within the corporate limits of the City of Tarkio, the person or persons submitting said proposition shall lay before the Board of Aldermen a plat showing as near as possible the street or alley proposed to be created, opened, widened, extended, altered or vacated.
  - 1. If the Board of Aldermen, after considering any proposition submitted to them, shall deem it necessary to create, open, widen, extend or alter any street or alley as proposed by said plat, they shall by ordinance cause the boundary lines of the

proposed street or alley to be designated, and if said street or alley is proposed to be vacated in whole or in part, said ordinance shall designate what part of the same shall be vacated or closed.

2. Whenever the Board of Aldermen shall have passed an ordinance designated to create, open, widen, extend, alter or vacate any street or alley in the City, the Mayor shall appoint five (5) disinterested residents of the City who shall in the discharge of their duties, under oath, faithfully and impartially make the assessments to them submitted.
3. In determining the assessment submitted to the jury of residents, they shall consider the benefits there resulting to as well as damages sustained by the owner of the property so taken, and said jury shall moreover estimate the amount of benefits which other persons owning adjacent property bordering on the part of the street or alley proposed to be created, opened, widened, extended, altered or vacated.
4. Whenever said jury of residents shall estimate and assess any benefits to any property owner or owners adjacent or bordering upon the part of any said street or alley proposed to be created, opened, widened, extended, altered or vacated, said person or persons so benefitted shall contribute toward compensating the person or persons so injured and such amount shall constitute a lien in favor of the City on the adjacent property, all of which shall be returned by said jury of residents under their hands and seals to the Board of Aldermen.
5. The said jury of residents shall view the proposed street or alley and property to be affected by the change and set a day and place for hearing evidence as to said benefits and damages and shall give at least five (5) days' previous notice of said day and place to each of the owners of the property lying adjacent to the part of the street or alley to be created, opened, widened, extended, altered or vacated, provided that such owners are residents of the County, personal service of a written notice shall be deemed sufficient, or if any of such property owners are non-residents of Atchison County, then notice by publication may be given, such notice to be published at least two (2) weeks before the day set for hearing in some newspaper published in the City.
6. Whenever said jury of residents shall have assessed benefits to any person or persons owning property adjacent to said proposed street or alley created, opened, widened, extended, altered or vacated, every person so assessed with benefits shall pay into the City Treasury within sixty (60) days the amount of said benefits so assessed to him/her by said jury.
7. If the title to any property proposed to be taken for any street or alley provided for in this Article be in litigation or dispute, the damages awarded to said property shall not be paid out of the City Treasury until such dispute shall have been adjudicated or compromised, but the said money shall remain and be set apart in the City Treasury.
8. The City Clerk shall enter the names of the jury of residents upon the records of the City. The said jury shall be allowed for their service the amount of two dollars (\$2.00) per day for each full day occupied in determining the damages or benefits in this act provided.

**Section 515.040. Wires Over Streets.** [R.O. 2013 §515.040; CC 1991 §520.220; CC §68.540]

All electric light or telephone or telegraph or electrical transmission wires put or run along or across the streets, avenues, alleys of Tarkio shall be suspended at a height above the ground of not less than twenty (20) feet at the lowest crossarm on the poles supporting such wires. All such wires shall be so suspended that they may be raised or lowered to permit the passage of buildings or other structures upon said streets, avenues or alleys as provided for by the ordinance of the City of Tarkio.

**Section 515.050. Wires Over Streets — Erection.** [R.O. 2013 §515.050; CC 1991 §520.230; CC §68.550]

No person, company, co-partnership or corporation shall erect or maintain any telephone, telegraph, electric or transmission wire or other wire or cable or appliance upon any street or alley or other public place in the City of Tarkio in such manner as to prevent the moving of any buildings along or upon any such street, alley or other public place; nor shall permanently maintain any such wire, cable or appliance at such height as will prevent the passage of buildings along or upon such streets, alleys or other public places. The minimum height to which wires are required to be strung by the Board of Aldermen by the ordinances of the City of Tarkio shall not be construed to exempt the owner of said wires from police regulations requiring them to raise or lower their wires to permit the passage of buildings or other structures along the streets or alleys of the City of Tarkio as herein provided.

**Section 515.060. Wires Over Streets — Moving of Building on Streets.** [R.O. 2013 §515.060; CC 1991 §520.240; CC §68.560]

- A. Any person, company, corporation or co-partnership desiring to move a house or other structure upon, across or under any such street, alley or other public place within the limits of the City of Tarkio shall first obtain a permit from the City Clerk so to do and shall state the location of the house or building to be moved, its greatest length, width and height and shall state definitely the route over which it is to be moved and whether or not it will be necessary to cut, remove, raise or in any other way interfere with any of the wires, lines or cables hereinbefore mentioned. If it shall be necessary to cut, remove, raise or in any other way interfere with the wires, the application shall state to the owners of such wires the time and place, when and where the cutting, raising or otherwise interfering with said wires or cables will be necessary, and the proposed new location of such building. The Mayor or the Chief of Police shall have authority to require any changes in such route as he/she may deem proper over attending circumstances.
1. If it shall appear from the application that it will be necessary to cut, remove or in any way interfere with any electric wires, transmission lines, telephone or telegraph lines, or any poles bearing upon such wires, it shall be the duty of the City Clerk to give the owner or owners of such wires or other appliances at least five (5) days' notice of the time and place, when and where the removal or the cutting or raising, or otherwise interfering with said wires will be necessary.
  2. It shall be the duty of any corporation owning or operating said poles, wires or transmission lines, electric light, telephone or telegraph wires, after the service of notice as required in Subsection (1) hereof, to furnish competent workmen or linemen

to remove such poles or raise or cut such wires as will be necessary to facilitate the moving of said house or other structure. The actual expense incurred of any such house or building or structure shall be paid for by the person, firm or corporation owning and operating said lines.

3. If the person, firm or corporation owning or operating said lines, wires, cables or appliances shall fail or refuse to raise, lower or cut said wires, the persons engaged in moving any house, building or other structure shall raise, lower, cut or remove any wires, cables or transmission lines and shall do so only with competent workmen or linemen and the same shall be done in a careful and workmanlike manner and the said wires, cables, lines and other appliances shall be promptly replaced and damages thereto promptly repaired at the expense of the person, firm or corporation owning or operating said wires, cables, lines or other appliances.

