

TITLE IV. LAND USE

CHAPTER 400: PLANNING AND ZONING COMMISSION

SECTION 400.010: COMPOSITION–TERMS–VACANCY–REMOVAL

There is hereby established within and for the City a Planning and Zoning Commission which shall consist of not more than fifteen (15) nor less than seven (7) members, including the Mayor, if the Mayor chooses to be a member; a member of the Board of Aldermen selected by the Board, if the Board chooses to have a member serve on the Commission; and not more than fifteen (15) nor less than five (5) citizens appointed by the Mayor and approved by the Board of Aldermen. The term of each of the citizen members shall be for three (3) years, except that the terms of the citizen members first (1st) appointed shall be for varying periods so that succeeding terms will be staggered. Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid. The Board of Aldermen may remove any citizen member for cause stated in writing and after public hearing.

SECTION 400.020: COMPENSATION

All citizen members of the Planning and Zoning Commission shall serve without compensation.

SECTION 400.030: OFFICERS

The Planning and Zoning Commission shall elect a Chairman and a Secretary from among the citizen members. The term of Chairman and Secretary shall be for one (1) year with eligibility for re-election.

SECTION 400.040: MEETINGS–RULES–RECORDS

The Planning and Zoning Commission shall hold regular meetings and special meetings as they provide by rule, and shall adopt rules for the transaction of business, and keep a record of its proceedings. These records shall be public records.

SECTION 400.050: EXPENDITURES

The expenditures of the Planning and Zoning Commission, exclusive of grants and gifts, shall be within amounts appropriated for the purposes of the Board of Aldermen.

SECTION 400.060: DUTY OF PUBLIC OFFICIALS TO FURNISH

All public officials shall upon request furnish to the Planning and Zoning Commission, within a reasonable time, all available information it requires for its works.

SECTION 400.070: GENERAL POWERS

In general, the Planning and Zoning Commission shall have the power necessary to enable it to perform its functions and promote City planning. The Planning and Zoning Commission shall have the power to perform all of the functions of the Zoning Commission provided for in Chapter 89, RSMo., and shall have and perform all of the functions of a Planning Board as outlined in such Chapter.

CHAPTER 405: ZONING REGULATIONS

ARTICLE I. IN GENERAL

SECTION 405.010: TITLE

These regulations shall be known as the Zoning Ordinance of the City of Mount Vernon, Missouri, and may be cited as "these regulations". (Ord. No. 2.56 §2(Art. 1 §1), 1-9-01)

SECTION 405.020: INTENT

These regulations, adopted pursuant to the provisions of Section 89.010, RSMo., et. seq., are intended to serve the following purposes:

1. To promote the health, safety, quality of life, comfort and general welfare of the City;
2. To preserve and protect property values throughout the City;
3. To restrict and regulate the height, number of stories and size of structures; the percentage of lot coverage; the size of yards, courts and other open spaces; and the density of population;
4. To divide the City into zones and districts; and
5. To regulate and restrict the location and use of structures and land within each district or zone. (Ord. No. 2.56 §2(Art. 1 §2), 1-9-01)

SECTION 405.030: INTERPRETATION

- A. *Minimum Requirements.* In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, quality of life and welfare.
- B. *Overlapping Or Contradictory Regulations.* Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by other provision of any other law ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern.
- C. *Private Agreement.* These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.
- D. *Unlawful Uses.* No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder. (Ord. No. 2.56 §2(Art. 2 §1(B)), 1-9-01)

SECTION 405.040: JURISDICTIONAL AREA

The provisions of these regulations shall apply to all structures and land in the incorporated area of the City of Mount Vernon, Missouri. The jurisdictional area within the corporate limits of the City shall be shown on the Official Zoning District Map. (Ord. No. 2.56 §2(Art. 3 §1), 1-9-01)

SECTION 405.050: DEFINITIONS

A. *Rules Of Construction.* In the construction of these regulations, the provisions and rules of this Chapter shall be preserved and applied, except when the context clearly requires otherwise:

1. Words used in the present tense shall include the future.
2. Words in the singular number include the plural number and words in the plural number include the singular number.
3. The phrase "*used for*" shall include the phrases "*arranged for*", "*designed for*", "*intended for*", "*maintained for*" and "*occupied for*".
4. The word "*shall*" is mandatory.
5. The word "*may*" is permissive.
6. The word "*person*" includes individuals, firms, corporations, associations, governmental bodies and agencies and all other legal entities.
7. The word "*Board*" means the Board of Adjustment.
8. Unless otherwise specified, all distances shall be measured horizontally.
9. The word "*City*" means City of Mount Vernon, Missouri.
10. The words "*Governing Body*" shall mean the Board of Aldermen of the City of Mount Vernon, Missouri.
11. The word "*Commission*" shall mean the City of Mount Vernon, Missouri Planning and Zoning Commission.
12. The abbreviation N/A means not applicable.

Any word or phrase which is defined in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

B. *Specific Definitions.* For the purposes of the regulations, certain terms and words are hereby defined as follows:

ACCESSORY BUILDING: A subordinate building having a use customarily incident to and located on the lot occupied by the main building or a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral part of the main building

when it has any part of a wall in common with the main building or is under an extension of the main roof and designed as an integral part of the main building.

ACCESSORY USE: A use of building or land that is customarily incident to and located on the same lot or premises as the main use of the premises.

ADULT: A person eighteen (18) years of age or older.

ADULT BOOKSTORE: An establishment having as a ten percent (10%) or more portion of its stock in trade books, photographs, magazines, films for sale or viewing on the premises by use of motion picture devices or other coin-operated means or other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to specified sexual activities as said term is defined herein.

ADULT ENTERTAINMENT ESTABLISHMENTS: A "modeling studio", "adult bookstore", "adult entertainment facility", "bathhouse" or "massage shop".

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

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

AGRICULTURE: The planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Lawrence County.

AGRICULTURE, GENERAL: The use of land for the production of livestock, dairy products, poultry or poultry products.

AGRICULTURE, LIMITED: The use of land for the production of row crops, field crops, tree crops or timber.

AGRICULTURAL PROCESSING: The initial processing of crop-based agricultural products that is reasonably required to take place in close proximity to the site where such products are produced. Typical uses include grain mills.

AGRICULTURAL SALES AND SERVICE: An establishment primarily engaged in the sale, purchase or rental of farm tools and implements, feed and grain, tack, animal care products and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes food sales and farm machinery repair services that are accessory to the principal use.

AIRPORT OR AIRSTRIP: Any public or privately owned or operated ground facility designed to accommodate landing and takeoff operations of aircraft including all taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

ALLEY: A minor way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

ALTERATION: Any addition, removal, extension or change in the location of any exterior wall of a main building or accessory building.

ANIMAL CARE, GENERAL: A use providing animal care, veterinary services or boarding. See "*ANIMAL CARE, LIMITED*" and "*KENNEL*".

ANIMAL CARE, LIMITED: A use providing animal care, boarding and veterinary services for household pets, with no outside animal runs. See "*ANIMAL CARE, GENERAL*" and "*KENNEL*".

APARTMENT: A room or a suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

APARTMENT, EFFICIENCY: A room or suite of rooms within an apartment building intended as a place of residence for a single family or group of individuals, not to exceed three (3) occupants, utilized as a single housekeeping unit.

APPLICANT: The owner or duly designated representative of land proposed to be subdivided or for which a special permit, amendment, variance, construction permit or certificate of occupancy has been requested. Consent shall be required from the legal owner of the premises.

ASPHALT OR CONCRETE PLANT: An establishment engaged in the manufacture, mixing, batching or recycling of asphalt, asphaltic cement, cement or concrete products.

ASSISTED LIVING: Multi-family dwelling units used or designed to be used by older persons, persons with disabilities or other persons needing or desiring assistance with day-to-day living matters, but not including group homes, group housing, hospitals or convalescent care facilities. Typical uses include retirement communities in which housekeeping services, common dining facilities and recreational and social activities are offered to residents.

AUDITORIUM OR STADIUM: An open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings. Typical uses include convention and exhibition halls, sports arenas and amphitheaters.

AUTOMATED TELLER MACHINE (ATM): A mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether outside or in an access-controlled facility. Automatic teller machines (ATM) located within a building shall be considered accessory to the principal use unless the ATM is likely to be an independent traffic generator.

BANK OR FINANCIAL INSTITUTION: Establishments engaged in deposit banking. Typical uses include commercial banks, savings institutions and credit unions. "*Banks and financial institutions*" also include automated teller machines.

BAR OR TAVERN: An establishment in which the primary function is the sale and serving of alcoholic and cereal malt beverages for consumption on the premises including establishments commonly known as cocktail lounges and nightclubs.

BASEMENT: A story below the first (1st) story as defined under "*Story*" counted as a story for height regulations if subdivided and used for dwelling purposes other than by a janitor or watchman employed on the premises.

BASIC INDUSTRY: An establishment engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials. Typical uses include distilleries, pulp processing and paper products manufacturing; glass manufacturing; brick manufacturing; steel works; tanneries; acid manufacturing; cement, lime, gypsum or plaster of Paris manufacturing; fertilizer or chemical manufacturing; and petroleum refineries.

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

BED AND BREAKFAST: A residence occupied by the owner or manager as a permanent dwelling with at least one (1) and not more than four (4) guest rooms which are provided to the public for a charge.

BLOCK: A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Zoning Administrator shall determine the outline of the block.

BOARDING HOUSE OR LODGING HOUSE: A building other than a hotel, occupied as a single housekeeping unit, where lodging or meals are provided for five (5) or more persons for compensation, pursuant to previous arrangements, but not for the public or transients.

BOARD OF ADJUSTMENT: That Board which has been created by the Governing Body having jurisdiction and which has the statutory authority to hear and determine appeals, exceptions and variances to the zoning regulation.

BUILDING: Any structure which is built for the support, enclosure, shelter or protection of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land including structures designed and constructed in sections expressly for assembly and placement on a permanent perimeter foundation, with any transport equipment being readily detachable and designed for delivery purposes only, if said structure is placed on such foundation with all transport equipment permanently removed. A trailer, as herein defined, shall not be classified as a building.

CAR WASH: An establishment primarily engaged in cleaning or detailing motor vehicles, whether self-service, automatic or by hand.

CATERING: An establishment engaged in the preparation of food and beverages for consumption at another location. Catering shall not include the manufacturing of food as defined in "*Food/Bakery Product Manufacturing*".

CEMETERY, CREMATORY, MAUSOLEUM: Land used or intended to be used for burial or cremation of the dead, whether human or animal, including a mausoleum or columbarium.

CHURCHES, CHAPELS, TEMPLES AND SYNAGOGUES: See the definition of "*RELIGIOUS ASSEMBLY*".

CITY COUNCIL: The elected Board of Aldermen of the City of Mount Vernon.

CLUSTER DEVELOPMENT: The arrangement of buildings or structures in groups around common courts, driveways, parks or other unique features of the land permitting more latitude and flexibility in placement and design. The lots, buildings or structures in a cluster development must meet the requirements of the appropriate planned districts.

COLLEGE OR UNIVERSITY: An institution of higher education offering undergraduate or graduate degrees.

COMMON OPEN SPACE: An area of land or water or combination thereof planned for passive or active recreation but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

COMMUNICATION TOWER: Commercial AM/FM radio, television, microwave and cellular telephone transmission towers and accessory equipment and buildings.

COMPOSTING FACILITY: A facility that is designed and used for transforming food, yard wastes and other organic material into soil or fertilizer by biological decomposition.

COMPREHENSIVE PLAN: A comprehensive plan made and adopted by the Planning and Zoning Commission and the Board of Aldermen which, through a combination of text, charts and maps, sets forth proposals for general locations of various land uses including streets, parks, schools, public buildings and utilities.

CONDITIONAL USE PERMIT: A conditional use permit is a written permit issued by the Zoning Administrator with the written authorization of the Board of Zoning Appeals. This conditional use permit provides permission under special conditions to make certain conditional uses of land in certain zoning districts as stipulated in each of the district zoning regulations.

CONSTRUCTION SALES AND SERVICE: An establishment engaged in the retail or wholesale sale of materials used in the construction of buildings or other structures and the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, electrical, plumbing, air-conditioning and heating supply stores, swimming pool sales, construction contractors' storage yards and construction equipment rental establishments.

CONVALESCENT CARE: An establishment providing bed care and inpatient services for persons needing regular medical attention but excluding facilities for the care and treatment of mental illness, alcoholism, narcotics addiction, emergency medical services or communicable disease. Typical uses include nursing homes.

CORRECTIONAL FACILITY: A facility providing housing and care for individuals confined for violations of law.

COURT: An open, unoccupied space, other than yard, bounded on three (3) or more sides by exterior walls of a building or by exterior walls of a building and lot lines on which walls are allowable.

CULTURAL SERVICE: A facility providing cultural and educational services to the public. Typical uses include museums, art museums, observatories, planetariums, botanical gardens, arboretums, zoos and aquariums.

CURB LEVEL: The mean level of the curb in front of the lot or, in case of a corner lot, along that abutting street where the mean curb level is the highest.

DAY CARE: A use that provides care, protection and supervision for individuals on a regular basis away from their primary residence for less than twenty-four (24) hours per day.

DAY CARE, COMMERCIAL: A day care conducted in a structure other than a private residence.

DAY CARE, GENERAL: A day care establishment conducted in a private residence that provides care, protection and supervision for seven (7) to ten (10) individuals at any one time, excluding those persons related to and residing in the home of the day care provider.

DAY CARE, LIMITED: A day care establishment conducted in a private residence that provides care, protection and supervision for six (6) or fewer individuals at any one time, excluding those persons related to and residing in the home of the day care provider.

DEDICATION: Intentional transfer by the developer to the public of ownership of or an interest in land for public purpose. Dedication may be affected by compliance with Statutes relating to dedication of land, by formal deed by conveyance or by any other method recognized by the laws of the State of Missouri.

DEPARTMENT OF NATURAL RESOURCES: The Missouri Department of Natural Resources (MoDNR).

DIRECTOR OF COMMUNITY DEVELOPMENT: The appointed director of the Community Development Department of the City of Mount Vernon.

DISTRICT: A section or sections of the zoning area for which uniform regulations governing the use of land, open space, the height of buildings, the size of yards and the intensity of use are herein established.

DUPLEX: A single lot used for two (2) dwelling units within a single building, other than a manufactured home.

DWELLING: A building or portion thereof designed exclusively for residential occupancy including single-family, two-family and multi-family dwellings, boarding and lodging houses, apartment houses and town houses but not hotels or motels.

1. *Multi-family.* A building or portion thereof arranged, intended or designed for occupancy by three (3) or more families on a rental or lease basis and commonly referred to as a triplex, four-plex or apartment building.
2. *Single-family.* A detached building arranged, intended or designed for occupancy by one (1) family.
3. *Two-family or duplex.* A single building arranged, intended or designed for occupancy by two (2) families.

DWELLING UNIT: A building or portion of a building that contains living facilities for not more than one (1) family and that includes provisions for sleeping, cooking, eating and sanitation.

EASEMENT: A grant by a property owner to the public, a corporation or a person(s) of the use of a recorded strip of land for certain specified purposes.

EXTERIOR SETBACK: A required setback that fronts on a public street.

FAMILY: One (1) or more persons who are related by blood or marriage, living together and occupying a single housekeeping unit with single kitchen facilities or a group of not more than four

(4) unrelated individuals living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities on a non-profit cost-sharing basis. A family shall under no circumstances be construed as a boarding house, fraternity or sorority house, club, lodging house, hotel or motel.

FENCE: An enclosure or barrier such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement but not including hedges, shrubs, trees or other natural growth.

FENCE HEIGHT: The vertical distance measured from the side of the fence that is exterior to the property or from the lowest adjacent ground level to the top of the fence material. In the case of wire fencing, height shall be measured by the width of the material used, providing that when installed, the material is directly adjacent to the ground level.

FINAL DEVELOPMENT PLAN: A plan submitted for site plan review as required by these regulations for single-family, two-family, multi-family, commercial and industrial development proposals.

FLOOR AREA (FOR COMPUTING OFF-STREET PARKING REQUIREMENTS): The gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings and shall include the following areas:

1. The basement floor area.
2. The area of each floor of the structure.
3. Attic space having headroom of seven (7) feet ten (10) inches or more.

FOOD/BAKERY PRODUCT MANUFACTURING: A use engaged in the manufacture of food and food products including non-retail bakeries, canning facilities and creameries.

FOOD STORE: An establishment where food and prepackaged beverages are sold on-site for consumption off-site. A limited amount of food preparation on-site may also be allowed such as a delicatessen or bakery.

FREIGHT TERMINAL: A building or area in which freight brought by truck, rail or air is processed for continued shipment by truck, rail or air.

FRONTAGE: The length of the property abutting on one (1) side of a street measured along the dividing line between the property and the street.

FUNERAL HOME: An establishment engaged in preparing the human deceased for burial or cremation and arranging and managing funerals.

GARAGE:

1. *Private.* An accessory building or portion of a main building used for storage only of automobiles.
2. *Public.* A building or portion thereof, other than a private or repair garage, providing storage for motor vehicles but no other services.
3. *Repair.* A building or portion thereof designed or used for the storage, sale, hiring, care or repair of motor vehicles and which is operated for commercial purposes.

4. *Storage.* A building or portion thereof, except those defined as a private, a repair or a community garage, providing storage for motor vehicles with facilities for washing but no other services.

GAS AND FUEL SALES/STORAGE: The use of a site for bulk storage and distribution and sales of flammable liquid, gas or solid fuel, excluding below-ground storage that is clearly ancillary to an allowed principal use on the site.

GOLF COURSE: A facility providing private or public golf recreation services and support facilities. This definition shall exclude miniature golf courses and golf driving ranges except those that are clearly accessory uses. See "*RECREATION AND ENTERTAINMENT, OUTDOOR*".

GOVERNING BODY: That body having jurisdiction in the zoning area.

GOVERNMENT SERVICE: Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utilities and park and recreation services. Typical uses include administrative offices of government agencies and utility billing offices.

GRADE:

1. For buildings having walls facing one (1) street only, the elevation of the sidewalk at the center of the wall facing the street shall be the grade.
2. For buildings having walls facing more than one (1) street, the grade shall be the average of the grades (as defined in Subsection (A) above) of all walls facing each street.
3. For buildings having no wall facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be the grade.

GRAIN ELEVATOR: A tall building for storing grain.

GREENHOUSE, NURSERY: An establishment where flowers, trees and other products that are commonly used as landscaping in and around buildings are grown and sold.

GROSS LEASABLE FLOOR AREA: The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet measured from the centerline of joint partitions and from the exterior surface of outside walls.

GROUP HOME, GENERAL: A residential home providing twenty-four (24) hour care in a protected living environment for more than eight (8) persons with physical or mental disabilities and any number of care givers.

GROUP HOME, LIMITED: A residential home providing twenty-four (24) hour care in a protected environment for eight (8) or less unrelated persons with mental or physical disabilities; further and pursuant to Section 89.020.2, RSMo., such home may include two (2) additional persons acting as house parents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

GROUP RESIDENTIAL: The use of a site for occupancy by groups of more than five (5) persons, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls and boarding or lodging houses. The term "*group residential*" does not include "*group homes*".

HAZARDOUS OPERATION: Activities that present the potential for serious hazards to human life and health. Typical uses include arsenals, atomic reactors, explosives and fireworks manufacture,

hazardous waste disposal, medical waste disposal and radioactive waste handling.

HAZARDOUS SUBSTANCES: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or harmful to the health of any person handling or otherwise coming into contact with such material or substance.

HEALTH CLUB: A facility where members or non-members use equipment or space for the purpose of physical exercise.

HEIGHT OF BUILDINGS AND STRUCTURES: The vertical distance from the average ground level abutting a building or structure to the highest point of a building or highest point of any permanent part of a structure other than a building. Height, where not regulated by feet, shall be regulated by stories and a story shall be equal to twelve (12) feet for purposes of measuring structures other than buildings.

HELIPORT OR HELIPAD: An area, either on the ground or on a building, used as a landing pad for helicopters to pick up or discharge passengers or cargo.

HOME OCCUPATION: A business, profession or trade conducted for gain or support entirely within a lot. (Note: Standards are removed from the definition and placed in the regulations.)

HOSPITAL: An institution that:

1. Offers service more intensive than those required for room, board, personal services and general nursing care;
2. Offers facilities and beds for use beyond twenty-four (24) hours by individuals requiring diagnosis, treatment or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy; and
3. Regularly makes available at least clinical laboratory services, diagnostic X-ray services and treatment facilities for surgery or obstetrical care or other definitive medical treatment of similar extent. Hospitals may include offices for medical and dental personnel, central service facilities such as pharmacies, medical laboratories and other related uses.

HOTEL, MOTEL OR TOURIST COURT: A structure which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services, to transient guests and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient guests for periods of not more than twenty-eight (28) consecutive days and having more than two (2) bedrooms furnished for the accommodation of such guests.

INSTITUTION: A building occupied by a non-profit corporation or a non-profit establishment for public use.

INTERIOR SETBACK: A required setback that does not front on a public street.

KENNEL: Any lot on which four (4) or more adult dogs and cats over the age of four (4) months of age are kept.

LANDFILL: A disposal facility employing an engineered method of disposing of solid waste including demolition and construction debris.

LAUNDRY PLANT: An establishment that is primarily engaged in the large-scale washing or cleaning of laundry, rugs and similar materials. This definition does not include laundromats or dry cleaning pickup stations.

LIBRARY: A publicly-operated establishment housing a collection of books, magazines, audio and video tapes and other material for borrowing and use by the public.

LOT: A parcel of land occupied or to be occupied by one (1) main building or unit group of buildings and the accessory buildings or uses customarily incidental thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public street. A lot, as used herein, may consist of one (1) or more platted lots or tract or tracts as conveyed or parts thereof.

LOT DEPTH: The mean horizontal distance from the front street line to the rear line.

LOT LINE: The line bounding a lot as defined herein.

1. **Front.** The boundary between a lot and the street on which it fronts. (For clarification of the front lot line location, see the definition of "corner" below.)
2. **Rear.** The boundary line which is opposite and most distant from the front street line; except that in the case of uncertainty, the Zoning Administrator shall determine the rear line.
3. **Side.** Any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place or a side street line.

Figure 1 - Lot Types and Setbacks

LOT OF RECORD: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Recorder of Deeds or a lot described by metes and bounds, the description of which has been recorded in the office of the Recorder of Deeds prior to the adoption of this regulation.

1. **Corner.** A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Zoning Administrator, except that a lot, as herein defined, when made up of more than one (1) platted lot, shall be deemed to front on the street upon which said platted lots front.

- 2. *Interior.* A lot whose side lines do not abut upon any street.
- 3. *Through.* An interior lot having frontage on two (2) streets.

LOT WIDTH: The horizontal distance between the side boundary lines of a property measured at the front building line.

LOT, ZONING: A parcel or tract of land used, developed or built upon as a unit under single ownership or control. Said parcel of tract may consist of one (1) or more lots of record, one (1) or more portions of a lot or lots of record or any combination thereof.

MANUFACTURED HOME: A structure which bears a seal indicating compliance with the Federal Manufactured Home Construction and Safety Standards established pursuant to 42 U.S.C. Section 5401 and constructed on or after June 15, 1976.

MANUFACTURED HOME PARK: Any area, piece, parcel, tract or plot of ground equipped as required for support of manufactured homes and offered for use by the owner or representative for manufactured home park purposes and/or ground upon which three (3) or more manufactured homes are parked, whether for compensation or not, including all accessory uses thereof. The term "*manufactured home park*" does not include sales lots of which unoccupied manufactured homes are parked for the purpose of inspection and sale.

MANUFACTURED HOME (FACTORY-BUILT HOME) RESIDENTIAL DESIGN: A manufactured home which is designed with the same appearance of an on-site, conventionally built, single-family dwelling and satisfies the criteria established in Article VI, Use Regulations.

Figure 2 - Manufactured Home Residential Design

Residential Character:
 Covered entry
 Front porch
 Landscaping
 Pitched roof

Architectural Details:
 Window elements

Manufacturing Home Features:
 Horizontal lap siding
 Permanent masonry foundation
 Double-wide manufactured home

MANUFACTURED HOME SALES: An establishment primarily engaged in the display and sale of manufactured housing units.

MANUFACTURING AND ASSEMBLY: Establishments engaged in the manufacture, predominately from previously prepared materials, of finished products or parts including processing, fabrication,

assembly, treatment and packaging of such products and incidental storage, sales and distribution of such products but excluding "basic industry".

MASSAGE SHOP: An establishment which has a fixed place of business having a source of income or compensation sixty percent (60%) or more of which is derived from the practice of any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of external parts of the human body with the hands or with the aid of any mechanical electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage. Under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third (3rd) person on his/her behalf will pay money or give any other consideration or gratuity; provided that this term shall not include any establishment operated or supervised by a medical or chiropractic practitioner or professional physical therapist licensed by the State of Missouri.

MATERIALS RECOVERY FACILITY: A facility in which source separated co-mingled recyclable materials, such as newspapers, glass, metals and plastic containers, are stored, flattened, crushed and/or bundled prior to shipment to others who will use those materials to manufacture new products.

MEDICAL SERVICE: An establishment providing therapeutic, preventive or corrective personal treatment services on an outpatient basis by physicians, dentists and other practitioners of the medical or healing arts and the provision of medical testing and analysis services. Typical uses include clinics and offices for doctors of medicine, dentists, chiropractors, osteopaths, optometrists, blood banks and medical laboratories.

MILITARY SERVICE: A facility used or intended to be used by a branch of the U.S. armed forces, including military reserves.

MINING OR QUARRYING: The extraction of metallic and non-metallic minerals, excluding oil or natural gas. Typical uses include sand and gravel pit operations, quarries and mines.

MOBILE HOME: A transportable, factory-built structure designed to be used as a single dwelling unit that was manufactured prior to June 15, 1976 and that does not bear a seal as provided by the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401).

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

MODULAR HOME: A manufactured residential structure built to a nationally-recognized and accepted construction standard published by the Building Officials and Code Administrators International, Inc. (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures, as required of a manufactured home—residential design, and shall be permanently situated on a concrete foundation.

Figure 3 - Modular Home

| | | | |
|-------------------------------|-------------------------------|----------------------------------|----------------------------|
| Residential Character: | Architectural Details: | Modular Features: | Permanent Features: |
| Pitched roof | Eave projection | Modules for on-site construction | Walkway and stairs |
| Covered entry | Varying depths | | Formal landscaping |
| Enclosed garage | Ornamental windows | | |

MULTI-FAMILY RESIDENTIAL: The use of a site for three (3) or more dwelling units within a single building. Typical uses include tri-plexes, four-plexes, apartments and residential condominiums.

NON-CONFORMING USE, BUILDING OR YARD: A use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated and existed as such on the date of the adoption of this ordinance.

OFFICE, GENERAL: An establishment providing executive, management, administrative or professional services, but not medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and similar offices.

OIL OR GAS DRILLING/REFINING: The subsurface extraction or refining of oil or natural gas.

PARKING AREA, OFF-STREET: A permanently surfaced, dust-free area (concrete, asphaltic concrete or other comparable surface) enclosed or unenclosed for the short-term storage of automobiles.

PARKING LOT, COMMERCIAL: Area used or intended to be used for off-street parking of operable motor vehicles on a temporary basis other than as accessory parking to a principal use.

PARKING SPACE: An area surfaced for all weather for the purpose of storing one (1) parked automobile.

PARKS AND RECREATION: A park, playground or community facility, owned by or under the control of a public agency or homeowners' association, that provides opportunities for active or passive recreational activities.

PLANNING COMMISSION: The Commission appointed by the Governing Body to administer the planning and zoning regulations as stipulated by the Governing Body and the Statutes of the State.

POST OFFICE: A facility used for the collection, sorting and distribution of U.S. mail among several zip code areas and having limited retail services for the public such as the sale of stamps, postcards and postal insurance.

PRELIMINARY DEVELOPMENT PLAN: A preliminary site plan that may be submitted at the option of the developer to the Zoning Administrator prior to submission of the final site plan.

PRINTING AND PUBLISHING: The production of books, magazines, newspapers and other printed matter and record pressing and publishing, engraving and photoengraving but excluding businesses involved solely in retail photocopying, reproduction, photo developing or blueprinting services.

RECREATION AND ENTERTAINMENT, INDOOR: An establishment offering recreation, entertainment or games of skill to the public for a fee or charge and that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, bingo parlors, pool halls, billiard parlors and video game arcades. Does not include those uses considered as parks and recreation.

RECREATION AND ENTERTAINMENT, OUTDOOR: An establishment offering recreation, entertainment or games of skill to the public for a fee or charge wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, drive-in theaters and miniature golf courses. Does not include those uses considered as parks and recreation.

RECREATIONAL VEHICLE: Any of the following vehicles which are licensed for travel on the highway: travel trailer (a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation or vacation or one permanently identified as a travel trailer by the manufacturer of the trailer); pickup coach (a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation); motorhome (as a portable, temporary dwelling to be used for travel, recreation and vacation constructed as an integral part of a self-propelled vehicle); and camping trailer (as a canvas, material or metal folding structure mounted on wheels and designed for travel, recreation and vacation use).

RECREATIONAL VEHICLE PARK: Land used or intended to be used for occupancy by recreational vehicles for transient living purposes including the use of camping spaces for tents.

RECYCLING COLLECTION CENTER: A facility which is not larger than one thousand (1,000) square feet in size and is designed for the collection of aluminum and steel cans, glass, plastic containers, papers and other usable materials for their redistribution for sale or reutilization. This definition does not include processing equipment or storage.

RECYCLING PROCESSING CENTER: A facility designed for the purpose of collecting, redistributing and processing recyclable materials. Activities may include the receipt, separation, storage, conversion, bailing and/or processing of paper, iron, metal, glass, newspaper and other non-biodegradable materials. Hazardous and biodegradable materials, as determined by the Missouri Department of Natural Resources, including, but not limited to, food, beverages, drugs, cosmetics, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides and other similar materials, shall not be brought into or handled by a recycling processing center.

RELIGIOUS ASSEMBLY: A site used by a bona fide religious group primarily or exclusively for religious worship and related religious services including a place of worship, retreat site or religious camp.

REPAIR SERVICE: An establishment primarily engaged in the provision of repair services to individuals and households but excluding "vehicle repair" services. Typical uses include appliance repair shops.

RESEARCH SERVICE: An establishment engaged in conducting basic and applied research, including production of prototype products when limited to the minimum scale necessary for full investigation of the merits of a product, excluding production of products used primarily or customarily for sale or for use in non-prototype production operations.

RESTAURANT, FAST-FOOD: A use primarily engaged in the sale of food and non-alcoholic beverages in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-in restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers and where food and beverages may be served directly to the customer in a motor vehicle.

RESTAURANT, GENERAL: A building wherein food is prepared and served in ready-to-eat form to the public for human consumption. The term restaurant shall include cafe, cafeteria, grill, pizza or chili parlor, diner, snack shop, hamburger shop and steak house.

RETAIL: Refers to the sale of commodities and services directly to customers when such commodities and services are used or consumed by the customer and not purchased primarily for the purpose of resale.

RETAIL SALES AND SERVICE: An establishment engaged in the sale or rental of goods and services including, but not limited to, antique shops, apparel and accessory stores, art and supply stores, bicycle shops, book and stationery stores, barber and beauty shops, candy and ice cream stores, cigar and tobacco stores, dressmakers and tailors, flower and gift shops, hobby shops, interior decorators, jewelry stores, key shops, leather goods and luggage stores, music instrument sales and repair, photocopying services, shoe repair and shoe shine stores, sporting and athletic goods, toy stores and department stores; excluding uses more specifically defined.

SAFETY SERVICE: A facility for conduct of public safety and emergency services including Fire and Police protection services and emergency medical and ambulance services.

SALVAGE YARD: A lot, land or structure or part thereof used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles that are not in operating condition; or for the sale of parts thereof. Typical uses include automobile salvage yards and junk yards.

SCHOOL, ELEMENTARY, MIDDLE OR HIGH: The use of a site for instructional purposes on an elementary or secondary level.

SERVICE FLOOR AREA: The total floor area of a building exclusive of stairways, restrooms, storage rooms, hallways or other areas which are not regularly used by visitors, clients, customers, patients or patrons in their normal everyday use of the building.

SERVICE STATION, AUTOMOTIVE: A use primarily engaged in the retail sale of gasoline or other motor fuels primarily to automobiles and passenger vehicles along with accessory activities such as the sale of lubricants, accessories or supplies, the lubrication of motor vehicles and the minor adjustment or repair of passenger motor vehicles. Uses involved primarily in the sale of diesel fuel, gasoline or other fuels to tractor trucks and uses that feature parking, storage or servicing of tractor trucks or semi-trailers shall be classified as "truck stop service stations".

SERVICE STATION, TRUCK STOP: A use primarily engaged in the sale of diesel fuel, gasoline or other fuels to tractor trucks along with accessory activities such as the sale of lubricants, accessories or supplies or the servicing of tractor trucks or semi-trailers. A truck stop service station may include, as an accessory use, the parking and storage of tractor trucks and semi-trailers.

SETBACK: The distance that is required by this zoning ordinance to be maintained in an unobstructed state between a structure and the property line of the lot on which the structure is located. (Note: The term "*setback*" refers to a required minimum area, while the term "*yard*" refers to the actual open area.)

SHOOTING RANGE: An outdoor facility used or intended to be used for the discharge of firearms at targets.

SIGHT TRIANGLE: An area at a street intersection in which nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½) feet and eight (8) feet above the grades of the outside edge of the street surface of the intersecting streets, measured from the point of intersection of the centerline of the streets, ninety (90) feet in each direction along the centerline of the streets; except that, the City Engineer may establish greater sight triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO)

Figure 4 - Sight Triangle Minimum Standards

SIGN: Any words, numerals, figures, devices, designs or trademarks by which information is made known to the public outside a building.

SINGLE-FAMILY RESIDENTIAL, ATTACHED: The use of a site for two (2) or more dwelling units that are constructed with common or abutting walls and with each dwelling unit located on its own separate lot. Typical uses include town houses and twin homes.

SINGLE-FAMILY RESIDENTIAL, DETACHED: The use of a lot for only one (1) principal dwelling unit that is not connected to any other dwelling unit. This definition shall include, as defined by these regulations, "manufactured homes—residential design" and "modular homes" but shall exclude "manufactured homes".

SOLID WASTE COLLECTION/PROCESSING: Recycling collection centers, incinerators, processing facilities, materials recovery facilities, solid waste transfer stations or any facility where municipal solid wastes are salvaged, sorted, processed or treated.

SOLID WASTE TRANSFER STATION: A facility where solid waste or recyclable material is transferred from collection vehicles (some sorting may occur) to long distance hauling vehicles for transportation to a central solid waste management facility for processing, disposal, incineration or resource recovery.