## Chapter 520

### REGULATIONS FOR SIDEWALKS, STREETS AND RIGHTS-OF-WAY

#### ARTICLE I General Provisions

**Section 520.010. Hauling Garbage Through Streets.** [Ord. No. 57-07 §010, 6-12-2007]

No person shall haul any garbage or offensive material through any street of the City where there is an alley parallel with said street and within a block of said street, unless contracted with the City of Tarkio or have special permission.

**Section 520.020. Solicitations From or Distributions to Occupants With Motor Vehicles.** [Ord. No. 57-07 §020, 6-12-2007]

- A. It shall be unlawful for any person to engage in any public solicitation or gratuitous distribution from or to the occupants of any motor vehicle that shall be upon the public streets or ways of the City unless the vehicle shall be lawfully parked at the time of the solicitation. As used in this Section, the term "public street" or "streets" or "ways" shall include streets, roadways, roadway shoulders, medians and any area within the public right-of-way.
- B. Any person violating any provision of this Section shall be punished by a fine not to exceed five hundred dollars (\$500.00) or be imprisoned in jail for not more than three (3) months, or by both such fine and imprisonment. Each solicitation or gratuitous distribution in violation of this Section shall be treated as a separate offense.

**Section 520.030. Building Materials, Etc. — in Streets or Alleys at Nighttime — Warning Lights — Flares.** [Ord. No. 57-07 §030, 6-12-2007]

No person shall place or leave any ashes, dirt, fuel, junk, building materials or other materials and/or articles upon or in any public street or alley, and leave the same thereon during the nighttime, unless such materials or articles be adequately marked and designated by warning lights and/or flares.

**Section 520.040. Marking of Streets and Erection of Signs.** [Ord. No. 57-07 §040, 6-12-2007]

- A. The City Official may cause to be marked and designate parking spaces upon the streets and alleys as provided for in this Code.
  - 1. Such space shall be of such length and size as shall be convenient and practical at the discretion of the City Official. Parking space and/or space wherein parking is restricted or prohibited may be marked and indicated on the streets, curbing or parkway by appropriate signs or markings therefore in such manner as the City

Official may select.

2. "Stop" signs, "No Parking" signs and other appropriate signs may be erected by the City Official's discretion. All signs, markings and/or signals shall be erected and placed in conformity with the provisions of this Code.
3. Whenever any street, alley or other public place shall be marked or designated for parking purposes, all parking shall be in conformity with such marking and/or signs.
4. It shall not be necessary to the enforcement of this Code that signs, signals or marking be erected, or that parking space be designated. The absence of any warning sign or marking for parking shall be no defense for any prosecution for the violations of this Code.
5. No person shall erect any sign or mark any street or alley for parking purposes or alter or mar any sign or marking erected or made under the provisions of this Code, or require or prohibit, by sign or marking, any parking different from that. Any person may limit or prohibit parking within specified limits upon any street or alley by securing a permit therefore. Such permits shall be granted by the City Official upon application. No permits shall be granted except upon proof that the public convenience, safety and welfare shall be promoted thereby. Such permits may be revoked by the City Official at any time without notice, and shall be valid until so revoked. The City Clerk shall keep a record of all applications and permits. All signs and/or markings shall be erected or made by the permittee at his/her own cost, and under the supervision of the City Official as to the location, type and character thereof.
6. No person shall remove, destroy, deface, mutilate, or in any manner interfere or tamper with any traffic sign, parking sign or any marking placed upon the streets, alleys, curbing or parkways under the provisions of this Code.

**Section 520.045. Recreation Equipment on Public Rights-Of-Way.** [Ord. No. 45-06 §515.080, 11-7-2006]

- A. *Prohibited.* No person shall place or erect a basketball hoop, playground or sports-related apparatus or similar objects on or within a public right-of-way, which includes any roadway located therein, or sidewalk, nor shall any person use such apparatus or object for any activity conducted within a right-of-way or on a sidewalk.
- B. *Removal Of Apparatus.* The Street Superintendent or his/her designated representative or any Law Enforcement Officer of the City may remove any such apparatus or object from a right-of-way or sidewalk.
- C. *Penalty For Violation Of Section.* Every person convicted of a violation of this Section shall be punished by a fine of not less than one dollar (\$1.00) and no more than five hundred dollars (\$500.00), or by detention in the County Jail for not more than ninety (90) days, or by both such fine and imprisonment.

ARTICLE II  
**Street Openings — Driveways**

**Section 520.050. Definitions.** [Ord. No. 57-07 §050, 6-12-2007]

For the purpose of Sections 520.060 through 520.210, the following terms, words and phrases shall have the following meanings:

**ALLEY** — The entire width of a public way which extends only secondary means of access to abutting property.

**CONTRACTOR** — An independent contractor employed by a private property owner to construct, reconstruct, alter, remove or replace a driveway approach.

**CORNER** — The point of intersection of lines of two (2) street curb faces extended into the street intersection.

**CURB RETURN** — That portion of curb at the beginning of a driveway approach which serves as a transition from the height of the curb to the level of the approach.

**DRIVEWAY APPROACH** — An area intended for the operation of automobiles and other vehicles giving access between a roadway and abutting property.

**GUTTER** — That portion of the driving surface of an improved street, driveway approach or other public way which abuts the curb and provides for the runoff of surface drainage.

**IMPROVED STREET** — A public street having concrete curbs or curb and gutters, or other such equivalent physical features which serve to establish a permanent street grade.

**INTERSECTION** — The general area where two (2) or more roadways meet, join or cross at a common point establishing an area within which vehicles traveling different roadways may come in conflict.

**PARCEL OF LAND** — A lot, or lots, or a tract under a single ownership.

**PARKWAY** — That portion of the street right-of-way of the roadway and the adjacent property line, or lines, on the same side of the street, except any portion used for sidewalks.

**PERMITTEE** — An owner or contractor holding a permit.

**PLOT PLAN** — A drawing showing all of the important physical features, both existing and proposed, of a given parcel of land.

**PROPERTY LINE** — The boundary between two (2) or more parcels of land.

**RESIDENTIAL** — Pertaining to the use of any area, structure or other facility primarily for dwellings, either single-family or two (2) families.

**RIGHT-OF-WAY** — A general term denoting public ownership or interest in land, usually in a strip, which has been acquired for or devoted to the use of a street or alley.