SPECIFIED SEXUAL ACTIVITIES:

1. Sexual conduct, being acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such person be a female, her breast;
2. Sexual excitement, being the condition of human male or female genitals when in a state of sexual stimulation or arousal; or
3. Sadomasochistic abuse, being flagellation or torture by or upon a person or the condition of being fettered, bound or otherwise physically restrained.

STOCKYARD: A non-farm-based facility used or intended to be used for selling or holding livestock.

STORY: That part of a building included between the surface of one (1) floor and the surface of the floor next above or if there be no floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top story attic is a half story when the main line of the eave is not above the middle of the interior height of such story. The first (1st) story is a half story when between fifty percent (50%) and seventy-five percent (75%) of the area of its exterior walls are exposed to outside light and air entirely above grade and which exterior walls contain windows or doors permitting the entrance of daylight and outside air.

STREET: A right-of-way that affords principal means of vehicular access to property abutting thereon.

STREET LINE: The dividing line between the street and the abutting property, also commonly known as the front property line.

STREET NETWORK:

1. *Arterial.* A street that provides for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances, exits and curb uses.
2. *Collector.* A street that provides for traffic movement between arterials and local streets with direct access to abutting property.
3. *Expressway.* A street that provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.
4. *Local.* A street that provides direct access to abutting land and local traffic movement whether in business, industrial or residential areas.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

STRUCTURE: Anything constructed or erected which requires location on or in the ground or attached to something having a location on the ground including, but not limited to, signs and excepting customary utility poles, retaining walls and boundary fences.

STUDIO, RADIO, TELEVISION, FILM OR MUSIC: An establishment primarily engaged in the provision of recording or broadcasting services accomplished through the use of electronic mechanisms.

TEMPORARY USES: A use which is only allowed for a specified period of time. Typical temporary uses include, but are not limited to, Christmas tree sales, garage sales, road stands, etc.

TOTAL FLOOR AREA: The square foot area of a building, including accessory buildings, measured from outside wall surfaces and including garages, porches, utility rooms, stairways, recreation rooms, storage rooms but excluding unroofed balconies and patios.

TOURIST CABIN: See definition of "*HOTEL/MOTEL*".

TOWN HOUSE: A dwelling unit located in a group of three (3) or more attached town house dwelling units with no other dwelling unit located above or below another and with each dwelling unit having at least one (1) interior common wall and a private exterior entrance.

TOWN HOUSE SITE: A town house, the total land area beneath the town house and the facilities associated with the town house.

TOWN HOUSE STRUCTURE: A grouping of three (3) or more town houses.

TRANSIT FACILITY: A facility used or intended to be used as an area for loading, unloading and interchange of transit passengers. Typical uses include bus terminals, rail stations and passenger related mass transit facilities.

TRANSITIONAL LIVING FACILITY: A State licensed group-care home for juvenile delinquents, halfway houses providing residence, rehabilitation and counseling to persons on release from a more restrictive custodial confinement and residential rehabilitation treatment centers which also may provide outpatient rehabilitation for alcohol and other drug abuse.

TWIN HOME: The use of a site for two (2) dwelling units that are constructed with common or abutting walls and with each dwelling unit located on its own separate lot. Twin homes are often created by subdividing a single duplex into two (2) separate lots each of which contains one (1) dwelling unit.

UTILITY, MAJOR: Generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term "*utility*" shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities or other uses defined in this Section.

UTILITY, MINOR: Services and facilities of agencies that are under public franchise or ownership

to provide services that are essential to support development and that involve only minor structures, such as poles and lines.

VARIANCE: A variation from a specific requirement in this Chapter, as applied to a specific piece of property, as distinct from rezoning.

VEHICLE AND EQUIPMENT SALES: An establishment engaged in the retail or wholesale sale or rental, from the premises, of motorized vehicles or equipment along with incidental service or maintenance activities. Typical uses include new and used automobile and truck sales, automobile rental, boat sales, motorcycle sales, moving trailer rental and farm equipment and machinery sales and rental.

VEHICLE/EQUIPMENT STORAGE YARD: An outdoor area used or intended to be used for long-term storage of vehicles and equipment other than a "commercial parking lot" or accessory parking to a principal use.

VEHICLE REPAIR, GENERAL: An establishment primarily engaged in painting of or body work to motor vehicles or heavy equipment. Typical uses include paint and body shops.

VEHICLE REPAIR, LIMITED: A use providing automobile repair or maintenance services within completely enclosed buildings but not including "general vehicle repair" services.

VOCATIONAL SCHOOL: A use providing education or training in business, commercial trades, language, arts or other similar activity or occupational pursuit and not otherwise defined as a "college or university" or "school".

WAREHOUSING AND WHOLESALE: An establishment primarily engaged in the storage or sale of materials, equipment or products or sale to wholesalers or retailers. Typical uses include cold storage, warehousing and dead storage facilities but exclude "residential storage warehouses" and sale of goods to the general public.

WAREHOUSE, RESIDENTIAL STORAGE: An enclosed storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for dead storage of their household goods or personal property.

WELDING OR MACHINE SHOP: A workshop where machines, machine parts or other metal products are fabricated. Typical uses include machine shops, welding shops and sheet metal shops.

YARD: An open space at grade between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used.

1. *Front.* A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.
2. *Rear.* A yard between the rear lot line and the rear line of the main building and the side lot lines.
3. *Side.* A yard between the main building and the adjacent side line of the lot and extending entirely from a front yard to the rear yard.

ZONE OR DISTRICT: A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of structures, land and open space are herein established.

ZONING ADMINISTRATOR: The staff responsible for administering these regulations as designated by the City Administrator.

ZONING AREA: The area to be zoned as set out on the Official Zoning Map filed of record.

ZONING REGULATIONS: The term "zoning regulations" or "these regulations" shall mean the requirements stipulated in the regulations herewith attached and shall mean the lawfully adopted zoning ordinances of the City of Mount Vernon. (Ord. No. 2.56 §2(Art. 2 §§1(A), 2), 1-9-01; Ord. No. 2.77 §1(1), 2-11-03; Ord. No. 2.114 §1, 2-28-06; Ord. No. 2.135 §1, 4-22-08; Ord. No. 2.149 §1, 4-24-12)

ARTICLE II. DESIGNATION OF DISTRICTS AND DISTRICT PROVISIONS

SECTION 405.060: ESTABLISHMENT OF DISTRICTS

The jurisdictional area is hereby divided into eleven (11) zoning districts which are designated as follows:

- "A-R" Agricultural-Residential District
- "R-1" Single-Family Residential District
- "R-2" Two-Family Residential District
- "R-3" Multi-Family Dwelling District
- "MP" Manufactured Home Park Residential District
- "B-1" Mixed Use District
- "B-2" Central Business District
- "B-3" General Commercial District
- "M-1" Light Industrial District
- "M-2" Heavy Industrial District
- "PD" Planned Development District (Ord. No. 2.56 §2(Art. 3 §2), 1-9-01)

SECTION 405.070: ZONING DISTRICT MAP ADOPTED

- A. The boundaries of the zoning districts which are shown on the Official Zoning District Map of the City of Mount Vernon, Missouri, which is filed in the office of the Mount Vernon City Clerk, with all notations, references and other information shown thereon, is hereby approved and adopted; and such map shall be known as and shall be marked as "Official Copy of the City of Mount Vernon, Missouri, Zoning Map 1999".
- B. It shall be the duty of the Mount Vernon City Clerk to keep on file in the Clerk's office the original of said Zoning District Map; and duplicate copies thereof, showing all the changes, amendments or additions thereto, shall be kept on file in the office of the City Clerk. (Ord. No. 2.56 §2(Art. 3 §3), 1-9-01; Ord. No. 2.65 §§1-2, 10-9-01)

SECTION 405.080: RULES WHERE UNCERTAINTY MAY ARISE

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning District Maps incorporated herein, the following rules apply:

1. The district boundaries are the centerlines of streets, alleys, waterways and railroad rights-of-way, unless otherwise indicated; and where the designation of a boundary line on the Zoning Map coincides with the location of a street, alley, waterway or railroad right-of-way, the centerline of such street, alley, waterway or railroad right-of-way shall be construed to be the boundary line of such district.
2. Where the district boundaries do not coincide with the location of streets, waterways or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
3. Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the Zoning Map. (Ord. No. 2.56 §2(Art. 3 §4), 1-9-01)

SECTION 405.090: EXEMPTIONS

The following structures and uses shall be exempt from the provisions of these regulations:

1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.
2. Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way and maintenance and repair work on such facilities and equipment.
3. Agriculture as defined by these regulations. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subject to the applicable regulations of these regulations.
4. Retaining walls on public property.
5. Public signs. (Ord. No. 2.56 §2(Art. 3 §5), 1-9-01)

SECTION 405.100: APPLICATION OF REGULATIONS

No structure or land shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with these regulations. (Ord. No. 2.56 §2(Art. 3 §6), 1-9-01)

SECTION 405.110: ANNEXED LAND

- A. *Annexation Under Section 71.012, RSMo.* A petition for annexation must be signed by the owners of all the fee interests of record in all the tracts of real property located within the area proposed to be annexed or must be signed under the authority of the Governing Body of any common interest community and approved by a majority vote of unit owners located within the area proposed to be annexed. The petition shall be presented to the City Clerk and must comply with the following:
 1. The petition shall be submitted in writing and addressed to the Board of Aldermen of the City of Mount Vernon, Missouri.
 2. The territory to be annexed must be contiguous and compact to the existing corporate limits of the City of Mount Vernon, Missouri.

3. The intended land use and desired zoning designation must be stated on the petition.
4. The petition must be verified.

B. Duties Of The City Of Mount Vernon, Missouri.

1. Once the petition is filed with the City Clerk, the City must hold a public hearing.
2. The public hearing must be held within sixty (60) days of the filing of the petition, but it cannot be held less than fourteen (14) days after the receipt of the petition.
3. The hearing shall be scheduled by the City Clerk so as to allow the petition to first be presented to the City Planning and Zoning Commission for consideration and recommendation to the Board of Aldermen. The City Zoning Administrator will post a notice in a newspaper of general circulation giving the place and time when the Commission will review the petition.
4. Notice of the hearing must be published at least seven (7) days prior to the public hearing. The notice must be published in a newspaper of general circulation qualified to publish legal notices.
5. The hearing shall be held by the Board of Aldermen on the date and at the time specified in the published notice.

C. Hearing On The Petition.

1. Any interested person, corporation or political subdivision may appear and present evidence on the proposed annexation when it is presented to the Planning and Zoning Commission and may also appear and present evidence on the proposed annexation at the public hearing held before and by the Board of Aldermen.
2. Any written objection to the annexation must be filed not later than fourteen (14) days after the public hearing and must be signed by at least two percent (2%) of the qualified voters from within the City limits of the City of Mount Vernon, Missouri, or two (2) qualified voters from the area to be annexed.

D. Annexation (if no objection).

1. If, after the public hearing, the Board of Aldermen of the City of Mount Vernon, Missouri, determines:
 - a. That the annexation is reasonable and necessary to the proper development of the City, and
 - b. That the City has the ability to furnish normal municipal services to the area to be annexed within a reasonable time, the City may annex the territory by ordinance without further action.
2. Three (3) certified copies of the annexation ordinance must be filed with the Lawrence County Clerk.

E. Annexation (if written objection). If a written objection to the annexation is filed not later than fourteen (14) days after the public hearing before the Board of Aldermen and signed by the necessary

number of qualified voters, the City of Mount Vernon, Missouri, if it seeks to annex the area to which objection has been made, shall follow the provisions of Section 71.015, RSMo. (Ord. No. 2.56 §2(Art. 3 §7), 1-9-01; Ord. No. 2.103 §1, 3-22-05)

SECTION 405.120: "A-R" AGRICULTURAL–RESIDENTIAL DISTRICT

- A. *Intent.* It is the intent of this district to protect agricultural uses and future urban growth areas through control of density, land use and land coverage.
- B. *Permitted Uses.* Generally, agricultural and rural residential uses are permitted on parcels greater than fifteen (15) acres. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Use Permits.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.*
1. *Minimum lot area.* Fifteen (15) acres. A residence shall be permitted on an agricultural tract for those owning or operating the premises or for those employed thereon, provided that there is ten thousand (10,000) square feet or more for each residence, except that a residence shall be permitted on a lot of record, provided the lot can meet minimum standards for sewage treatment.
 2. *Minimum lot width.* The minimum lot width for residential uses shall be three hundred thirty (330) feet. No minimum lot width is required for non-residential uses.
- E. *Height Regulations.* Maximum structure height, thirty-five (35) feet.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
1. *Front yard.* Fifty (50) feet.
 2. *Side yard.* Ten percent (10%) of the lot width, except that such side yard shall not be less than twenty-five (25) feet and need not be more than fifty (50) feet.
 3. *Rear yard.* Fifty (50) feet. (Ord. No. 2.56 §2(Art. 4), 1-9-01; Ord. No. 2.142 §§1–2, 4-27-10)

SECTION 405.130: "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT

- A. *Intent.* The intent of this district is to provide for low-density residential development including those uses that reinforce residential neighborhoods and to allow certain public facilities.
- B. *Permitted Uses.* Generally, single-family dwellings, parks, educational and religious uses are permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of

these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.

- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.* Except as modified by the provisions of Article III.
1. *Zoning classification "R-1A".*
 - a. Minimum lot area of fifteen thousand (15,000) square feet.
 - b. Minimum frontage of sixty (60) feet, seventy-five (75) feet on corner lot.
 2. *Zoning classification "R-1B".*
 - a. Minimum lot area of ten thousand (10,000) square feet.
 - b. Minimum frontage of sixty (60) feet, seventy-five (75) feet on corner lot.
 3. *Zoning classification "R-1C".*
 - a. Minimum lot area of seventy-five hundred (7,500) square feet.
 - b. Minimum frontage of fifty (50) feet, seventy-five (75) feet on corner lot.
 4. *Lot coverage.*
 - a. The combined area of the main building and accessory buildings shall not cover more than forty percent (40%) of the total area of the lot.
- E. *Height Regulations.* Maximum structure height, thirty-five (35) feet.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
1. *Front yard.* Thirty (30) feet.
 2. *Side yard.* Eight (8) feet; structures on corner lots shall provide a side yard on the street side of not less than fifteen (15) feet or the established front yard setback of the adjoining residential structure fronting on the same side street, whichever is greater.
 3. *Rear yard.* Twenty-five (25) feet or twenty percent (20%) of depth, whichever is smaller.
- G. *Parking Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Sign Regulations.* See Article VIII, Sign Regulations. (Ord. No. 2.56 §2(Art. 4), 1-9-01)

SECTION 405.140: "R-2" TWO-FAMILY RESIDENTIAL DISTRICT

- A. *Intent.* The intent of this district is to provide for low to moderate density residential development,

including two-family and higher density single-family dwellings, in a manner which will encourage a strong residential neighborhood.

- B. *Permitted Uses.* Generally, two-family dwellings, single-family dwellings, parks, educational and religious uses are permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.* Except as modified by the provisions of Article III.
 - 1. *Minimum lot area.* Ten thousand (10,000) square feet for single-family dwellings and five thousand (5,000) square feet per dwelling unit for two-family dwellings and twinhomes.
 - 2. *Minimum lot width.* Sixty (60) feet; single-family dwellings located on a corner lot shall not be less than seventy-five (75) feet and two-family dwellings located on a corner lot shall not be

less than eighty (80) feet. Twinhome lots shall be fifty (50) feet, and seventy-five (75) feet for a corner lot.

3. *Lot coverage.* The combined area of the main building and accessory buildings shall not cover more than forty percent (40%) of the total area of the lot.
- E. *Height Regulations.* Maximum structure height, thirty-five (35) feet.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
1. *Front yard.* Thirty (30) feet.
 2. *Side yard.* Eight (8) feet; structures on corner lots shall provide a side yard on the street side of not less than fifteen (15) feet or the established front yard setback of the adjoining residential structure fronting on the same side street, whichever is greater.
 3. *Rear yard.* Twenty-five (25) feet or twenty percent (20%) of depth, whichever is smaller.
- G. *Parking Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Sign Regulations.* See Article VIII, Sign Regulations. (Ord. No. 2.56 §2(Art. 4), 1-9-01; Ord. No. 2.79 §1, 2-25-03)

SECTION 405.150: "R-3" MULTI-FAMILY DWELLING DISTRICT

- A. *Intent And Purpose Of District.* The "R-3" Multi-Family Dwelling District is intended for the purpose of allowing high-density residential land use with the co-mingling of compatible single-family and two-family dwellings, apartments, home occupations, community facilities and certain uses, yet retain the basic residential quality.
- B. *Permitted Uses.* Single-, two- and multi-family dwellings, nursing homes and boarding houses are permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.* Except as modified by the provisions of Article III, all dwellings hereafter erected, enlarged, relocated or reconstructed shall be located upon lots containing the following areas:
1. *Minimum lot area.*
 - a. A lot on which there is erected a single-family dwelling shall contain an area of not less than seven thousand five hundred (7,500) square feet.
 - b. A lot on which there is erected a two-family dwelling shall contain an area of not less than five thousand (5,000) square feet per family.
 - c. A lot on which there is erected a multi-family dwelling shall contain an area of not less than ten thousand (10,000) square feet or two thousand five hundred (2,500) square feet per family, whichever area is the larger, except that this regulation shall not apply to dormitories or rooming and lodging houses where no cooking is done in individual rooms

or apartments. The Board of Adjustment may increase the intensity of use for multi-family dwellings by one (1) residential unit if all of the following conditions can be met:

- (1) There is sufficient land area on the site to meet all other requirements including parking and setbacks;
 - (2) The additional unit permits a more economical design (e.g., an eight-plex rather than a seven-plex); and
- d. Where a single lot of record, as defined in Section 405.050 of this Chapter, has less area than herein required and was recorded prior to the effective date of this regulation, that lot may be used only for single-family dwelling purposes.