**RIGHT-OF-WAY LINE OR STREET RIGHT-OF-WAY LINE** — The boundary between any public street or alley and one (1) or more parcels of private property.

**ROADWAY** — That area of a street intended and used for vehicular travel.

**SIDEWALK** — That paved portion of a parkway intended for the use of pedestrians.

**STREET** — The entire width of a public right-of-way which extends primary means of access to abutting properties.

**UNIMPROVED STREET** — A street not having, concrete curbs, or curbs and gutters, or other such equivalent physical features which serve to establish a permanent street grade.

**VEHICLE** — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

**Section 520.060. Unlawful to Construct Driveway Approach Without Permit.** [Ord. No. 57-07 §070, 6-12-2007]

It shall be unlawful for any person to construct, reconstruct, alter, remove or replace any driveway approach, or any curb, guttering or sidewalk in connection with any such driveway approach work, without first applying for and receiving a permit for such work.

**Section 520.070. Application for Permit to Construct Driveway Approach.** [Ord. No. 57-07 §080, 6-12-2007]

Applications for permit to construct, reconstruct, alter, remove or replace any driveway approach, or any curb, guttering or sidewalk in connection with such driveway approach work, shall be made to the Code Enforcement Officer. Applications shall contain such information as the Code Enforcement Officer shall deem necessary or desirable in order to determine whether or not application is for work acceptable and in conformity with the provisions of Sections 520.060 through 520.190 of this Chapter. An application for work other than residential shall include a complete plot plan, which shall show the specific application of all standards and regulations of Section 520.120. No application shall be accepted unless it is made by the owner of the property to be served by the driveway approach, or the owner's contractor.

**Section 520.080. (Reserved)**

### ARTICLE III Sidewalks

**Section 520.090. Certain Animals and Vehicles — Prohibited.** [Ord. No. 57-07 §220, 6-12-2007]

No person shall ride, drive, lead or place any beast of burden or vehicle on any sidewalk or footway otherwise than going into or out of premises over properly constructed places of ingress and egress.

**Section 520.100. Removal of Snow and Ice.**<sup>1</sup> [Ord. No. 57-07 §230, 6-12-2007; Ord. No. 93-10 §1, 1-12-2010]

A. It shall be unlawful for any person being the owner, tenant or in charge, dominion or control of a lot of land or other tenement abutting on any street, avenue or alley with a sidewalk in or along such street, avenue or alley adjacent to such property to suffer or

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1. Cross Reference — As to snow emergency routes and parking thereon, ch. 367.

permit snow or ice to be or remain upon such sidewalk so abutting or adjacent to such property for a period in excess of twelve (12) hours, and it shall be the duty of such owner, tenant, or person in charge, dominion or control of any such property to remove, or cause to be removed, snow and ice from all such sidewalks so abutting or adjacent to property so owned or occupied by such person within said time so that such sidewalk shall be within such time placed in reasonably safe and proper condition for public travel thereof by the usual and ordinary mode. Each and every person violating the provisions of this Subsection shall be adjudged guilty of an ordinance violation and, on conviction, punished by a fine of not less than one dollar (\$1.00) nor more than ten dollars (\$10.00) for each offense, and each and every day such sidewalk shall be obstructed by snow or ice shall be and constitute a separate offense punishable by a separate penalty.

- B. Snow and/or ice upon sidewalks in the City, left to be or remain thereon so as to impede or interfere with public travel on such sidewalk or footwalk, are hereby declared to be a public nuisance and shall be abated as such. It shall be the duty of the owner, tenant or person occupying the premises adjacent or abutting upon each such sidewalk, or person in charge or control of any such premises, at his/her own expense, to remove from any such sidewalk all the snow and ice or other like obstructions so that such sidewalk will be placed in proper and safe condition for public travel within twelve (12) hours after the same shall become obstructed or traffic thereon impeded by snow, ice or like obstructions; and if such owner, tenant or person in possession, charge or control of any such property so abutting or adjacent to any sidewalk obstructed by snow or ice shall fail or neglect to so remove such snow, or cause the same to be removed, within such time, then it shall be the duty of the City Official, or other proper officer at his/her direction, to cause such snow and ice to be immediately removed from such sidewalk or footwalk, and for that purpose may hire the same to be done keeping accurate account thereof, and the costs and expenses reasonably incurred in so removing such snow, ice or obstruction from such sidewalk or footwalk shall be paid by such owner, tenant or person in possession, charge or control of such property; that is to say, if said property is in charge of a tenant, or a person having the physical dominion thereof in the manner of a tenant, then such person shall pay such costs and charges, but if said property is vacant or unoccupied, or no one in the City is in the actual physical dominion thereof, then all such costs and charges for removing snow and ice shall be charged to and paid by the owner of such property.
- C. It shall be the duty of any officer of the City who shall cause any snow or ice to be removed from any sidewalk, under any of the provisions of this Section, to report the reasonable and actual cost thereof to the Board of Aldermen, and the City shall cause such person that may be employed to remove such snow or ice to be paid a reasonable charge therefore, and the owner or the person liable to pay the same shall be notified of such charge, if in the City, in person, by notice to be delivered to such person or left with some member of his/her family over the age of fifteen (15) years at his/her usual place of abode. If a non-resident of the City, such notice may be given by mail, properly addressed, postage prepaid, to the last known post office address of such person. If the person or persons liable to pay the same shall not pay the City such costs and charges within ten (10) days after delivering or posting such notice, then all such costs and charges shall be and are hereby made liens and charges upon and against the property and real estate so adjacent to or abutting on such sidewalk or footwalk, which lien and charge shall continue until the same

shall be paid and shall be enforced by civil action.

- D. Any prosecution to recover penalty under any of the preceding Subsections (A — C) for failure to remove snow or ice from any sidewalk shall not be construed to in any manner relieve any person liable, under any of such preceding Subsections (A — C), from paying the reasonable costs and charges of removing such snow and ice, if the same shall be removed by the City or any of its officers; and the fact that the City or any of its officers or agents shall cause snow or ice to be removed from any sidewalk or footwalk abutting on or adjacent to any property or tenement, and if any person shall be prosecuted and a penalty recovered against him/her, such prosecution and penalty shall not in any manner relieve any such person from the civil liability created by such preceding Subsections (A — C) to pay the reasonable costs and charges of removing any such snow or ice, if removed by the City, its officers, agents or employees, or if such officer, agent or employee shall cause the same to be so removed at the expense of the City.
- E. It shall be unlawful for any person to remove snow or ice from private property onto public property unless specific permission so to do has been granted by the appropriate authorities of the City. Each and every person violating the provisions of this Subsection shall be adjudged guilty of an ordinance violation and, upon conviction, shall be punished by a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for each offense.
- F. A vehicle removing snow may temporarily drive on the sidewalk with caution and with permission of any adjoining property owners. Any person driving on the sidewalk shall possess full responsibility for the liability of any injury or property of others.