2. *Minimum lot width.*

- a. No lot on which a single-family dwelling is located shall be less than sixty (60) feet in width; corner lots shall be not less than seventy-five (75) feet in width. Minimum width for twin home lots shall be fifty (50) feet, and seventy-five (75) feet for a corner lot.
- b. No lot on which a two-family dwelling is located shall be less than sixty (60) feet in width; corner lots shall be not less than eighty (80) feet in width.
- c. No lot on which a multi-family dwelling is located shall be less than seventy-five (75) feet in width; corner lots shall be not less than eighty (80) feet in width. For each additional story over two (2), there shall be an additional twenty-five (25) feet of lot width.

3. *Lot coverage.* The combined area of the main building and accessory buildings of multi-family uses shall not cover more than fifty percent (50%) of the lot area.

E. *Height Requirements.* Except as modified by the provisions of Article III.

1. The maximum height of single-family dwellings shall be the same as specified in the "R-1" District.
2. The maximum height of two-family dwellings shall be the same as specified in the "R-2" District.
3. The maximum height for multi-family dwellings and non-residential uses shall be thirty-five (35) feet. The Planning and Zoning Commission, after receiving the recommendation of the Mount Vernon Fire Chief, may allow the height of a multi-family dwelling to exceed thirty-five (35) feet. In no instance, however, shall the height of any multi-family dwelling exceed forty-five (45) feet.

F. *Yard Requirements.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:

1. *Front yard.* Thirty (30) feet.
2. *Side yard.* Single-family and two-family dwellings shall maintain a side yard setback of not less than five (5) feet. Multi-family dwellings shall maintain a side yard setback of not less than seven (7) feet. Structures on corner lots shall provide a side yard on the street side of not less than fifteen (15) feet or the established front yard setback of the adjoining residential structure fronting on the same side street, whichever is greater.
3. *Rear yard.* There shall be a rear yard for structures in this district which shall have a depth of

not less than twenty-five (25) feet or twenty percent (20%) of the depth of the lot, whichever is smaller.

- G. *Loading And Unloading Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Parking Regulations.* Off-street parking is not required in this district for existing residential structures. Any new structures and any structure converted to multi-family residences shall comply with the requirements of Article IV, Off-Street Parking and Loading Regulations.
- I. *Sign Regulations.* See the Article VIII, Sign Regulations.
- J. *Use Limitations.* Multi-family dwelling developments shall be subject to the requirements and procedures of Article X, Site Plan Review.
- K. *Minimum Floor Area.* Multi-family residential units shall have a minimum of five hundred seventy-five (575) square feet of private, habitable floor area per family, provided there are common activity areas such as laundry areas, and eight hundred sixty-five (865) square feet per family provided there are no common activity areas. (Ord. No. 2.56 §2(Art. 4), 1-9-01)

SECTION 405.160: "MP" MANUFACTURED HOME PARK RESIDENTIAL DISTRICT

- A. *Intent.* It is the intent of this district to provide low to medium density manufactured home park development which is compatible with the character of the surrounding neighborhood in which it is located. Manufactured home parks are considered a residential use and should be located in areas where services and amenities are available such as those found in conventional residential areas.
- B. *Permitted Uses.* For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.*
 - 1. *Minimum park area.* Two (2) acres.
 - 2. *Minimum park width.* Two hundred twenty-five (225) feet.
- E. *Height Regulations.* Maximum structure height, twenty (20) feet.
- F. *General Regulations.*
 - 1. *Minimum design standards.* Each manufactured home park shall be designed in accordance with all City codes and to the following minimum design standards:
 - a. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
 - b. Manufactured home parks hereafter approved shall have a maximum density of eight (8) manufactured homes per gross acre and a minimum area of four thousand (4,000) square

feet shall be provided for each manufactured home space.

- c. Each manufactured home space shall be at least forty (40) feet wide and be clearly defined.
 - d. All manufactured homes and additions thereto shall be so located to maintain a clearance of not less than twenty (20) feet from another manufactured home; provided however, that with respect to manufactured homes parked end-to-end, the end-to-end clearance shall not be less than fifteen (15) feet. In addition, all manufactured homes and additions thereto shall be so located to maintain a clearance of twenty-five (25) feet from any permanent structure within the park.
 - e. All manufactured home spaces shall front upon a private roadway of not less than twenty-five (25) feet in width including curbs on each side; provided however, that no on-street parking is permitted. If parallel parking is permitted on one (1) side of the street, the width shall be increased to thirty (30) feet and if parallel parking is permitted on both sides of the street, the width shall be increased to thirty-six (36) feet. All roadways shall have unobstructed access to a public street.
 - f. Off-street parking areas shall be provided in all manufactured home parks. Such off-street parking areas shall provide sufficient parking spaces for a minimum of two (2) cars per manufactured home within the manufactured home park. Off-street parking areas may be provided on individual manufactured home spaces provided that the off-street parking area is improved as required in Article IV, and the off-street parking area surface is not less than ten (10) feet from the nearest adjacent manufactured home space.
 - g. All roadways and sidewalks within the manufactured home park shall be of all-weather surfacing and shall be adequately lighted at night.
 - h. A community structure may be provided which may include recreation facilities, laundry facilities and other similar uses.
 - i. The perimeter of all manufactured homes shall be fully skirted.
 - j. Sidewalks shall be required on one (1) side of all streets.
 - k. Landscaping shall be shown on the development plan. The perimeter of each manufactured home space shall be surrounded by a landscaped strip of open space twenty-five (25) feet wide along all lot lines and streets or highways.
 - l. All roadways shall meet the design standards as adopted by the City for private streets in manufactured home parks.
 - m. A structure permit for the park shall be obtained before moving a manufactured home into an "MP" District.
2. *Water supply.*
- a. Water shall be supplied to the park by a public water system.
 - b. The size, location and installation of water lines shall be in accordance with the requirements of the Building Codes of the City.

- c. Individual water service connections shall be provided at each manufactured home space.
3. *Required recreation areas.*
 - a. In all manufactured home parks accommodating or designed to accommodate twenty-five (25) or more manufactured homes, there shall be one (1) or more recreation areas that shall be easily accessible to all park residents.
 - b. The size of such recreation areas shall be based upon a minimum of one hundred (100) square feet for each lot within the manufactured home park. No outdoor recreation area shall contain less than two thousand five hundred (2,500) square feet.
 - c. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.
 - d. The required recreational area(s) within the manufactured home park shall contain playground equipment or other recreational facilities as approved by the Planning and Zoning Commission. The cost of purchasing and installing said recreational equipment shall be paid for by the developer of the manufactured home park.
 - e. The maintenance of recreation area(s) and equipment within each manufactured home park shall be paid for by the owner of the manufactured home park.
 4. *Sewage disposal.* Each manufactured home park shall be connected to the City or County central sanitary sewer system or to another central sewage system as approved by the Missouri Department of Natural Resources. Each manufactured home space within a manufactured home park shall be connected to and served by the central sanitary sewer system serving the manufactured home park.
 5. *Tie-downs and ground anchors.* All manufactured homes shall be secured to the ground by tie-downs and ground anchors in accordance with the Manufactured Home and Recreational Vehicle Code.
 6. *Electrical.* Each manufactured home space shall be provided with an individual electrical outlet supply which shall be installed in accordance with the Building Codes of the City and requirements of the electric supplier.
 7. *Gas.* Natural gas hookups, when provided, shall be installed in accordance with the Building Codes of the City and the regulations of the gas supplier.
 8. *Refuse and garbage handling.* Storage, collection and disposal of refuse in a park shall be in accordance with City Code.
 9. *Blocking.* All manufactured homes shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home in accordance with the Manufactured Home and Recreational Vehicle Code and in accordance with the manufacturer's guidelines.
 10. *Pad requirements.* Shall be a flexible surface with a minimum of five (5) inch thick gravel, stone or compacted surface, treated to discourage plant growth, constructed to discharge water and edged to prohibit fraying or spreading of surfacing materials; or shall be of a hard surface of a minimum of two (2) eighteen (18) inch wide concrete ribbons or slabs capable of carrying the weight and of sufficient length to support all blocking points of the manufactured home.

G. *Application Requirements.*

1. An applicant for "MP" Manufactured Home Park District shall prepare or cause to be prepared a preliminary manufactured home park plan drawn to a scale of not less than one (1) inch equals one hundred (100) feet and three (3) copies of said plan shall be submitted to the Planning and Zoning Commission for its review and recommendations. Said plan shall be designed in accordance with the minimum design standards herein and shall include the following:
 - a. Contours shown at one (1) foot intervals.
 - b. Elevation drawings of all permanent buildings proposed.
2. Upon approval of the preliminary manufactured home park plan by the Planning and Zoning Commission, the applicant shall prepare and submit a final plan that shall incorporate any changes or alterations requested. The final plan and the Planning and Zoning Commission recommendation shall be forwarded to the Board of Aldermen for their review and final action.
3. Any substantial deviation from the approved plan, as determined by the Zoning Administrator, shall constitute a violation of these regulations. Changes in plans shall be resubmitted for reconsideration and approval by the Planning and Zoning Commission and Board of Aldermen prior to the occupancy of the manufactured home park.
4. Construction of an approved manufactured home park shall begin only after the use permit has been granted by the Board of Aldermen. (Ord. No. 2.56 §2(Art. 4), 1-9-01)

SECTION 405.170: "B-1" MIXED USE DISTRICT

- A. *Intent.* The intent of this district is to permit a mix of office and light industrial uses that are not obnoxious due to appearance, noise, emissions or odor and do not generate large volumes of vehicular traffic, as well as limited retail commercial uses that support or complement the office and light industrial activities. Uses within this district shall not require intensive land coverage and shall be compatibly developed with adjacent districts through site plan review.
- B. *Permitted Uses.* Generally, light manufacturing, wholesaling, trucking and warehousing uses as well as office uses are permitted. In addition, limited retail and service uses are permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.*
 1. *Minimum lot area.* Subject to site plan review.
 2. *Minimum lot width.* Thirty (30) feet, fronting upon a public street.
 3. *Lot coverage.* Area occupied by building shall not exceed forty percent (40%) of the ground area on which the building is located.

- E. *Height Regulations.* Maximum height of structure, thirty-five (35) feet if within one hundred fifty (150) feet of a residential zone; seventy-five (75) feet if more than one hundred fifty (150) feet from residential zone.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
1. *Front yard.* Twenty-five (25) feet.
 2. *Side yard.* Twenty (20) feet and no less than forty (40) feet when abutting a street or residential district.
 3. *Rear yard.* Twenty-five (25) feet or twenty percent (20%) of depth, whichever is smaller, unless said rear yard abuts a residential zoning district in which case the minimum rear yard setback shall not be less than forty (40) feet.
- G. *Loading And Unloading Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Parking Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- I. *Sign Regulations.* See Article VIII, Sign Regulations.
- J. *Use Limitations.*
1. The development of each "B-1" District shall provide screening and buffering improvements to minimize impacts of unlike land uses on one another.
 2. For single-lot developments, a site plan must be submitted that indicates how the development accommodates and relates to adjacent development.
 3. All storage of materials, products or equipment, except those related to or used for agricultural research, testing and/or analysis purposes, shall be within a fully enclosed building or in an open yard so screened that the materials stored are not clearly visible within one thousand (1,000) feet of the property line. Where topographic conditions make effective screening impractical, the Planning and Zoning Commission may make variances as they deem advisable.
 4. A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy percent (70%) per square foot shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "B-1" District.
 5. No structure shall be used for residential purposes except that a watchman may reside on the premises.
 6. All operations shall be conducted within a fully enclosed building.
 7. Industrial wastes shall be of such a quantity and nature as to not overburden the public sewage disposal facilities as to cause odor and unsanitary effects beyond the property line.
 8. A private street network shall be allowed where comprehensive control of a large industrial site

is required for safety or security reasons and where no unsecured access to the site is afforded the public.

- K. *Site Plan Review.* Development in the "B-1" District shall be subject to the requirements and procedures in Article X, Site Plan Review. (Ord. No. 2.56 §2(Art. 4), 1-9-01; Ord. No. 2.133 §1, 2-26-08)

SECTION 405.180: "B-2" CENTRAL BUSINESS DISTRICT

- A. *Intent.* The intent of this district is to provide a zone which will accommodate the broad range of retail shopping activities and service and office uses that are normally found in the core area of the City. The grouping is intended to strengthen the business level of the central business activity.
- B. *Permitted Uses.* Generally, commercial retail and services, offices and similar uses are permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.*
1. *Minimum lot area.* None.
 2. *Minimum lot width.* None.
 3. *Lot coverage.* None.
- E. *Height Regulations.* Maximum structure height, fifty (50) feet.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
1. *Front yard.* The front yard setback shall be the average front yard setback distance of existing buildings within the same block, otherwise none.
 2. *Side yard.* Ten (10) feet when adjacent to a residential district, otherwise none.
 3. *Rear yard.* None.
- G. *Loading And Unloading Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Parking Regulations.* No off-street parking or loading space shall be required.
- I. *Sign Regulations.* See Article VIII, Sign Regulations.
- J. *Use Limitations.*
1. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
 2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

3. No off-street parking is required; however, if off-street parking is provided, said off-street parking area shall not be located in front of the building which is served by the off-street parking area.
 4. No business establishment shall offer or sell food or beverages where consumption is primarily intended to occur in parked motor vehicles.
 5. A solid or semi-solid fence, hedge or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy percent (70%) per square foot shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the commercial development are separated by a street or alley right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "B-2" District.
 6. Any tavern, restaurant, club, business or similar use serving alcoholic or cereal malt beverages shall not be located within one hundred (100) feet of property used as a public park, church or school.
- K. *Site Plan Review.* Development in the "B-2" District shall be subject to the requirements and procedures in Article X, Site Plan Review. (Ord. No. 2.56 §2(Art. 4), 1-9-01)

SECTION 405.190: "B-3" GENERAL COMMERCIAL DISTRICT

- A. *Intent.* The "B-3" General Commercial District is intended for the purpose of allowing basic retail, service and office uses in addition to those normally permitted in neighborhood centers. This district is also intended to provide locations for commercial activities that do not require a central location downtown. Business uses needing large floor areas, particularly those of a service nature, not compatible with Central Business District uses, are included in this district.
- B. *Permitted Uses.* Generally, automobile and implement sales, lumberyards, contractors' yards, offices, neighborhood retailing and similar uses are permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.*
1. *Minimum lot area.* None.
 2. *Minimum lot width.* Thirty (30) feet, fronting upon a public street.
 3. *Lot coverage.* None.
- E. *Height Regulations.* Maximum height of structure, thirty-five (35) feet.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
1. *Front yard.* Thirty (30) feet.

2. *Side yard.* Five (5) feet when abutting a residential district, otherwise none.
 3. *Rear yard.* Fifteen (15) feet when abutting a residential district, otherwise none.
- G. *Loading And Unloading Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Parking Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- I. *Sign Regulations.* See Article VIII, Sign Regulations.
- J. *Use Limitations.*
1. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
 2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
 3. A solid or semi-solid fence, hedge or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy percent (70%) per square foot shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the commercial development are separated by a street or alley right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "B-3" District.
 4. Any tavern, restaurant, club, business or similar use serving alcoholic or cereal malt beverages shall not be located within one hundred (100) feet of property used as a public park, church or school.
- K. *Site Plan Review.* Development in the "B-3" District shall be subject to the requirements and procedures in Article X, Site Plan Review. (Ord. No. 2.56 §2(Art. 4), 1-9-01; Ord. No. 2.133 §2, 2-26-08)

SECTION 405.200: "M-1" LIGHT INDUSTRIAL DISTRICT

- A. *Intent.* The "M-1" Light Industrial District is intended for the purpose of allowing low-intensity industries which are generally compatible with residential, office and/or commercial activity. Certain intense uses will require conditional use permits to locate in this district.
- B. *Permitted Uses.* Generally, assembly, warehousing, light manufacturing, wholesaling, support trucking and related uses with limited retail and service uses permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations.*
1. *Minimum lot area.* Subject to site plan review.
 2. *Minimum lot width.* Thirty (30) feet, fronting upon a public street.

3. *Lot coverage.* Area occupied by building shall not exceed forty percent (40%) of the ground area on which the building is located.
- E. *Height Regulations.* Maximum height of structure, forty-five (45) feet if within one hundred fifty (150) feet of residential district; one hundred fifty (150) feet if more than one hundred fifty (150) feet from a residential district.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
 1. *Front yard.* Twenty-five (25) feet.
 2. *Side yard.* Ten (10) feet and no less than forty (40) feet when abutting a street or residential district.
 3. *Rear yard.* Twenty-five (25) feet or twenty percent (20%) of depth, whichever is smaller, unless said rear yard abuts a residential zoning district in which case the minimum rear yard setback shall not be less than forty (40) feet.
- G. *Loading And Unloading Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Parking Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- I. *Sign Regulations.* See Article VIII, Sign Regulations.
- J. *Use Limitations.*
 1. All storage of materials, products or equipment, except those related to or used for agricultural research, testing and/or analysis purposes, shall be within a fully enclosed building or in an open yard so screened that the materials stored are not clearly visible within one thousand (1,000) feet of the property line. Where topographic conditions make effective screening impractical, the Commission may make variances as they deem advisable.
 2. A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy percent (70%) per square foot shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "M-1" District.
 3. No structure shall be used for residential purposes except that a watchman may reside on the premises.
- K. *Site Plan Review.* Development in the "M-1" District shall be subject to the requirements and procedures in Article X, Site Plan Review. (Ord. No. 2.56 §2(Art. 4), 1-9-01; Ord. No. 2.133 §3, 2-26-08)

SECTION 405.210: "M-2" HEAVY INDUSTRIAL DISTRICT

- A. *Intent.* The "M-2" Heavy Industrial District is intended for the purpose of allowing basic or primary industries which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district.