**Section 520.110. Building Eave Pipes.** [Ord. No. 57-07 §240, 6-12-2007]

No person owning or occupying any building in the City shall cause the pipes conducting the water from the eaves of the building to be so constructed or altered as to spread the water over the sidewalk.

**Section 520.120. Sidewalk Repair.** [Ord. No. 57-07 §250, 6-12-2007; Ord. No. 92-10, 1-12-2010]

- A. The City shall have and is hereby given and granted the right, power and authority to immediately repair and cause to be repaired any sidewalk in the City that is in an unsafe or dangerous condition for public travel thereon by the usual and ordinary mode, it being understood by this Section that such repairs shall not go to the extent of rebuilding and reconstructing such sidewalk, which shall be done when required under other City ordinances, but extends to the making of such repairs immediately upon the discovery of an unsafe condition existing upon any sidewalk to the extent and in the manner necessary or required to make such sidewalk reasonably safe for public travel by the usual and ordinary mode.
- B. The City Official shall, when any sidewalk becomes dangerous or unsafe for public travel by the ordinary mode, cause the same to be immediately repaired so as to make the same reasonably safe for public travel by ordinary mode, and for that purpose is given power and authority to purchase material, employ men, and to cause to be had, done and performed such work and such construction as may be reasonably necessary and proper to so restore

such sidewalk to a condition reasonably safe for public travel by the usual and ordinary mode, keeping an itemized account of all work, labor or material or other things necessary therefore, and to report the same to the Board of Aldermen.

- C. The Board shall examine such report and if the same is found to be correct and reasonable and that said work was reasonably necessary to be had, done or performed, shall cause the same to be paid by the City out of the General Fund, and when any such bill shall be paid, there shall be assessed and levied upon and against the abutting property a tax bill duly issued and signed by the City Clerk against said property and requiring the owner thereof to pay to the City the cost of such necessary repairs, if so found by the Board of Aldermen; the City Clerk shall keep a record of such tax bills in the same way and manner as other tax bills for improvements issued by the City; the same shall be due and payable when issued and the amount thereof shall bear interest at the rate of six percent (6%) per annum from and after thirty (30) days after the date of issuance until paid, and if the same be not paid in thirty (30) days, suit may be brought thereon to collect the same in any court of competent jurisdiction, and said tax bill shall be and is hereby made a lien and charge upon the lot, tract or parcel of land abutting on said improvement and liable therefore, and said lien may be enforced by judgment and execution, and said property sold for the payment thereof in the same manner and to the same extent as said property would be liable for the original construction of a new sidewalk as provided by law.
- D. When any repairs shall be made upon any sidewalk in the City under the provisions of this Section, the owner of such property if known and residing in the City, or the person occupying such property if occupied at the time, shall be entitled to notice of such repair and the amount thereof, together with the time when the same will be acted upon by the Board, and said special assessment and tax bill ordered and directed by the Board, and shall be permitted to be heard on the subject at the time and place designated in such notice, which notice shall be given at least five (5) days prior to the time of making such special assessment.
- E. When any repairs or replacement shall be made upon any sidewalk or curb in the downtown area of the City under the provisions of this Section, the owner of such property shall replace the sidewalk and curb area as one (1) piece. The sidewalk up to the adjacent curbing of the street will be the cost of the landowner to replace and the City will pay the cost of the area which was curbing.
- F. The downtown area of the City after the passage of this Section shall remain the same with all businesses having a full sidewalk in front of their business. Any area that has a grass parkway in front of their place of business may remain the same. If a business desires to have a grass parkway, it must be approved by the Board of Aldermen.

**Section 520.130. Sidewalk Construction.** [Ord. No. 57-07 §260, 6-12-2007]

- A. It shall be unlawful for any person to build, rebuild, repair or replace or cause to be built, rebuilt, repaired or replaced any sidewalk in the City of any other material or in any other manner than as provided in the specifications for sidewalks as hereinafter provided.
- B. Specifications for cement sidewalks within the City shall be as follows:

1. *Subgrade.* After the grade stakes have been set indicating the grade for the finished surface of the walk, the earth shall be excavated for the depth of four (4) inches for a four (4) foot walk and six (6) inches for a twelve (12) foot walk, after tamping, below the proposed finished surface of the walk, and if any rubbish, manure or other suitable material shall be found, the same shall be removed and replaced with firm solid earth or suitable material firmly tamped as aforesaid. If at any point a fill shall be necessary to bring the surface of said street at said point up to the subgrades, such fill shall be made for a distance of two (2) feet outside the outside line of the top of said walk and one (1) foot outside of the inside of said walk, or side next to property line. Said dirt shall be put on in layers of not to exceed six (6) inches in thickness and each layer shall be firmly tamped or rolled to the satisfaction of the Code Enforcement Officer.
  2. *Forms.* Upon the foundation thus prepared shall be set forms of two by four (2 x 4) or two by six (2 x 6) timbers, or equivalent metal forms, whichever may be required by the finished height of the walk, and the same shall be set parallel to each other and at such distance apart as the stated width of the said walk in the permit issued therefore, and the tops of said forms shall be even with the grade line, which is to be the top of the finished walk. Said forms shall be securely held in place by stakes driven back of them or such other device as may hold them firmly in place and prevent spreading.
  3. *Concrete.* This concrete shall be made of one (1) part of best Portland cement of any brand which will comply with the standard specifications of the American Society for Testing Materials, and shall be fresh and free from lumps and dirt, to which shall be added two (2) parts of clean sharp coarse sand free from dirt or quicksand and three and one-half (3½) parts of crushed rock or coarse gravel which will pass through a one (1) inch diamond screen or clean sand and gravel known as fifty-fifty (50-50) mixed ingredients, free from all clay, silt or other foreign matter, which when used shall be proportioned as one (1) part best Portland cement and four (4) parts sand and gravel and the measurements shall be by volume and materials shall be thoroughly mixed dry before water is added. The ingredients shall be turned at least two (2) times dry and twice wet and then water shall be added in sufficient quantity to make good and sufficient concrete. Ready-mixed concrete of equivalent grade may be used in lieu of the ingredients described in this Subsection. The concrete bed thus prepared shall be struck off to an even surface at the grade of the finished sidewalk.
  4. *Finishing.* The sidewalks shall be laid off in lengths not to exceed four (4) feet in a four (4) foot walk or eight (8) feet in any other walk, and the said sections shall be cut through the entire depth of the concrete. The groover shall be drawn across the surface of the concrete at the points indicated in such a manner as to open the joint through to the space made in the concrete bed. All cuts and outside edges to be well grooved by the use of proper groovers. The sidewalk, as fast as completed, shall be covered with canvas, boards or other suitable covering when necessary so to do to protect same from heat or cold, and if it is drying weather, the walk shall be wet thoroughly at least twice a day for two (2) days after its completion, the surface of such sidewalk to be finished by floating with a wooden float until smooth and uniform.
- C. It shall be unlawful for any person to build, rebuild, repair or replace or cause to be built,