- B. *Permitted Uses.* Generally, manufacturing, wholesaling, trucking and warehousing uses with limited retail and service uses permitted. For a general listing of permitted and conditionally permitted uses, see Article VI of these regulations. The permitted uses will be determined based on compatibility with other uses permitted in the district and with uses listed in Article VI.
- C. *Conditional Uses.* For a specific listing of conditional uses, see Article VI.
- D. *Intensity Of Use Regulations*
1. *Minimum lot area.* Subject to site plan review.
 2. *Minimum lot width.* Thirty (30) feet, fronting upon a public street.
 3. *Lot coverage.* Area occupied by building shall not exceed forty percent (40%) of the ground area on which the building is located.
- E. *Height Regulations.* Maximum height of structure, forty-five (45) feet if within one hundred fifty (150) feet of residential district; one hundred fifty (150) feet if more than one hundred fifty (150) feet from a residential district.
- F. *Yard Regulations.* Except as modified by the provisions of Article III, minimum yard depths shall be as follows:
1. *Front yard.* Twenty-five (25) feet.
 2. *Side yard.* Twenty (20) feet and no less than forty (40) feet when abutting a street or residential district.
 3. *Rear yard.* Twenty-five (25) feet or twenty percent (20%) of depth, whichever is smaller, unless said rear yard abuts a residential zoning district in which case the minimum rear yard setback shall not be less than forty (40) feet.
- G. *Loading And Unloading Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- H. *Parking Regulations.* See Article IV, Off-Street Parking and Loading Regulations.
- I. *Sign Regulations.* See Article VIII, Sign Regulations.
- J. *Use Limitations.*
1. All storage of materials, products or equipment, except those related to or used for agricultural research, testing and/or analysis purposes, shall be within a fully enclosed building or in an open yard so screened that the materials stored are not clearly visible within one thousand (1,000) feet of the property line. Where topographic conditions make effective screening impractical, the Commission may make variances as they deem advisable.
 2. A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy percent (70%) per square foot shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "M-2" District.

3. No structure shall be used for residential purposes except that a watchman may reside on the premises.
 4. *Facilities used for agricultural research, testing and/or analysis.* In agriculture-related research facilities, the following use limitations shall apply:
 - a. Operations required to be conducted outside a fully enclosed building shall be conducted in controlled outdoor areas.
 - b. A private street network shall be allowed where comprehensive control of a large industrial site is required for safety or security reasons and where no unsecured access to the site is afforded the public.
 - c. Private roadways for certain agricultural related research and development activities may be improved with an all-weather surface other than asphaltic concrete such as gravel or stone. They shall be designed to permit surface drainage without erosion of adjacent land.
- K. *Site Plan Review.* Development in the "M-2" District shall be subject to the requirements and procedures in Article X, Site Plan Review. (Ord. No. 2.56 §2(Art. 4), 1-9-01; Ord. No. 2.133 §4, 2-26-08)

SECTION 405.220: "PD" PLANNED DEVELOPMENT DISTRICT

- A. *Purpose.* The purpose of this district is to provide for elements of flexibility in design, placement, arrangement, bulk and other considerations involved in planned districts; to provide a framework within which the structures and uses in the planned district may be interrelated with adjacent development and areas; and to maintain the desired overall intensity of land use, desired population densities and desired areas of open space. The use of planned zoning procedures is intended to encourage large-scale developments, efficient development of small tracts, innovative and imaginative site planning and conservation of resources.
- B. *Use Of The "PD" District.* With the exception of standard single-family and two-family residential subdivisions, zoning proposals which are intended to be subdivided into multiple lots should seek the "PD" zoning district classification. Planned developments are groupings of structures or sites that are planned as an integrated unit or cluster on property under unified control at the time of zoning. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with the development standards and other conditions that were committed to at the time of the rezoning. The Planned Development District must always be used in conjunction with one (1) of the other zoning districts, known as the "underlying district". The requirements of the "PD" District shall be in addition to the requirements of the underlying district, except that the "PD" District may modify some of the regulations of the underlying district in specific situations. A "PD" District may be used in conjunction with any of the other zoning districts or with any combination of districts.

An application for rezoning to the "PD" District shall include a preliminary development plan and may include a concurrent request to change the underlying zoning classification. If the rezoning is approved, the new district shall include the designation of the underlying district followed by "PD". For example, a Planned Development District of a "R-1" District shall be known as "R-1-PD".

Approval of the rezoning based on the preliminary development plan shall allow the applicant to submit a final development plan for approval. No structure or occupancy permit shall be issued until a final development plan has been approved. The use of the "PD" District shall be separate from

the subdivision regulations of the City and the development plans required by the "PD" District shall not be construed as plats. It is recommended that the subdivision process follow the rezoning/preliminary plan approval but precede the approval of the final development plan. Resubdivision may be a prerequisite to approval of the final development plan.

- C. *Use Regulations.* Any use permitted in the underlying zone may be permitted. The uses permitted may be voluntarily restricted by the applicant or restricted as a condition of approval by the Planning and Zoning Commission.
- D. *Height Regulations.* The height regulations provided for the underlying zoning district shall be required, provided that the allowed height may be increased by one (1) floor or fifteen (15) feet upon a showing that the proposed structure is consistent in scale and bulk to the character of the community and the increase in density as a result of the increase in height does not create an adverse effect on the value or utility of adjacent property.
- E. *Yard Regulations.* The yard regulations provided for the underlying zoning district shall be required, provided that the yard regulations may be reduced upon a showing of sufficient open space accessible to occupants, a separation between structures for fire-fighting purposes, and that there is consistency with the visual character of the community.
- F. *Use Regulations.*
 - 1. The proposed development shall provide access to the major street system in such a way that the traffic generated by the development will not cause an unreasonably hazardous condition nor inconvenience in the area.
 - 2. Structures and traffic shall be arranged so that all principal structures are accessible to emergency vehicles.
 - 3. Parking shall be provided in a manner that reduces to a minimum its adverse physical impact in the area. Screening parking areas with landscaping or walls, breaking parking areas into smaller units by introducing landscaped areas or other physical separators are suggested approaches. The parking areas should be appropriately spaced to serve those units they represent.
 - 4. The availability of services and location of public utilities shall have the approval of each agency involved. Evidence to this effect shall be presented with the preliminary development plans.
 - 5. Approval of the final development plan may be conditioned by the Board of Aldermen to minimize any negative impact on the community.
- G. *Application For Rezoning.* A petition to change to a "PD" Planned District shall be filed with the City, along with the filing fee as set forth by separate ordinance. A preliminary development plan shall be attached and shall include the elements set forth in these regulations. The process for approval shall be the same as for any rezoning as provided by these regulations.
- H. *Approval Procedure.* The approval by the Board of Aldermen of the preliminary development plan and the concurrent rezoning to the "PD" District shall be preceded by the publication and mailing of notice, a public hearing and a recommendation by the Planning and Zoning Commission. If the Board of Aldermen disagrees with the recommendation, the application shall be returned to the Planning and Zoning Commission for reconsideration. Approval of the preliminary development

plan shall be valid for two (2) years from the date of its approval. The filing and approval of a final development plan for any phase of the area contained in the preliminary plan shall extend the period of validity an additional two (2) years. Once approved, the zoning classification can only be changed through rezoning and cannot be changed by expiration of the preliminary development plan.

- I. *Preliminary Development Plan.* The preliminary development plan shall be prepared at a scale dimension of not more than one (1) inch equals one hundred (100) feet and shall include:
1. Boundaries of the project with dimensions to scale;
 2. Contour intervals of two (2) feet;
 3. Proposed size, height, location and arrangement of structures, parking areas with proposed arrangement of stalls and number of cars, entrance and exit driveways and their relationship to existing and/or proposed streets;
 4. Preliminary drainage plan in sufficient detail to show direction of flow, stormwater detention facilities, if needed, and major drainage structures;
 5. General landscape plan to include location and height of all walls, fences, signs and screen plantings;
 6. Note provision for dedication of new or additional rights-of-way, if needed; such to be dedicated to the City prior to approval of a final development plan;
 7. Phases of final development;
 8. Name and address of owner, applicant and engineering firm which prepared the plan;
 9. Seal of engineering firm licensed in the State of Missouri developing the plan, scale, north point and date of plan;
 10. A description of any limitations to be placed on the range of permitted uses, the hours of operation, the structure materials to be used or other similar factors; and
 11. Ten (10) copies shall be submitted.
- J. *Final Development Plan.* The final development plan shall be prepared in the same manner and include the same type of information as the preliminary development plan (updated to show final sizes, dimensions and arrangement) with the following additions:
1. Contour lines shall show finished grading only;
 2. The landscaping plan shall show the size and type of each tree, shrub and ground cover; and
 3. Drawings showing the size, appearance and method of illumination for each sign.

The final development plan shall substantially conform to the approved preliminary plan, shall be in final form for the issuance of a building permit, shall have been previously reviewed by the appropriate City staff and shall include a construction schedule. A final approval by the Board of Aldermen shall authorize construction to begin according to the construction schedule providing all appropriate permits have been received. Construction of at least the first (1st) stage of development

shall begin within three (3) years from the date the ordinance of the zoning change was published in the newspaper. If construction does not begin within this period and no effort is made for an extension of time by the owner, the final development plan shall be voided.

- K. *Building Permits.* On final approval by the Board of Aldermen, the owner shall provide five (5) copies of the approved final development plan to the City. The Zoning Administrator or his/her designee shall issue building permits only in accordance with the approved final development plan.
- L. *Amendments.* If any substantial variation or rearrangement of structures, parking area and drives, entrances, heights or open spaces is requested by the applicant, the applicant shall proceed by following the same procedure previously followed and outlined in the preliminary development plan.
- M. *Open Space.* The Planning and Zoning Commission may require the provision of open space to buffer dissimilar uses; to protect environmentally sensitive areas; or to counterbalance any reduction in lot area, yard size or bulk limitations.
1. *Open space requirements.* If the Planning and Zoning Commission requires open space, the City and the applicant shall enter into an agreement providing for the establishment of an agency to maintain the open space. Such agreement shall include provision for default, cure by the City and enforcement.
 2. *Disposition of open space.* The agency established in the paragraph (1) above shall not be dissolved or permitted to otherwise dispose of any open space by sale or otherwise without first offering to dedicate the same to the City.

The development plan process shall be required prior to any rezoning or issuance of a building permit for other than a single-family dwelling.

- N. *Time Limit.* A site plan approval for a "PD" District shall expire automatically unless a building permit is taken within twelve (12) months after the approved date for commencement to effectuate such site plan. (Ord. No. 2.56 §2(Art. 4), 1-9-01; Ord. No. 2.80 §1(2), 2-25-03)

ARTICLE III. SUPPLEMENTARY DISTRICT REGULATIONS

SECTION 405.230: HEIGHT REGULATIONS

Chimneys, cooling towers, elevator head houses, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers ornamental towers, spires, church steeples and necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the district regulations. In all planned districts, one (1) additional foot of height above the specified height limitation shall be permitted for each foot of additional yard provided over the minimum requirement on all sides of the lot. (Ord. No. 2.56 §2(Art. 6 §1), 1-9-01)

SECTION 405.240: YARD REGULATIONS

- A. *Minimum Yard Requirements.* The yard requirements heretofore established in all districts shall be adjusted in the following cases:

1. Where the property fronts on two (2) intersecting streets (a corner lot), such lot shall maintain a front yard setback on both streets, except in the following cases:
 - a. Where no lots within the same block front on one (1) of the two (2) intersecting streets, the side yard requirement along such street shall be fifteen (15) feet, subject to the provisions of paragraph (1) above.
 2. Double frontage lots shall maintain the required front yard setback along both frontages.
- B. Where fifty percent (50%) or more of the frontage of one (1) side of a street between two (2) intersecting streets is developed with buildings that have observed a front yard greater than required, then:
1. Where a building to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of adjacent buildings on the two (2) sides; or
 2. Where a building to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one (1) side only, such building may be erected as close to the street as the existing adjacent building. (Ord. No. 2.56 §2(Art. 6 §2), 1-9-01)

SECTION 405.245: DEVELOPMENT STANDARDS FOR NON-RESIDENTIAL LAND USE IN "R" AND "MP" DISTRICTS

- A. Allow types of land uses as currently listed in the Code Section 405.440, Land Use Table.
- B. Specific use standards to be followed as they exist in the Land Use Standards Code Section 405.450.
- C. Planning and Zoning Commission to perform a site plan review in accordance with Code Section 405.710.
- D. Building frontage setbacks to be determined by existing buildings on adjoining lots, sight triangle at intersecting streets (corner lots) or other pertinent criteria during Commission site plan review.
- E. Side and rear yard setbacks to be determined during site plan review based on required off-street parking, building separation by Building Code (fire separation), building height and sight triangle limitations (corner lots).
- F. Building height limitation to be kept at prescribed thirty-five (35) feet from grade or maximum seventy-five (75) feet if located at least one hundred (100) feet from adjoining residentially zoned, vacant or improved lot or parcel.
- G. Total lot coverage to be limited by off-street parking requirement spaces and any other area limitation requirements in the applicable Code Sections. (Ord. No. 2.132 §1, 12-11-07)

SECTION 405.250: NUMBER OF STRUCTURES AND USES ON A ZONING LOT

Only one (1) principal structure and use may be located on a lot in an "A-R", "R-1", "R-2" or "MP" Zoning District. In all other districts, a single principal structure and use or unit group of principal

structures and uses may be located on a lot subject to Article VI "Use Regulations" and the restrictions of the zoning district in which they are located. See definition of "Lot" in Section 405.050 of this Chapter. (Ord. No. 2.56 §2(Art. 6 §3), 1-9-01)

SECTION 405.260: SIGHT TRIANGLE

On a corner lot in any district, except "B-2", development shall conform to the requirements of the sight triangle as defined by this regulation. See Section 405.050, Rules and Definitions. (Ord. No. 2.56 §2(Art. 6 §4), 1-9-01; Ord. No. 2.77 §1(8), 2-11-03)

SECTION 405.270: ACCESS TO BUSINESS AND INDUSTRIAL DISTRICTS

No land that is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any commercial or industrial district. (Ord. No. 2.56 §2(Art. 6 §5), 1-9-01)

SECTION 405.280: DETERMINATION OF STRUCTURE SETBACK LINE

The structure setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure; except that certain architectural projections listed below may extend beyond the structure setback line, subject to the following conditions:

1. *Projections* shall be defined as any structural or non-structural portion or appendage attached to the main structure which by design protrudes outward beyond the structure floor, wall, roof or foundation line. Projections include, but are not limited to:
 - a. Roof eaves,
 - b. Cornices,
 - c. Porches,
 - d. Stairs,
 - e. Bay and egress windows,
 - f. Dormers,
 - g. Combustible or non-combustible ornamentation,
 - h. Soffits,
 - i. Balconies.
2. *Exception for canopies and awnings.* A canopy or awning may be permitted to overhang a public way in any business zoning or industrial zoning district providing:

- a. No portion of the canopy or awning shall be less than eight (8) feet above the level of the sidewalk or other public way.
 - b. The canopy or awning may extend the full width of the building facade to which it is attached and, further, it shall not extend beyond a point two (2) feet inside the curb line of a public street.
3. *Supplementary district information.* No buildings or structures of any kind, with the exception of property line dividers and parking lots and necessary driveways for ingress and egress and signs designating entrance or exit thereto, shall be erected along the Business Loop I-44 in the City limits of Mount Vernon, Missouri, as it now exists or as may later exist, within a distance of one hundred (100) feet on either side of the existing centerline of said Business Loop I-44. (Ord. No. 2.56 §2(Art. 6 §6), 1-9-01; Ord. No. 2.64 §1, 10-9-01)

SECTION 405.290: FENCES

Except as otherwise specifically provided in other Codes and regulations, the following regulations shall apply to the construction of fences:

1. No fence shall be constructed which will constitute a traffic hazard.
2. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals and shall be of a durable material.
3. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which shall adversely affect the public health, safety and welfare.