rebuilt, repaired or replaced any sidewalk within the City without first having obtained a written permit from the Code Enforcement Officer. Fee for such permit shall be in the sum of five dollars (\$5.00) which shall be paid to the City Clerk by such applicant at the time of the issuance and delivery of said permit, which fee shall be turned over to the City Treasurer and become a part of the General Fund. Upon the issuance of said permit, the City Clerk will direct the Code Enforcement Officer to establish the grade for said sidewalk and the lines for same, and it shall be unlawful to construct in the City any sidewalk upon any other grade or location as to lines.

- D. Construction and reconstruction of crosswalks, curbs and gutters shall comply with the provisions of Section 71.365, RSMo.

ARTICLE IV  
**Special Events — Permits**

**Section 520.140. Special Events Permitted Upon Public Streets — When.** [Ord. No. 57-07 §270, 6-12-2007]

Upon compliance with the provisions of this Article, special neighborhood events, including games, parades, street dances, block parties, sledding, skateboarding, and garage sales, but not including the racing of motorized vehicles, may be held upon any public streets in the City in an area zoned "residential" and not designated as an emergency snow route.

**Section 520.150. Permit Required.** [Ord. No. 57-07 §280, 6-12-2007]

No person shall engage in any of the activities designated in Section 520.140 upon any public street in the City unless a special events permit has been obtained from the Board of Aldermen as herein set forth.

**Section 520.160. Application.** [Ord. No. 57-07 §290, 6-12-2007]

- A. A person seeking issuance of a special events permit shall file an application in the office of the City Clerk on forms provided by such officer.
1. *Filing period.* An application for a special events permit shall be filed not less than five (5) working days nor more than thirty (30) calendar days before the date on which it is proposed to conduct the special event; and
  2. *Contents.* The application shall contain the following information:
    - a. The signature of at least one (1) adult member of every household abutting the street upon which the special event is to be held;
    - b. The name, address and telephone number of the person responsible for the event, who shall be an adult residing in a household abutting said street;
    - c. The date(s) when the special event is to be conducted, and the hours when it will start and terminate;
    - d. A designation of the street upon which the special event is to be held;
    - e. The nature of the proposed special event.

3. *Late applications.* The Mayor may, in his/her discretion, consider an application filed less than five (5) working days before the special event.

**Section 520.170. Standards for Issuance.** [Ord. No. 57-07 §300, 6-12-2007]

- A. The Mayor shall issue a special events permit when, from a consideration of the application and from such other information as may otherwise be obtained, he/she finds that:
  1. The proposed event and its location are permitted by this Article;
  2. The application complies in all respects with this Article;
  3. The special event will not last more than eighteen (18) hours, and will not be held after 12:00 Midnight and before 6:00 A.M. in any day;
  4. The concentration of persons and vehicles will not unduly interfere with proper fire and police protection of, or ambulance service to, the area;
  5. The conduct of the special event is not likely to cause injury to persons or property, to provoke disorderly conduct, or to create a disturbance;
  6. The special event is not held for the sole purpose of advertising any product, goods, or event, and is not designated to be held for profit except such profit as may result from casual sales of household items at a garage sale.

**Section 520.180. Notice of Rejection.** [Ord. No. 57-07 §310, 6-12-2007]

The Mayor shall act upon the application for a special events permit within three (3) working days after the filing thereof. If the Mayor disapproves the application, he/she shall mail to the person designated in the application as being responsible for the special event within three (3) working days after the filing thereof a notice of his/her action stating the reasons for his/her denial of the application.

**Section 520.190. Appeal Procedure.** [Ord. No. 57-07 §320, 6-12-2007]

Any person aggrieved shall have the right to appeal the denial of a special events permit to the Board of Aldermen. The appeal shall be taken within ten (10) working days after notice of denial.

**Section 520.200. Notice of Issuance.** [Ord. No. 57-07 §330, 6-12-2007]

Immediately upon the issuance of a special events permit, the City Clerk shall send a copy thereof to the Chief of Police of the City.

**Section 520.210. Contents of Permit.** [Ord. No. 57-07 §340, 6-12-2007]

- A. Each special events permit shall state the following information:
  1. The nature and location of the special event.
  2. The date(s) upon which the special event is to be held and the hours when it will start and terminate.

3. Such other information as the Mayor shall find necessary to the enforcement of this Article.

**Section 520.220. Duties of Responsible Person.** [Ord. No. 57-07 §350, 6-12-2007]

- A. The person designated in the application as being responsible for the special event shall:
  1. During the time the event is conducted, place barricades and signs stating "Closed to Through Traffic" at each end of the street, clearly visible by day and with illuminating flares from one-half (½) hour after sunset.
  2. Carry the special events permit upon his/her person during the conduct of the special event.
  3. Return the street and parkway to substantially the same condition they were in immediately before the special event.

**Section 520.230. Public Conduct During Special Events.** [Ord. No. 57-07 §360, 6-12-2007]

- A. *Interference.* No person shall unreasonably hamper, obstruct, impede, or interfere with any person participating in a special event.
- B. *Through Traffic Prohibited.* During the conduct of a special event, no person shall drive any motorized vehicle on the street where the event is being held except while participating in said event or traveling to or from his/her residence located on said street.
- C. *Parking On Street.* The Mayor shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street where a special event is being held. The Mayor shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicles in violation thereof. No person shall be liable for parking on a street unposted in violation of this Article.

**Section 520.240. Revocation of Permit.** [Ord. No. 57-07 §370, 6-12-2007]

The Mayor shall have the authority to revoke a special events permit issued hereunder upon application of the standards for issuance as herein set forth.

**Section 520.250. Violations.** [Ord. No. 57-07 §380, 6-12-2007]

Any person violating any provision of this Article is guilty of an ordinance violation. Each occurrence of the violation is a separate offense.

**Section 520.260. Compliance With This Article — Effect of.** [Ord. No. 57-07 §390, 6-12-2007]

Holding of or participation in a special event in compliance with this Article shall not constitute a violation of any other provision of the Tarkio Municipal Code.

ARTICLE V

**Abandonment of City Streets, Alleys, Easements and Rights-of-Way**

**Section 520.270. Eligibility for Filing Requests for Abandonment of City Streets, Alleys,**

**Easements or Rights-of-Way.** [Ord. No. 57-07 §400, 6-12-2007]

To be eligible to file a request for the abandonment of any City street, alley, easement or right-of-way, the applicant must own real estate adjoining a portion of the street, alley, easement or right-of-way proposed to be abandoned. Such ownership shall be determined on the basis of recorded deeds filed in the Recorder's office, Atchison County, Missouri.

**Section 520.280. Requests for Abandonment to Be Made in Writing.** [Ord. No. 57-07 §410, 6-12-2007]

- A. All requests for the abandonment of any City street, alley, easement or right-of-way shall be made to the office of the City Clerk upon forms developed by the City for such purposes. As a minimum, such forms shall require the following information of the applicant(s):
1. The names, addresses and telephone numbers of all persons requesting such abandonment.
  2. A complete legal description of the property to be abandoned.
  3. The names of the owners of all properties which adjoin the area of the proposed abandonment.
  4. A plat of the property to be abandoned, bearing the seal of a surveyor, architect or engineer license of the State of Missouri.
  5. The reasons for requesting the abandonment.
  6. A statement in which the applicant certifies that all information contained in the application is true and accurate.

**Section 520.290. Review by the Street Superintendent.** [Ord. No. 57-07 §420, 6-12-2007]

The City Clerk or his/her designee shall receive all written requests for abandonment and shall review each such request to verify that all required information is complete. Incomplete requests shall be returned to the applicant with a written explanation of all reasons for rejection. All complete requests shall be forwarded to the Board of Aldermen within sixty (60) days of receipt of the completed request and shall be accompanied by the recommendation of the Street Superintendent, the original application and any submitted documentation.

**Section 520.300. Recommendation of the Board of Aldermen.** [Ord. No. 57-07 §430, 6-12-2007]

- A. After reviewing the request for abandonment made pursuant to this Article, the Street Superintendent or his/her designee shall make one (1) of the following recommendations in writing to the Board of Aldermen concerning the abandonment of the street, alley, easement or right-of-way, which recommendation shall be accompanied with any explanatory information the Director deems appropriate:
1. Approve the abandonment requested.
  2. Deny the abandonment requested.

3. Approve the abandonment with specific enumerated changes to the abandonment application.

**Section 520.310. Board of Aldermen Review.** [Ord. No. 57-07 §440, 6-12-2007]

- A. The Board of Aldermen shall have the sole power to vacate any street, alley, easement or right-of-way. The procedure for such review shall be as follows:
  1. *City Clerk duties.* Upon receipt of the documentation associated with the application for abandonment, the City Clerk shall schedule a public hearing before the Board of Aldermen on the issue. Said public hearing shall be in compliance with all applicable Statutes and ordinances. In addition, notice of the public hearing shall be given to all owners of real property which adjoins the area sought to be abandoned. Said notice may be given by mail mailed to the last known address of the owner as reflected by the records of the Atchison County Recorder's office and shall be mailed at least ten (10) days prior to the hearing.
  2. *Public hearing and decision.* Within sixty (60) days of the receipt of the recommendation of the Street Superintendent by the City Clerk and in compliance with all applicable Statutes and ordinances, the Board of Aldermen shall hold a public hearing on the abandonment application. The Board of Aldermen shall have the right to deny the abandonment or approve the abandonment with specific enumerated changes.
  3. *Surplus property declaration.* Prior to any action to abandon, the Board of Aldermen shall first declare the subject property to be surplus to the City's needs, finding that the property has no present or future value to the City of Tarkio and can be abandoned without detrimental effects to the City.
  4. *Abandonment ordinance.* In the event the Board of Aldermen desires to approve abandonment of any property, said abandonment may be effected only through enactment of an ordinance approved by the Board of Aldermen. Said ordinance shall then be recorded by the City Clerk in the Recorder's office, Atchison County, Missouri.

**Section 520.320. Prohibited Abandonments.** [Ord. No. 57-07 §450, 6-12-2007]

- A. Abandonment of any street, alley, easement or right-of-way shall be prohibited in the following instances:
  1. Where such abandonment shall result in the denial of access to private or public property.
  2. Where abandonment will result in the transfer of property to a member of the Board of Aldermen, a member's relatives or any business in which a Board member has an ownership interest of greater than ten percent (10%).

**Section 520.330. Transfer of Ownership.** [Ord. No. 57-07 §460, 6-12-2007]

In the event of abandonment the property ownership shall be transferred in compliance with all

applicable Statutes including Section 88.637, RSMo., whereby the same shall revert to the owners of the adjacent lots in proportion it was taken from them.

## Chapter 525

### DEMOLITION OF BUILDINGS

**Section 525.010. Legislative Intent.** [Ord. No. 136.13 §1, 10-9-2012]

It is hereby declared to be the intent of the Board of Aldermen, in the exercise of its police powers to protect the public health, safety and welfare, to regulate the demolition of buildings in the City.

**Section 525.020. Definitions.** [Ord. No. 136.13 §2, 10-9-2012]

For the purposes of this Chapter, the following words, terms and phrases and their derivations shall have the meanings given herein, unless the context otherwise indicates:

**ACCESSORY BUILDING** — A building less than one thousand (1,000) square feet in floor area and less than fifteen (15) feet high having no basement and not used as a dwelling, the use of which is incidental and appurtenant to the principal use of the lot on which it is located.