4. No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than four (4) feet in the front yard or six (6) feet elsewhere; provided however, that the Planning and Zoning Commission may, as a conditional use, authorize the construction of a fence up to eight (8) feet in height if the Planning and Zoning Commission finds the public welfare is served. Fences within the front yard shall be fifty percent (50%) or more transparent.
5. Fences that include barbed wire or electrification shall require a special use permit. (Ord. No. 2.56 §2(Art. 6 §7), 1-9-01; Ord. No. 2.77 §1(9), 2-11-03)

ARTICLE IV. OFF-STREET PARKING AND LOADING REGULATIONS

SECTION 405.300: INTENT AND PURPOSE

It is the intent and purpose of this Article to establish minimum requirements as to number of spaces, design and construction for off-street parking and loading areas. (Ord. No. 2.56 §2(Art. 7 §1), 1-9-01)

SECTION 405.310: APPLICABILITY

Off-street parking and loading space, as required in this Article, shall be provided for all new structures and for alterations and additions to existing structures. Off-street parking and loading space shall be required for any existing structure or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats. Existing parking area previously required shall not be used to satisfy required off-street parking for any new structures, alterations or additions to existing structures or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this Article; except that no off-street parking or loading space shall be required for any use located in the "B-2" Central Business District. (Ord. No. 2.56 §2(Art. 7 §2), 1-9-01)

SECTION 405.320: OFF-STREET PARKING GENERAL PROVISIONS

- A. *Utilization.* Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such uses.
- B. *Setbacks.* Off-street parking spaces and drives may encroach into required setback areas; except that in no instance shall off-street parking be allowed in the front of commercial structures in the "B-2" District.
- C. *Accessory Use.* Off-street parking and driveways shall be considered as an accessory use of the use for which the parking is provided. Parking not located on the same tract on which the main use is located must be located within the zoning district in which parking or storage lots are permitted as a main use or be located in accordance with the provisions of this Article relating to off-street parking exceptions.
- D. *Repair Service.* No motor vehicle repair work or service of any kind shall be permitted in

association with any off-street parking facilities.

- E. *Computation.* When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of fifty percent (50%) or less may be disregarded.
- F. *Mixed Uses.* When a structure or development contains mixed uses, the off-street parking requirements shall be calculated for each individual use and the total parking requirement shall be the sum of individual parking requirements. (Ord. No. 2.56 §2(Art. 7 §3), 1-9-01)

SECTION 405.330: OFF-STREET PARKING LAYOUT AND DESIGN REQUIREMENTS

- A. Off-street parking improvement in other than "R-1" and "R-2" Districts shall be subject to site plan review. The construction and renovation of certain structures and facilities must conform to the provisions of the Americans with Disabilities Act (ADA) Title III of 1990. Structure plans for construction, alteration or remodeling permits must identify how compliance with the ADA parking and other site requirements are to be met. Permits for new construction must comply with the entire Title III of the Act as it relates to the structure and site.
- B. The Zoning Administrator will provide information upon request to assist the public in interpreting the requirements of the ADA which generally provide for at least one (1) accessible route within the boundary of the site from a parking space or street to an accessible structure entrance. Accessible spaces and access aisles are required, as well, among other detailed provisions.
- C. In addition to ADA requirements, the following standards apply:
 - 1. *Area.* A required off-street parking space shall be at least eight (8) feet six (6) inches in width and at least nineteen (19) feet in length, exclusive of access drives or aisles, ramps and columns.
 - 2. *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
 - 3. *Design.* Off-street parking spaces shall comply with the design standards relating to curb length, stall depth, driveway width, island width, barriers and ingress and egress.
 - 4. *Surfacing.* All open off-street parking, loading areas and driveways shall be graded and improved with an all-weather material such as gravel, chip and seal, asphalt or concrete.
 - 5. *Lighting.* Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with adjacent residential uses.
 - 6. *Landscaping and screening.* All off-street parking facilities in other than residential districts shall be screened and landscaped as required in site plan review and Article VIII.
 - 7. *Location of parking facilities.* Off-street parking facilities shall be located as hereinafter specified. Where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking facility to the entrance of the building which it is required to serve:

- a. *For one- and two-family dwellings.* On the same lot as the principal structure.
- b. *For multi-family dwellings.* Not more than two hundred (200) feet from the premises they are required to serve.
- c. *For commercial and institutional uses (and for hospitals, sanitariums, asylums, orphanages, rooming houses, club rooms, fraternity and sorority houses).* Not more than three hundred (300) feet from the building they are required to serve. (Ord. No. 2.56 §2(Art. 7 §4), 1-9-01; Ord. No. 2.77 §1(10), 2-11-03)

SECTION 405.340: OFF-STREET PARKING REQUIRED SPACES

A. Dwelling And Lodging Uses.

1. *Boarding or rooming houses.* One (1) parking space per each two (2) sleeping rooms.
2. *Dormitories, fraternities or sororities.* Two (2) parking spaces for each three (3) occupants based on the maximum design capacity of the structure.
3. *Hotels and motels.* One (1) space per each rental unit plus one (1) space per each two (2) employees in the largest working shift and such spaces as are required for restaurants, assembly rooms and other affiliated facilities provided.
4. *Manufactured home parks.* Two (2) parking spaces per each manufactured home.
5. *Nursing homes, rest homes, etc.* One (1) parking space per each five (5) beds based on the designed maximum capacity of the structure plus one (1) parking space for each employee.
6. *Single-family.* Two (2) spaces per dwelling unit.
7. *Two-family and multi-family.* Two (2) spaces per dwelling unit. Two-family and multi-family dwelling units designed specifically for the elderly, one (1) space per two (2) dwelling units.
8. *Bed and breakfasts.* Two (2) off-street parking spaces with one (1) additional off-street parking space per lodging room.

B. Business, Commercial And Industrial Uses.

1. *Automobile, truck, recreational vehicle and manufactured home sales and rental lots.* One (1) parking space for each three thousand (3,000) square feet of open sales lot area devoted to the sale, display and rental of said vehicles plus one (1) parking space for each employee.
2. *Automobile salvage yards:* One (1) parking space for each employee plus one (1) parking space for each ten thousand (10,000) square feet of storage area.

C. Financial, Business And Professional Offices. One (1) parking space for each three hundred (300) square feet of gross floor area.

D. Bowling Alleys. Four (4) parking spaces for each lane.

1. *Cartage, express, parcel delivery and freight terminal establishments.* One (1) parking space

for each two (2) employees in the largest working shift in a twenty-four (24) hour period plus one (1) parking space for each vehicle maintained on the premises.

2. *Automobile wash.* Three (3) holding spaces for each car washing stall plus two (2) drying spaces for each car washing stall.
3. *Funeral homes and mortuaries.* One (1) parking space for each four (4) seats based upon the designed maximum capacity of the parlor plus one (1) additional parking space for each employee and each vehicle maintained on the premises.
4. *Furniture and appliance stores, household equipment or furniture repair shop.* One (1) parking space for each four hundred (400) square feet of floor area.
5. *Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing or repairing of goods, materials or products.* One (1) parking space per three (3) employees based upon the largest working shift in any twenty-four (24) hour time period.
6. *Medical and dental clinics or offices.* One (1) parking space for each two hundred (200) square feet of gross floor area.
7. *Restaurants, private clubs and taverns.* One (1) parking space for each two and one-half (2½) seats based on the maximum designed seating capacity; provided however, that drive-in restaurants shall have a minimum of at least ten (10) parking spaces.
8. *Retail stores and shops.* One (1) parking space per two hundred (200) square feet of floor area.
9. *Service stations.* One (1) parking space for each employee plus two (2) spaces for each service bay.
10. *Theaters, auditoriums and places of assembly with fixed seats.* One (1) parking space for each three and one-half (3.5) seats.
11. *Theaters, auditoriums and places of assembly without fixed seats.* One (1) parking space for each four (4) people based upon the computed occupant load of the structure or the assembly area.
12. *Warehouse, storage and wholesale establishments.* One (1) parking space for each two (2) employees based upon the largest working shift in any twenty-four (24) hour period.
13. *All other business and commercial establishments not specified above.* One (1) parking space for each three hundred (300) square feet of floor area.

E. *Other Uses.*

1. *Churches.* One (1) parking space for each six (6) seats based upon the maximum designed seating capacity, including choir lofts.
2. *Elementary, junior high and equivalent parochial and private schools.* Two (2) parking spaces for each classroom.
3. *High schools, colleges, universities and other similar public or private institutions of higher*

learning. Eight (8) parking spaces for each classroom plus one (1) space for each two (2) employees.

4. *Hospitals.* One (1) parking space for every four (4) beds plus one (1) parking space for each resident or staff doctor plus one (1) space for each two (2) employees based on the largest working shift in any twenty-four (24) hour period.
5. *Laundromats.* One (1) parking space for each two (2) washing machines.
6. *Nursery schools and day care centers, public or private.* One (1) parking space for each employee plus one (1) parking space for each eight (8) children. In addition, adequate space and traffic flow pattern shall be provided for the dropoff and pickup of children.
7. *Fraternal associations and union headquarters.* One (1) parking space for each three (3) seats based upon the design maximum seating capacity.
8. *Swimming pools and clubs.* One (1) parking space for each fifty (50) square feet of water area.
9. *Trade and commercial schools.* One (1) parking space for each three (3) students and employees. (Ord. No. 2.56 §2(Art. 7 §5), 1-9-01; Ord. No. 2.149 §3, 4-24-12)

SECTION 405.350: CONDITIONAL USES

- A. *District Permitted.* In order to provide off-street parking areas, the Planning and Zoning Commission may, after public notice and hearing, grant as a conditional use the establishment of parking areas in any zoning district under the provisions further set forth in this Section.
- B. *Location.* Parking provided under this Section must be within three hundred (300) feet (along lines of public access) from the boundary of the use for which the parking is provided.
- C. *Use.* The parking area shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted. (Ord. No. 2.56 §2(Art. 7 §6), 1-9-01)

SECTION 405.360: LOADING AND UNLOADING REGULATIONS

- A. Loading and unloading space shall be provided off-street and on the same premises with every structure or part thereof hereafter erected, established or enlarged and occupied for goods display, retail operation, department store, market, hotel, mortuary, laundry, dry cleaning, office uses or warehouses, manufacturing or other uses involving the receipt or distribution of materials or merchandise by motor vehicles. The loading and unloading space or spaces shall be so located to avoid undue interference with public use of streets, alleys and walkways.
- B. *Spaces Required.*
 1. For all uses in the "B-3" General Commercial District, loading facilities shall be provided in accordance with the following table:

| Gross Floor Area of Establishments | Required Number of Loading Berths | Required Size of Loading Berths |
|------------------------------------|-----------------------------------|---------------------------------|
| 1,000–10,000 square feet | 1 | 10' x 25' |
| 10,000–25,000 square feet | 2 | 10' x 25' each |
| 25,000–40,000 square feet | 2 | 10' x 70' each |
| 40,000–100,000 square feet | 3 | 10' x 70' each |

2. For all uses in the "B-1", "M-1" and "M-2" Districts, loading facilities shall be provided in accordance with the following table:

| Gross Floor Area of Establishments | Required Number of Loading Berths | Required Size of Loading Berths |
|------------------------------------|-----------------------------------|---------------------------------|
| 1,000–10,000 square feet | 1 | 10' x 25' |
| 10,000–40,000 square feet | 1 | 10' x 70' |
| 40,000–100,000 square feet | 2 | 10' x 70' each |

3. For each additional one hundred thousand (100,000) square feet of gross floor area or any fraction thereof over one hundred thousand (100,000) square feet of gross floor area, one (1) additional berth shall be provided. Each such additional berth shall be at least ten (10) feet in width by seventy (70) feet in length. (Ord. No. 2.56 §2(Art. 7 §7), 1-9-01; Ord. No. 2.77 §1(11), 2-11-03)

ARTICLE V. LANDSCAPING, SCREENING AND BUFFERING REGULATIONS

SECTION 405.370: INTENT AND PURPOSE

It is the intent and purpose of this Article to establish minimum landscaping and buffering requirements for new development within the City of Mount Vernon. Two (2) types of landscaping/buffering are described in this Article: transition buffers and dumpster screening. (Ord. No. 2.56 §2(Art. 8 §1), 1-9-01)

SECTION 405.380: APPLICABILITY

Landscaping, screening and buffering, as required in this Article, shall be provided for all new development, except that specifically exempted in Section 405.390 of this Article. (Ord. No. 2.56 §2(Art. 8 §2), 1-9-01)

SECTION 405.390: EXEMPTIONS

Improvements or repairs to existing development that do not result in an increase in floor area and changes in use that do not result in an increase in intensity shall be exempt from the regulations of this Article. (Ord. No. 2.56 §2(Art. 8 §3), 1-9-01)

SECTION 405.400: TRANSITION BUFFER GENERAL PROVISIONS

- A. *Location Of Buffers.* Transition buffers shall be located along those portions of a site that are along those portions of adjoining lots with a different zoning classification.
- B. *Responsibility For Installing Buffers.* The developing property shall always be responsible for providing required buffers. (Ord. No. 2.56 §2(Art. 8 §4), 1-9-01)

SECTION 405.410: TRANSITION BUFFER SPECIFICATIONS

- A. When a transition buffer is required by this Code, such transition buffer shall consist of a planting screen meeting the specifications herein. A landscaped berm or a fence screen meeting the specifications herein may be used in lieu of such planting screen if a variance for such substitution is granted by the Zoning Board of Adjustment.
- B. *Planting Screens.* Planting screens shall consist of trees, bushes or shrubs of a variety and so planted and kept as to be achieved within thirty-six (36) months after occupancy of the premises to be screened.
1. Such screen shall have a minimum height of six (6) feet above grade at any particular point along its length.
 2. Any two (2) foot square segment of a planting screen shall contain no more than thirty percent (30%) open space affording a direct horizontal view through such screen if such segment is over two (2) feet above grade.
- C. *Landscaped Berm.* Adequate evidence shall be furnished demonstrating that the construction of such berm, along with any necessary culverts and ditching, will not create adverse drainage and flooding conditions on adjacent property.
1. Such berm shall be at least thirty (30) feet in width at the base and at least four (4) feet in height as measured perpendicular to grade level at any point along its length. Side slopes shall have a gradient no steeper than three (3) to one (1).
 2. Side slopes of such berm shall be sodded so as to prevent erosion. The top of the berm shall contain a planting screen above except that the minimum height of such planting screen need be no more than three (3) feet above the top of the berm at any particular point along its length. Construction and material of such berm shall be as approved by the Zoning Board of Adjustment.
- D. *Fence Screen.* A fence screen shall not be less than eight (8) feet, nor more than ten (10) feet in height above grade level, at any particular point along its length. Any two (2) foot square segment of such screen shall contain no more than thirty percent (30%) open space affording a direct horizontal view through such screen. Construction and material of such fence screen shall be as approved by the Planning and Zoning Commission. (Ord. No. 2.56 §2(Art. 8 §5), 1-9-01)

SECTION 405.420: TRANSITION BUFFER REQUIREMENTS

A. Landscape buffers shall be provided and maintained when certain land uses are adjacent to one another. This requirement is intended to help ease the land use transition between areas of varying development intensity and to ensure land use compatibility.

B. *Determination Transition Buffer Requirements.* The following procedure shall be followed in determining if a transition buffer is required. Using the matrix in Subsection (C) Transition Buffer Requirements of this Section:

1. Identify the minimum zoning classification required to accommodate the proposed use. These classifications are listed under "Proposed Zoning" in the first (1st) column.
2. For transition buffer requirements, identify the actual zoning classification of the abutting site(s). These classifications are listed under the heading "Adjacent Zoning".

Determine if a transition buffer is required by crossing the previously identified proposed zoning with the adjacent zoning. The letter "R" indicates that a transition buffer is required, otherwise, no transition buffer is required.

C. *Transition Buffer Requirements.*

| TRANSITION BUFFER REQUIREMENTS | | | | | | | | | | |
|---------------------------------------|------------------------|-----|-----|-----|----|-----|-----|-----|-----|-----|
| PROPOSED ZONING | ADJACENT ZONING | | | | | | | | | |
| | A-R | R-1 | R-2 | R-3 | MP | B-1 | B-2 | B-3 | M-1 | M-2 |
| A-R | | | | | | | | | | |
| R-1 | | | | | | | | | | |
| R-2 | | | | | | | | | | |
| R-3 | | R | R | | | | | | | |
| MP | | R | R | R | | | | | | |
| B-1 | | R | R | R | R | R | | | | |
| B-2 | | | | | | | | | | |
| B-3 | | R | R | R | R | R | R | | | |
| M-1 | | R | R | R | R | R | R | R | | |
| M-2 | | R | R | R | R | R | R | R | | |

(Ord. No. 2.56 §2(Art. 8 §6), 1-9-01)

SECTION 405.430: DUMPSTER SCREENING

Dumpsters for solid waste located in "B-1", "B-2", "M-1" and "M-2" Districts shall be completely screened from view of roadways and adjacent sites by fences, walls or vegetative screens. The screen shall provide complete visual screening of the dumpster and be compatible in material and color with the principal structure on the lot. (Ord. No. 2.56 §2(Art. 8 §7), 1-9-01)

ARTICLE VI. USE REGULATIONS

SECTION 405.440: USE TABLE

The Use Table of this Section provides a tabular summary of the land use types allowed within each base zoning district. The table is intended for reference and does not necessarily reflect all of the regulations that may apply to particular uses or districts. In the event of conflict between the use regulations of this Article and the zoning district regulations of Article II, the text of the zoning district regulations shall prevail.