**BUILDING** — Any structure having a roof or partial roof and enclosed within exterior walls or fire walls built, erected and framed of component structural parts, designed for housing, shelter, enclosure and support of persons, animals or property of any kind, including an accessory building.

**BUILDING OFFICIAL** — The Code Enforcement Officer or his/her duly authorized representative.

**CODE ENFORCEMENT OFFICER** — The Building Official of the City of Tarkio.

**DEMOLITION WORK** — The dismantling, tearing down, wrecking or razing of any building or portion of a building for any reason whatsoever, whether accomplished by mechanical methods, physical labor or any combination thereof; however, demolition work shall not be construed to include the removal or alteration of a non-bearing wall or partition of a building.

**LICENSEE** — The person or entity to which a permit is issued pursuant to the provisions of this Chapter.

**PERMITTEE** — The person or entity to which a license is issued pursuant to the provisions of this Chapter.

**PERSON** — Any one (1) or more individuals, corporations, partnerships, associations, labor organizations, firms or enterprises.

**STREET** — Any public right-of-way in the City, including, but not limited to, streets, avenues, alleys, easements and any and all public property owned or controlled by the City or public entities.

**Section 525.030. License Required.** [Ord. No. 136.13 §3, 10-9-2012]

- A. It shall be unlawful for any person to demolish or cause to be demolished any building or portion of a building in the City without first registering as a wrecking contractor with the City Clerk and obtaining a license for demolition work from the City.
- B. Said license shall be known as a "license for demolition work" and shall not be assignable or transferable nor shall it be used by any person other than the licensee or his/her employees, contractors or designated representatives. Provided however, that this licensing requirement shall not apply to the demolition of any one-story residential building not of masonry construction or any accessory building, and provided that said demolition work shall be done by the owner of record of said building or accessory building, or by his/her family or employees.
- C. Upon issuance of a license for demolition work, the applicant shall pay a licensing fee, as designated by resolution of the Board of Aldermen, to the City Clerk. Said license shall be for a term of one (1) year from the date of issuance.
- D. No license shall be issued until the applicant has provided to the Code Enforcement Officer sufficient evidence, as delineated in rules and regulations adopted by the City, of the applicant's qualifications for and experience in the demolition of buildings or in related work or activities.

**Section 525.040. Permit Required.** [Ord. No. 136.13 §4, 10-9-2012]

- A. It shall be unlawful for any person to demolish or cause to be demolished any building or portion of a building in the City without first obtaining a permit therefore from the Code Enforcement Officer; provided however, that this permit requirement shall not apply to the demolition of any accessory building which is not connected to electric, gas, water, sanitary sewer or other utility service lines.
- B. Such permit shall be known as a "permit for demolition work" and shall not be assignable or transferable nor shall it be used by any person other than the permittee or his/her employees, contractors, or designated representatives.
- C. Permits shall be issued only to those holding a valid, current license for demolition work issued by the City or to those who are exempt from the license requirement pursuant to this Section.
- D. A person who has made arrangements for the demolition of a building by burning by the Fire Department for training purposes shall not be relieved from complying with the provisions of this Section.

**Section 525.050. Application for Permit.** [Ord. No. 136.13 §5, 10-9-2012]

- A. Any person desiring a permit for demolition work shall file with the Code Enforcement Officer an application therefore in writing on a form to be furnished by the City for said purpose. Such application shall specify the following:
  - 1. The name and address of the applicant;

2. The name and address of the owner of the building to be demolished;
  3. The exact location of the building to be demolished;
  4. The character and size of the building to be demolished, including its length, width and height;
  5. The principal materials of construction of the building;
  6. The type of equipment to be used for the proposed work, including the use of explosives and the method of demolition;
  7. The estimated length of time required to do the proposed work;
  8. The necessity for any safety or other precautions to protect adjacent properties, buildings or streets, including warning signs, lights or structures to protect persons or property; and
  9. The date and time proposed for the initiation and completion of the demolition work.
- B. *Exception.* The Code Enforcement Officer may require in addition to the above information the following:
1. Proof of permission by the owner to do the proposed work;
  2. A plot plan showing the location of the building on the property, the lot lines of said property, all adjacent buildings, structures and lots, all adjacent streets, and any structures in proximity to the building to be demolished that may be affected by such demolition;
  3. Certification by an engineer certified by the State of Missouri that demolition of the structure will not adversely affect the structural intensity of adjacent structures or facilities.

**Section 525.060. Investigation.** [Ord. No. 136.13 §6, 10-9-2012]

Upon the filing of the application, the Code Enforcement Officer shall cause an investigation to be made of the building to be demolished and formulate a recommendation with respect to issuance of the permit.

**Section 525.070. Denial of Permit.** [Ord. No. 136.13 §7, 10-9-2012]

No permit shall be issued to demolish any building or portion thereof which, in the opinion of the Code Enforcement Officer after investigation, is so located and is of such size or constructed of such materials that its demolition will be likely to cause unreasonable damage to public or private property; provided however, that if such conditions or circumstances admit of practicable and effective resolution which will adequately protect the public health and safety, the permit may be issued upon the inclusion of such reasonable terms and conditions on the permit.

**Section 525.080. Terms and Conditions of Permit.** [Ord. No. 136.13 §8, 10-9-2012]

- A. The issuance of a permit may be granted subject to such terms and conditions as may be

deemed reasonable and proper to the end that such demolition will not be materially detrimental or injurious to the public health, safety or welfare or to public or private property and improvements. Such terms and conditions may include:

1. Measures to protect private property and persons, public property, streets and improvements which may be affected by such demolition pursuant to Section 525.090 herein;
  2. Measures to assure that any device or equipment such as scaffolds, ladders, derricks, hoists or similar items, or explosives if they are to be used, shall be constructed, operated or used in accordance with City regulations, with adequate protection, and by adequately trained personnel;
  3. Requirement that the permitted show evidence of liability insurance meeting the conditions set forth in Section 525.110 herein;
  4. Such other terms and conditions as may be deemed appropriate by the Code Enforcement Officer.
- B. Each such condition must be satisfactorily complied with by the permittee and the method of such compliance must be approved by the Code Enforcement Officer, prior to the initiating of the proposed demolition.

**Section 525.090. Protective Measures.** [Ord. No. 136.13 §9, 10-9-2012]

- A. The Code Enforcement Officer may require:
1. That warning signs be conspicuously posted on or around the site on which the building is to be demolished;
  2. That between sunset and sunrise adequate lights be provided to properly protect persons and property from hazards of pits, excavations, fences, barriers, equipment, building materials, or rubbish in, upon or near a street or adjacent to private property;
  3. That public and private property be kept free of rubbish, waste or other loose materials that may result from demolition;
  4. That any excavation or opening resulting from such demolition be filled in securely barricaded or fenced so as not to create a hazardous or dangerous condition and properly and permanently drained so that no water is left standing or likely to stand;
  5. That all material to be removed shall be wet sufficiently to lay the dust incidental to its removal;
  6. That proof of extermination of any building at least ten (10) days prior to its demolition be provided to the Code Enforcement Officer;
  7. That property owners adjoining or in the vicinity of the building to be demolished and who may be affected by such demolition be notified at least twenty-four (24) hours prior to such demolition;
  8. That the Fire Department and Police Department be notified at least thirty-six (36),

but not more than forty-eight (48) hours prior to the demolition so that adequate safety precautions can be provided and so that traffic control and movement on adjacent streets can be facilitated or temporarily restricted as necessary;

9. That adequate, safe and protected walkways be provided around the building demolition site if sidewalk use by the public will be restricted or dangerous.

**Section 525.100. Methods of Demolition.** [Ord. No. 136.13 §10, 10-9-2012]

- A. Except for the cutting of holes in floors for chutes through which to drop materials, preparation of storage space, and other necessary preparatory work, demolition of exterior walls and floor construction shall begin at the top of the building and proceed downward, exterior walls and floor construction shall begin at the top of the building and proceed downward and each story of exterior wall and floor construction shall be removed or dropped into the storage space before commencing demolition work on the next lower story. This requirement shall not prohibit the demolition of a structure in sections or in total by other methods, if after review by the Code Enforcement Officer it is determined that such other method is safe and that positive means are taken to prevent injury to persons or damage to public or private property.
- B. No materials shall be placed upon the floor of any building during demolition, but shall be lowered to the ground or storage space immediately upon displacement. Materials shall not be dropped by gravity to any point lying outside the exterior walls of the building except through enclosed chutes, unless there is sufficient distance to the property line so that no adverse effect on such other property can occur. All floor openings and shafts not used for material chutes shall be floored over or enclosed with guardrails and toe boards. At least one (1) stairway, however, shall be accessible as each floor is demolished.

**Section 525.110. Insurance Requirement.** [Ord. No. 136.13 §11, 10-9-2012]

- A. Every person demolishing a building or portion of a building except a one-story building not of masonry construction or an accessory building in the City shall file with the City Clerk one (1) of the following:
  1. A liability insurance policy issued by a solvent corporation holding a certificate of authority to do insurance business in Missouri; or
  2. A certificate of insurance issued by an insurance corporation; or
  3. Other evidence of liability and property damage insurance.
- B. In any case, the insurance required under this Section shall insure the person demolishing the building against loss from the liability imposed by law for injury to, or death of, any person, or damage to any property growing out of the demolition of such building to the amount or limit of five hundred thousand dollars (\$250,000.00) exclusive of interest and costs on account of injury to, or death of, any one (1) person, and of one hundred thousand dollars (\$500,000.00) for damage to property of others resulting from demolishing any one (1) building.
- C. Such insurance coverage shall indemnify the City and save it harmless against any and all

claims, demands or causes of action whatsoever which might arise or accrue against it by reason of the granting of such permit or the exercise of any privilege thereby conferred, and to repay all damages which may be suffered by the City or by any other person by reason of the exercise of the permit, including by way of illustration, but not of limitation to, injury or damage to pavements, curbs, sidewalks, poles, wires or trees.

**Section 525.120. Utilities Approval Requirement.** [Ord. No. 136.13 §12, 10-9-2012]

Prior to the issuance of a permit, the applicant shall obtain written approval from any public or private utility whose property will be moved or distributed during the demolition process to the effect that such demolition should be permitted, what conditions should be attached to such permit to insure that the utility will be protected and that its customers and the public will be safely and adequately served, and what costs will be incurred by the utility in accommodating the proposed demolition. Any costs incurred by the utility will be covered by the permittee.

**Section 525.130. Disconnection of Services.** [Ord. No. 136.13 §13, 10-9-2012]

- A. All electric, gas, water, steam, storm and sanitary sewers or other utility service lines shall be shut off and all such lines shall be either cut, capped and/or disconnected outside the building line or property line, as determined by the Code Enforcement Officer, prior to demolition.
- B. If it is necessary to maintain any power, water or other utility lines during demolition, such lines shall be temporarily relocated or protected to the satisfaction of the utility involved and the Code Enforcement Officer, and written approval for same shall be required.

**Section 525.140. Issuance — Expiration — Suspension or Revocation of Permit.** [Ord. No. 136.13 §14, 10-9-2012]

The Code Enforcement Officer shall approve the issuance of a permit when all of the necessary requirements and conditions of this Chapter have been complied with. The work authorized by date of issuance of the permit shall be commenced within one (1) month following the date of issuance of the permit and shall be concluded within one (1) month of the date of issuance of the permit; provided however, that the actual time permitted for moving the building shall not exceed three (3) calendar days. If the work is suspended or abandoned after commencement or if the time limits set forth herein are not complied with, the permit shall be deemed to have expired; provided however, that an extension may be granted by the Code Enforcement Officer. The Code Enforcement Officer may, at any time, for good and sufficient cause, suspend or revoke any permit.

**Section 525.150. Violations.** [Ord. No. 136.13 §15, 10-9-2012]

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) upon conviction for each offense; and a separate offense shall be deemed committed on each day during which a violation occurs or continues. In addition to the penalty described above, the City may take any appropriate action, including, but not limited to, instituting action in law or in equity, to prevent, restrain, abate, enjoin or correct any violation of this Chapter.

**Section 525.160. Waivers and Appeals.** [Ord. No. 136.13 §16, 10-9-2012]

The Building Commissioner may suspend or waive or modify requirements of this Chapter in order to implement its intent and purpose without undue hardship or unnecessary requirements being imposed on applicants for permits for the demolition of buildings, so long as the public health, safety and welfare is guaranteed. A permittee or other person having an interest in the demolition of a building pursuant to this Chapter may request the suspension, waiver or modification of the requirements of this Chapter to, or may appeal any decision of the Code Enforcement Officer, the Building Commissioner pursuant to Chapter 505 of the Municipal Code.