1. *Permitted (by right).* Uses identified in a zoning district column of the Use Table with a "P" are "permitted by right" and shall be permitted in such zoning district, subject to such conditional use regulations as may be indicated in the "conditions" column and all other requirements of this Zoning Ordinance.
2. *Conditional uses.* Uses identified in a zoning district column of the Use Table with a "C" are "conditional uses" and shall be permitted in such zoning district if reviewed and approved in accordance with the standards of Article IX. Conditional uses shall be subject to such conditional use regulations as may be indicated in the "use standards" column and all other requirements of this Zoning Ordinance.
3. *Not permitted.* Uses not identified in a zoning district column of the Use Table as permitted by right or by conditional use are not allowed in such zoning district unless otherwise expressly permitted by other regulations of this Zoning Ordinance.
4. *Use standards.* A letter in the final "use standards" column of the Use Table refers to conditional use standards applicable to a particular use in one (1) or more of the districts in which such use is allowed. The referenced regulations appear in Section 405.450 of this Article.

| USE REGULATIONS | ZONING DISTRICTS | | | | | | | | | | Use Standards |
|--------------------------------|------------------|-----|-----|-----|----|-----------------|-----|-----|-----|-----|---------------|
| | RESIDENTIAL | | | | | NON-RESIDENTIAL | | | | | |
| | A-R | R-1 | R-2 | R-3 | MP | B-1 | B-2 | B-3 | M-1 | M-2 | |
| Accessory Uses | | P | P | P | P | | | P | P | P | B, BB |
| Home Occupations | P | P | P | P | P | P | P | P | P | P | K |
| Temporary Uses | P | P | P | P | P | P | P | P | P | P | X |
| AGRICULTURAL USES | | | | | | | | | | | |
| Agricultural Processing | | | | | | | | | C | C | |
| Agriculture, General | P | | | | | | | | | | C |
| Agriculture, Limited | C | | | | | | | | | C | |
| RESIDENTIAL USES | | | | | | | | | | | |
| Apartment | | | | P | | | | | | | Q |
| Apartment Efficiency | | | | C | | | | | | | |
| Assisted Living | | | | P | | | P | C | | | |
| Boarding House | | | P | P | | | | | | | |
| Duplex | | | P | P | | | | | | | AA |
| RESIDENTIAL USES (cont) | | | | | | | | | | | |

| | | | | | | | | | | | |
|--|---|---|---|---|---|---|---|---|---|---|----|
| Group Home, Limited (1–8) | | P | P | P | P | | | | | | J |
| Group Home, General (9+) | | | | C | | | C | | | | J |
| Group Residential | | | | C | | | C | | | | |
| Manufactured Home-Residential Design | P | | P | P | P | | | | | | O |
| Manufactured Home | | | | | P | | | | | | P |
| Mobile Home | | | | | | | | | | | |
| Modular Home | P | P | P | P | P | | | | | | |
| Manufactured Home Park | | | | | P | | | | | | P |
| Multi-Family | | | | P | | | | | | | Q |
| Single-Family, Attached | | | P | P | P | | | | | | AA |
| Single-Family, Detached | P | P | P | P | P | | | | | | V |
| Transitional Living Facility | | | | | | | | C | | | Y |
| COMMERCIAL USES | | | | | | | | | | | |
| Adult Entertainment Establishment | | | | | | | | | | C | D |
| Adult Entertainment Facility | | | | | | | | | | | |
| Agricultural Sales and Service | | | | | | | P | | P | P | |
| Animal Care, General | | | | | | | C | C | P | P | M |
| Animal Care, Limited | | | | | | | P | P | P | P | |
| Bank or Financial Institution | | | | | | | P | P | P | | |
| Bar or Tavern | | | | | | | P | P | P | | |
| Bed and Breakfast | C | C | C | C | C | | C | C | | | E |
| Car Wash | | | | | | | P | C | P | | |
| Construction Sales and Service | | | | | | | P | P | P | P | |
| Day Care, Limited(1–6 individuals) | P | P | P | P | C | | | | | | H |
| Day Care, General (7–10 individuals) | C | C | C | C | | | | | | | H |
| Day Care, Commercial | | | | | | | P | P | C | C | H |
| Catering | | | | | | | | P | | | |
| Food Store | | | | | | | P | P | | | |
| Greenhouses, Nurseries | | | | | | | | | P | P | |
| Health Club | | | | | | C | P | P | P | | |
| Kennel | | | | | | | | | C | C | M |
| Hotel, Motel or Tourist Court | | | | | | | P | P | P | | |
| Manufactured Home Sales | | | | | | | | | P | | |
| COMMERCIAL USES (cont) | | | | | | | | | | | |
| Manufactured Structures | | | | | | | | | C | C | |
| Office, General | | | | | | P | P | P | P | | |
| Parking Lot, Commercial | | | | | | P | P | P | P | | |
| Print Shop | | | | | | C | P | P | | | |
| Recreation and Entertainment, Indoor | | | | | | | C | P | P | | |
| Recreation and Entertainment, Outdoor | | | | | | | C | C | P | | R |
| Repair Service | | | | | | | P | P | P | P | |
| Research Service | | | | | | P | C | C | P | P | |
| Restaurant, Fast-Food | | | | | | | | P | P | | |
| Restaurant, General | | | | | | C | P | P | P | | |
| Retail Sales and Service | | | | | | C | P | P | P | | |
| Safety Service | C | C | C | C | C | C | C | C | C | C | |
| Service Station, Automotive | | | | | | | P | P | P | P | |
| Service Station, Truck Stop | | | | | | | | | | | |
| Studio, Television, Film, Radio, Music | | | | | | | P | P | P | C | |
| Vehicle and Equipment Sales | | | | | | | P | P | P | | Z |
| Vehicle/Equipment Storage Yard | | | | | | | | C | P | P | Z |

| | | | | | | | | | | | | |
|---------------------------|---|---|---|---|---|---|---|---|---|---|---|--|
| Utility, Minor | P | P | P | P | P | P | P | P | P | P | P | |
| Warehousing and Wholesale | | | | | | | | | | P | P | |
| Welding or Machine Shop | | | | | | | | | | C | P | |

(Ord. No. 2.56 §2(Art. 5 §1), 1-9-01; Ord. No. 2.100 §2, 7-27-04; Ord. No. 2.102 §1, 1-25-05; Ord. No. 2.110 §1, 1-10-06; Ord. No. 2.135 §2, 4-22-08)

SECTION 405.450: USE STANDARDS

- A. The conditional use standards of this Section shall apply to permitted, conditional uses and accessory uses as noted in Subsections (B) through (Z) below.
- B. *Accessory Uses.* Permitted uses and approved conditional uses shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and appropriate, incidental and subordinate to the principal uses allowed in zoning districts. Accessory uses and activities shall be subject to the same regulations as apply to principal uses in each district, unless otherwise stated in this Zoning Ordinance.
1. *Residential accessory uses.* Residential uses shall include, but not be limited to, the following accessory uses, activities and structures:
 - a. Fences and walls;
 - b. Garages, carports and off-street parking and loading areas, provided that a detached garage or carport shall not cover more than ten percent (10%) of the total lot area;
 - c. Gardens, provided that they meet the required setbacks of the district in which they are located;
 - d. Gates and guard houses;
 - e. Guest house or guest rooms, neither of which may include kitchen facilities, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units;
 - f. Home occupations, subject to Subsection (K) of this Section;
 - g. Playhouses, patios, cabanas, porches, gazebos and incidental household storage buildings, provided that such buildings shall not cover more than ten percent (10%) of the total lot area;
 - h. Radio and television receiving antennas and support structures;
 - i. Recreational and play facilities for residents;
 - j. Storage of recreational equipment such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, provided that storage shall be limited to private garages, side or rear yards of private homes and in the driveways of private homes. Stored vehicles or equipment shall not protrude onto public property or obstruct any sidewalks. Recreational vehicles or equipment shall not be stored within required off-street parking spaces. No recreational vehicle shall be used for living or sleeping purposes while stored on the premises for a period exceeding fourteen (14) days in a calendar year;
 - k. Swimming pools subject to a setback of no less than four (4) feet from a protective fence no less than six (6) feet in height around the perimeter of the pool;
 - l. Storm shelters and fallout shelters; and

- m. Other necessary and customary uses determined by the Zoning Administrator to be appropriate, incidental and subordinate to the principal use on the lot, subject to compliance with any development and performance standards imposed by the Zoning Administrator to ensure land use compatibility.
2. *Non-residential accessory uses.* Non-residential uses shall include, but not be limited to, the following accessory uses, activities and structures:
 - a. Cafeterias, dining halls and similar food services when operated primarily for the convenience of employees, residents, clients or visitors to the principal use;
 - b. Dwelling units, other than manufactured homes, when used or intended to be used for security or maintenance personnel;
 - c. Dwelling units located within a commercial structure in any business or industrial district so long as the dwelling units comply with the IBC mixed use occupancy regulations last adopted by the Board of Aldermen, subject to any limitations in Section 67.281, RSMo.;
 - d. Fences and walls;
 - e. Gates and guard houses;
 - f. Offices for allowed business and industrial uses when the office is located on the same site as the principal use;
 - g. Parking garages and off-street parking areas;
 - h. Radio and television receiving antennas and support structures;
 - i. Restaurants, newsstands, gift shops, swimming pools, tennis courts, clubs and lounges when in a permitted hotel, motel or office building;
 - j. Sales of goods produced as a part of allowed industrial activities when on the same site as the principal industrial use;
 - k. Recycling collection stations, subject to the provisions of Subsection (W) of this Section;
 - l. The storage of merchandise when located within the same building as the principal business; and
 - m. Other necessary and customary uses determined by the Zoning Administrator to be appropriate, incidental and subordinate to the principal use on the lot, subject to compliance with any development and performance standard imposed by the Zoning Administrator to ensure land use compatibility.
 3. *Accessory use development and operational standards.* The following standards shall apply to all accessory uses and structures unless otherwise specifically provided.
 - a. *Exterior setback.* No accessory structure shall be located within a required exterior setback.

- b. *Interior (rear) setback.* Accessory structures shall not be required to comply with the interior rear setback standard that applies to principal uses. Permanent, non-movable accessory structures shall be set back at least eight (8) feet from rear lot lines and shall not be closer to the side lot line than the applicable minimum interior setback. Movable accessory structures are not required to comply with any interior or side lot setbacks.
 - c. *Interior (side) setbacks.* No accessory structure shall be located within a required interior side setback.
 - d. *Setbacks from easements.* No accessory structure shall be located within any platted or recorded easement or over any known utility.
 - e. *Height.* No accessory structure shall exceed the maximum height standards of the underlying district unless specifically authorized.
 - f. *Building separation.* Unless attached to the principal structure, accessory structures shall be located at least five (5) feet from any other structure.
 - g. *Building coverage.* No detached accessory structure shall cover more than ten percent (10%) of the total lot area. Accessory buildings and structures shall be included in the calculation of total building coverage.
 - h. Fences that include barbed wire or electrification shall require a special use permit.
- C. *Concentrated Feeding Operation Standards.* The site plan review procedures should be used to assure compliance with all MDNR requirements to protect against water contamination from feedlots. All proposed concentrated feeding operations that are designed to accommodate Class I and Class II concentrations of animal units should be subject to site plan review. The site plan submittal should demonstrate how the following conditions are met:
- 1. All wastes from a concentrated animal feeding operation should be controlled so that there is no discharge of waste (including stormwater runoff that comes in contact with animal waste) from the property and no discharge of wastes, directly or indirectly, to surface or subsurface waters including sinkholes, dry stream beds, flowing streams, wet weather tributaries and drainage ditches.
 - 2. The no-discharge requirements of the MDNR, Division of Environmental Quality, under the Missouri Clean Water Law should be met.
 - 3. A copy of the MDNR "Letter of Approval", if required, should be submitted with the site plan review.
 - 4. Separation requirements of the MDNR for concentrated feeding operations should be met.
- Such reviews should be placed as an item on the regular meeting schedule of the Planning and Zoning Commission. A notice of the meeting should be sent to landowners in the notification area as prescribed by the MDNR rules.
- D. *Adult Entertainment Establishment.*
- 1. *Separation from other uses.* No adult entertainment establishment shall be permitted within one thousand two hundred (1,200) feet of any "R-1", "R-2", "R-3" or "MP" zoned lot or within one thousand two hundred (1,200) feet of any religious assembly, school or park and recreation

use. This separation distance shall be measured as a straight line, without regard to intervening properties, from the nearest exterior wall of the adult entertainment establishment to the nearest lot line of the lot that is zoned "R-1", "R-2", "R-3" or "MP" or that contains a religious assembly, school or park and recreation use.

2. *Separation from other adult entertainment establishments.* No adult entertainment establishment shall be allowed to locate or expand within one thousand (1,000) feet of any other adult entertainment use or within one thousand (1,000) feet of any bar or tavern.
 3. *Access.* All access to and from the adult entertainment establishment shall be provided from a thoroughfare street.
 4. *Frontage.* The lot on which such use is located shall have at least one hundred (100) feet of street frontage.
 5. *Screening.* The lot on which the use is located shall be screened by solid masonry wall at least six (6) feet in height along all interior lot lines.
 6. *Building and parking area setbacks.* The building in which the establishment is located and the off-street parking serving the establishment shall be set back at least twenty (20) feet from the front lot line and at least ten (10) feet from all side and rear lot lines.
 7. *Windows and doors.* The building in which the adult entertainment establishment is located shall be designed in such a fashion that all openings, entries and windows prevent views into such establishments from any sidewalk, walkway, street or other public area. Further, no merchandise or pictures of products or entertainment on the premises shall be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. No adult entertainment activity shall take place outside the building containing the adult entertainment establishment.
 8. *Signs.* Adult entertainment establishments shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign per linear foot of wall length, not to exceed a total of fifty (50) square feet. The sign shall not flash, blink or move by mechanical means and shall not extend above the roof line of the building. No flashing lights or lighting that gives the impression of motion or movement shall be permitted.
 9. *Parking area lighting.* Lighting of parking areas that serve an adult entertainment establishment shall provide a minimum light level of twenty-five hundredths (0.25) foot-candles over the entire parking area, but in no point shall the light level exceed three (3) foot-candles, nor shall any increase in light levels or visible glare be permitted at the lot line.
 10. *Site plans.* Adult entertainment establishments shall be subject to site plan review pursuant to Article X.
- E. *Bed And Breakfast.* Bed and Breakfast establishments shall be conditionally permitted in the following Zoning Districts: "A-R", "R-1", "R-2", "R-3", "MP", "B-2" and "B-3". The following requirements shall apply to all bed and breakfast establishments.
1. Owners/operators shall possess a current license or approval from Lawrence County and provide a copy of the most recent inspection report done by the Lawrence County Health Department or Missouri Department of Health and Senior Services.

2. Off-street parking shall be provided pursuant to Article IV, Off-Street Parking and Loading Regulations, and Article V, Landscaping, Screening, and Buffering Regulations, as follows:
 - a. Two (2) off-street parking spaces with one (1) additional off-street parking space per lodging room shall be provided for overnight guest, residents, and/or employees of bed and breakfast establishment.
 - b. Off-street parking spaces shall comply with the following provisions of Section 405.330:
 - (1) *Area.* A required off-street parking space shall be at least eight (8) feet six (6) inches in width and at least nineteen (19) feet in length, exclusive of access driveways or aisles, ramps and columns.
 - (2) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
 - (3) *Design.* Off-street parking spaces shall comply with the design standards relating to curb length, stall depth, island width, barriers and ingress and egress.
 - (4) *Surfacing.* All open off-street parking, loading areas and driveways be graded and improved with all-weather material such as gravel, chip and seal, asphalt or concrete.
 - (5) *Lighting.* Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with adjacent residential uses.
 - c. A transition buffer will be required and specifically addressed in the conditional use permit. See Section 405.410.
 - d. *Signage.* One (1) business sign of twelve (12) square feet is allowed, and it may be illuminated so long as illumination does not interfere with adjacent residence. Signage is limited to one (1) detached sign or one (1) wall sign only. Corner lots are limited to one (1) sign of either type.
- F. *Cemeteries, Crematories And Mausoleums.* The following standards shall apply to cemeteries, crematories and mausoleums.
 1. *Entrances.* All cemeteries, crematories and mausoleums shall provide entrances on an arterial or collector street with ingress and egress so designed as to minimize traffic congestion.
 2. *Landscape buffer.* A landscape buffer shall be provided along all property lines abutting any "R-1", "R-2", "R-3" or "MP" zoned property pursuant to Article V.
- G. *Convalescent Care.* At least seventy (70) square feet of usable open space shall be provided for each patient bed. This required open space may be designed to provide outdoor space for recreational activities or landscaped outdoor sitting areas.
- H. *Day Care (Limited, General And Commercial).* All daycares are subject to licensing as listed below for each category. See definitions for number of children allowed in each category.

1. *Day care, limited.* Limited day care uses shall be conducted in a single-family or two-family dwelling unit that is occupied as a permanent residence by the day care provider. The use will be considered a home occupation and shall be subject to the home occupation provisions of Subsection (K) of this Section.
 2. *Day care, general.*
 - a. *State licensing.* General day care uses shall be licensed by the State of Missouri and shall meet all City, County and State Health Department requirements pertaining to facilities, equipment and other features.
 - b. *Residential districts.* In the "A-R", "R-1", "R-2", "R-3" and "M-P" residential districts, general day care uses shall be conducted in a single-family or two-family dwelling unit that is occupied as a permanent residence by the licensed day care provider, except that an assistant may provide care during necessary absences of the regular day care provider.
 3. *Day care, commercial.*
 - a. *State licensing.* Commercial day care uses shall be licensed by the State of Missouri and shall meet all City, County and State Health Department requirements pertaining to facilities, equipment and other features.
 - b. *Vehicle dropoff area.* An off-street loading zone capable of holding one (1) car per ten (10) individuals cared for shall be provided, in addition to the required parking area, in order to provide for easy pickup and discharge of passengers.
- I. *Golf Courses.*
1. *Location of restaurants.* Facilities such as restaurants and bars shall be allowed when an integral part of a principal clubhouse building, provided there is no exterior display or advertising for the restaurant or bar.
 2. *Location of recreational facilities.* Buildings, swimming pools, tennis courts and similar recreational facilities shall be set back at least twenty-five (25) feet the property line of any "R-1" or "R-2" zoning district.
- J. *Group Home (Limited Or General).* Group homes shall be subject to the following standards only when located in a "R-1", "R-2", "R-3" or "M-P" District.
1. *Spacing.* A group home to be located within a residential zoning district shall not be located within one thousand three hundred twenty (1,320) feet of another group home, measured as the shortest distance between any portion of the structure in which persons reside.
 2. *Exterior appearance.* There shall be no alteration of the exterior of the group home that shall change the character thereof as a single-family residence. There shall be no alteration of the property on which the group home is located that will change the character thereof as property within a single-family dwelling district.
 3. *Neighborhood character.* A group home constructed in a "R-1" or "R-2" District shall be constructed to be compatible with the architectural character of the neighborhood in which it is located.

K. *Home Occupations.* Home occupations shall be permitted in all districts permitting dwellings.

1. *Restrictions and limitations.*

- a. If located within the principal residence, the home occupation shall be incidental and subordinate to the residential use of the premises and not occupy more than twenty-five percent (25%) of the floor area of any one (1) floor of a dwelling unit. If located within an attached garage or other similar area, the area occupied shall be limited to fifty percent (50%) of the living area of the principal residence. If located within a detached accessory structure, it shall be limited to only that one (1) accessory structure which shall not exceed ten percent (10%) of the total lot area.
- b. All materials or equipment used in the home occupation shall be stored within an enclosed structure.
- c. No alteration of the exterior of the principal residential structure shall be made which changes the character thereof as a dwelling.
- d. No sign shall exceed twelve (12) square feet, shall not be illuminated and shall be placed flat against the main wall of the principal residential structure or as a detached sign located no closer to the street than one-half ($\frac{1}{2}$) the distance from the building to the front property line.
- e. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his/her residence and not more than one (1) full-time equivalent, non-resident employee.
- f. No equipment shall be utilized that creates a nuisance due to noise, odor, emissions or electrical interference.

- g. No traffic shall be generated by the activity of the home occupation that is abnormal to a residential neighborhood.
2. *Particular home occupations permitted.* Customary home occupations include, but are not limited to, certain occupations that do not depend upon on-site commerce and include the following list of occupations; provided however, that each listed occupation is subject to the requirements of Subparagraph (1)(a) through (g) of this Subsection (K):
 - a. Art, dancing and music schools provided that instruction is limited to five (5) pupils at one time.
 - b. Barber shops and beauty parlors but not more than two (2) chairs per residence.
 - c. Ministers, rabbis, priests and other religious leaders.
 - d. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers and similar professions.
 - e. Offices for realtors, insurance agents, brokers, sales representatives and manufacturing representatives when no exchange of tangible goods is made on the premises.
 - f. Watch, clock and jewelry repair services.
 - g. Radio, television, phonograph, recorder and small appliance repair services.
 - h. Music teachers provided that instruction shall be limited to five (5) pupils at a time.
 - i. General day care uses and limited day care uses subject to the provisions of Subsection (H) of this Section.
 - j. Home crafts and hobbies such as model making, rug weaving, lapidary work, cabinet making, etc.
 - k. Tailoring, alterations and seamstresses.
 - l. Tool sharpening and filing.
 - m. Services not dependent on client visits to the site such as computer-assisted services and graphic design.
 3. *Particular home occupations prohibited.* Permitted home occupations shall not in any event include the following:
 - a. Antiques—retail.
 - b. Funeral services.
 - c. Groceries—retail.
 - d. Secondhand merchandise—retail.
 - e. Equipment rental.

- f. Automobile and other motor vehicle repair services.
 - g. Physicians.
 - h. Dentists.
 - i. Chiropractors.
 - j. Restaurants.
 - k. Stables or kennels.
 - l. Tourist home.
 - m. Renting of trailers or equipment.
- L. *Hospitals.* Hospitals and charitable institutions shall provide entrances on arterial or collector streets only with ingress and egress so designed as to minimize traffic congestion.
- M. *Kennel.* A kennel shall be located no closer than fifty (50) feet to another dwelling, including outside runs, and shall contain at least one (1) fully enclosed shelter for each animal or animals and provide an exercise area.
- N. *Landfills And Mining And Quarrying.* Landfills and mining and quarrying uses shall be subject to the following standards.
- 1. *Minimum site area.* A minimum site area of thirty-five (35) acres shall be required.
 - 2. *Entrances.* There shall be no more than one (1) entranceway from a public street for each six hundred sixty (660) feet of street frontage. A traffic study shall be required.
 - 3. *Hours of operation.* Uses shall not operate before sunrise or after sunset if located within one thousand (1,000) feet of a "R-1", "R-2", "R-3" or "MP" zoned property.
 - 4. *Separation from residential.* No digging or excavating shall occur within one hundred (100) feet of any lot line or within three hundred (300) feet of the lot line of a "R-1", "R-2", "R-3" or "MP" zoned property.
 - 5. *Paving.* All roads, driveways, parking lots and loading and unloading areas within five hundred (500) feet of any lot line shall be graded and paved with an approved concrete or asphalt/concrete surface as to limit adjoining lots and public roads the nuisance caused by wind-borne dust.
 - 6. *Slopes.* The slope of material in any excavation shall not exceed the normal angle of repose of fifty-five degrees (55°), whichever is less.
 - 7. *Buffers and fences.* When any open excavation will have a depth of ten (10) feet or more and create a slope of more than thirty degrees (30°), there shall be erected a fence of not less than six (6) feet in height, with suitable gates where necessary, effectively blocking access to the area in which such excavation is located. Such fences shall be located fifty (50) feet or more from the edge of the excavation. Fences shall be adequate to prevent trespass and shall contain

warning signs spaced no more than one hundred (100) feet apart to be visible along the entire length of said fences. A buffer shall be provided around the site pursuant to Article V.

8. *Stormwater management.* A stormwater management plan shall be required.
9. *Site restoration.* The following restoration requirements shall apply to all excavation uses, provided that landfills shall, instead, be subject to State and Federal requirements.
 - a. *Restoration plan.* Before approval of a conditional use permit for an excavation use, the operation shall submit to the Zoning Administrator a detailed plan for restoration of the site, including information on the anticipated future use of the restored land, existing and proposed final contours with an interval of no more than five (5) feet. The plan shall include type and number per acre of trees or shrubs to be planted and the location of future roads, drives, drainage courses or other improvements contemplated.
 - b. The restoration plans shall be filed with and approved by the Planning and Zoning Commission before quarrying or removal operations begin. The plans shall be prepared by a soil or geological engineer.
 - c. *Bonds.* Before the issuance of any conditional use permit, the owner shall execute a bond sufficient to ensure restoration of the site in accordance with the approved restoration plan. Such bonds shall also be approved by the Board of Aldermen as to form, sufficiency and manner of execution and shall run for the same term as the term of the conditional use permit and any renewals.
 - d. *Water quality.* In restoration, no filling operations shall be permitted which will likely result in contamination of ground or surface water or soils, through seepage of liquid or solid waste or which will likely result in the seepage of gases into surface or sub-surface water or into the atmosphere.
 - e. *Appearance.* The restoration plan shall provide that all areas within any single development be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous and blended with the general surrounding ground form so as to appear reasonably natural or they shall be restored pursuant to an approved restoration plan.
 - f. *Top soil and fills.* Where topsoil is removed, sufficient arable soil shall be set aside for reclamation of the premises and shall be respread over the premises after the operation. The area shall be brought to final grade by a layer of earth of two (2) feet or original thickness, whichever is less, capable of supporting vegetation. The area shall be seeded or sodded in a manner approved by the Planning and Zoning Commission. Fill shall be of a suitable material approved by the Planning and Zoning Commission.
10. *City, County, State and Federal standards.* All operations shall be licensed if required, have proper permits from the Missouri Department of Natural Resources and shall meet all City, County and Federal Health Department requirements pertaining to facilities, equipment and other features.
- O. *Manufactured Home Residential Design.* The following standards shall apply to all manufactured home residential design dwellings.

1. The manufactured home shall have minimum dimensions of twenty-two (22) feet in width and forty (40) feet in length;
 2. The pitch of the roof of the manufactured home shall have a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run and the roof finished with a type of shingle that is commonly used in standard residential construction in the City;
 3. All roof structures shall provide an eave projection of no less than twelve (12) inches, exclusive of any guttering;
 4. The exterior siding shall consist of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of low luster white paint), wood or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the City;
 5. The manufactured home shall be set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 1987" (NCS BCS A225.1) and a continuous, permanent masonry foundation or masonry curtain wall or poured concrete wall, unpierced except for required ventilation and access, is installed under the perimeter of the residential design manufactured home;
 6. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the Building Code and attached firmly to the primary structure and anchored securely to the ground; and
 7. A residential design manufactured home, when installed, shall have substantially the same appearance of an on-site, conventionally built, single-family dwelling.
- P. *Manufactured Homes.* All manufactured homes in the "MP" District shall be anchored in conformance with the regulations of the Missouri Public Service Commission.
- Q. *Multi-Family.* Multi-family land uses are allowed in the "B-2" District provided they are located on the second (2nd) floor of a commercial building. All other multi-family development shall be subject to the following design guidelines and standards:
1. *Site plan review.* Multi-family development shall be subject to site plan review requirements and procedures of Article X.
 2. *Natural features and environment.* Each site should be designed to preserve natural features and environmental resources such as:
 - a. Floodplains and drainage ways.
 - b. Bodies of water.
 - c. Prominent ridges and rock ledges.
 - d. Existing tree cover including tree masses, wind rows and significant individual trees.
 3. *Cut and fill.* Excessive cut and fill are unacceptable. The site plan should preserve the natural topography of the site.

4. *Pedestrian circulation.* Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide physical separation from vehicles along all public and private streets and within any parking area.
5. *Building separation.* All buildings shall be separated by a minimum distance of fifteen (15) feet.
6. *Lot coverage.* Each site plan should be designed to reflect unique site characteristics and strong neighborhood environments without overcrowding the site.
7. *Access.* All multi-family residential developments must have direct vehicular access to collector, arterial or higher classification streets. Multi-family residential development shall not take access to local streets.
8. *Open space.* Open space should be provided to meet active and passive use requirements of the neighborhood.
 - a. At least ten percent (10%) of the total site area shall be set aside as common open space. The common open space areas shall be suitable for active or passive recreational use. Common open space areas should be centrally placed within the neighborhood. Common open space may include pools, tennis courts and tot lots. Common open space may not be counted toward nor located in required zoning district setbacks.
 - b. A minimum of sixty (60) square feet of private open space shall be provided for each ground-level dwelling unit and each dwelling unit that is accessible from a walkout basement. Private areas should allow only limited access and be enclosed to ensure privacy. Private areas typically include yards, balconies and patios.
9. *Building clustering.* Unusable and unassigned open space surrounding buildings should be reduced by clustering buildings. Buildings should be clustered around a central common area and not have the primary orientation directed toward the parking area.
10. *Building orientation.*
 - a. *Individual buildings.* Individual buildings should be oriented in a way that establish neighborhoods and sub-neighborhoods.
 - b. *Reduction of unusable open space.* Unusable open space should be reduced through building orientation, the use of low walls, fencing, landscaping and entry design.
11. *Vehicular circulation and parking.*
 - a. *Street layout.* The layout of streets should provide for safe operation of vehicles within the neighborhood. Excessively straight and wide streets encourage high speed traffic and should be avoided. Curvilinear designs, reduced street widths and cul-de-sacs create stronger neighborhood environments.
 - b. *Parking area layout.* Double-loaded parking areas along private streets or drives are generally not acceptable. Parking areas should be clustered and separated from the street.
 - c. *Parking enclosures.* Parking enclosures should be designed and sited so as to compliment the primary structures and to provide visual relief from extensive pavement area.

12. *Pedestrian circulation.*

- a. *Pedestrian linkages.* Pedestrian access should be designed to provide reasonable linkages of dwelling units to neighborhood facilities such as recreation, services, mail and parking.
 - b. *Landscaping details.* Pedestrian systems should incorporate landscaping details to increase the visual interest and character of the neighborhood.
 - c. *Landscaping.* Landscaping should be designed in sufficient form, quantity and location to reduce, to the greatest extent possible, negative impacts affecting the site and adjacent properties and to increase the sense of neighborhood scale, character and identify.
 - d. *Architectural design.* The architecture of multi-family housing is a key element in determining the character of a neighborhood. The architecture should create a strong feeling of identity through design principles of scale, harmony, rhythm and balance.
 - e. Elongated sites with rectangular, double-loaded building footprints should be avoided. These design typically lack interest and fail to create a strong sense of neighborhood.
 - f. The architectural design of each unit or building should impart a feeling of neighborhood scale. Units should be designed with vertical and horizontal offsets to break up roof lines, define private outdoor areas, allow greater views and admit light and air to unit interiors. Large, blank wall surfaces should be avoided. Windows and projecting wall surfaces should be used to break up larger wall surfaces and establish visual interest.
 - g. The same level of architectural design and quality of materials should be applied to all sides of the building. The side and rear elevations, garages, carports and all accessory structures should maintain the same level of design, aesthetic quality and architectural compatibility.
 - h. Screening from the street of all outdoor refuse areas, ground-mounted mechanical equipment, utilities and banks of meters shall be provided. The screening of these items is to be architecturally compatible with the major building components and may include landscaping.
- R. *Recreation And Entertainment, Outdoor.* Outdoor recreation and entertainment uses shall be located on arterials or collectors. Public activity areas shall be located at least two hundred (200) feet from any adjacent "R-1", "R-2", "R-3" or "MP" zoning district.
- S. *Recreational Vehicle Parks.* Recreational vehicle parks shall be permitted subject to the following conditions:
1. The site selected for recreational vehicle parks shall be well drained and primarily designed to provide space for short-term occupancy to the traveling public. Location of the site may not necessarily front on a major roadway or thoroughfare, but it shall be directly accessible to the major roadway by means of a private road or public road that it has frontage on. Short-term occupancy shall not exceed thirty (30) days, except as approved by the Zoning Administrator.
 2. Minimum tract size shall be two (2) acres and shall be in one (1) ownership.
 3. The maximum number of recreational vehicle spaces allowed within the permitted districts shall not be more than twenty (20) per acre. Consideration shall be given to whether the recreational

vehicle park and the density level are designed accordingly. The densities of overnight use may be higher than destination type since it primarily serves as a short stopping point while the destination type recreational vehicle park located at or near a scenic historical or outdoor recreational area provides for longer and extended stays of several days or weeks.

4. Minimum width of a recreational vehicle space shall be twenty-five (25) feet. The space shall be so designed to provide space for parking both a travel trailer and towing vehicle off the roadway. No travel trailer unit shall be closer than ten (10) feet to any other adjacent unit, structure or roadway and all spaces shall have direct access to the roadway. No unit shall be placed closer than thirty (30) feet to any of the development property lines and the ten (10) feet nearest the property line shall be permanently maintained as a sodded and/or landscaped area.
5. A central office or convenience establishment with an attendant shall be provided within the recreational vehicle park to register guests and provide service and supervision to the camp for camps in excess of five (5) acres.
6. The applicant for a recreational vehicle park shall submit a development plan to the Planning and Zoning Commission for approval. Such plan shall contain the information as required below and any other information the Board reasonably shall deem necessary to fully evaluate the proposed development. The applicant shall submit the information on a sheet size not to exceed twenty-four (24) inch by thirty-six (36) inch dimensions as a proposed development plan showing:
 - a. General layout of development with dimensions, depths, number of spaces and related sanitation accommodations.
 - b. Parking area location, sizes and capacity.
 - c. Ingress and egress points for the project.
 - d. Use of structures.
 - e. General layout of typical recreational vehicle space showing size of space and proposed improvements.
 - f. Layout of roadway within the camp.
 - g. Net density of proposed project, expressed in terms of units per acre.
 - h. General landscaping plan indicating all new and retained plant material to be incorporated within the new development and layout of outdoor lighting system.
 - i. Plan and method of sewage disposal and water supply.
 - j. Location plan and number of proposed sanitary conveniences including proposed toilets, washrooms, laundries and utility areas.
 - k. The development shall provide a general refuse storage area or areas that shall be provided with a paved concrete surface and shall be enclosed to screen it from view.
7. The recreational vehicle parks shall be planned and constructed in accordance with the minimum standards as established in this Section and as outlined below:

8. All parking areas and roadways shall be constructed and paved with a hard surface bituminous or concrete material.
 - a. All camps shall be provided with general outdoor lighting with a minimum of three-tenths (0.3) foot-candles of general illumination.
 - b. All yard areas and other open spaces not otherwise paved or occupied by structures shall be sodded and/or landscaped and shall be maintained.
- T. *Auditorium Or Stadium.* Any parking area used for the overnight parking of buses and vehicles shall be located at least one hundred (100) feet from the lot line of a lot zoned "R-1", "R-2", "R-3" or "MP". Any such parking area shall be screened from view of adjacent "R-1" or "R-2" Districts by a landscape buffer as approved by the Planning and Zoning Commission.
- U. *Salvage Yards.* The following standards shall apply to salvage yards, scrap and waste material storage yards, auto wrecking and junk yards.
 1. *Separation from residential.* No salvage yard shall be located within three hundred (300) feet of a "R-1", "R-2", "R-3" or "MP" zoning district.
 2. *Screening.* The operation shall be conducted wholly within a non-combustible building or within an area surrounded on all sides by a fence or wall at least six (6) feet in height. The fence or wall shall be of uniform height, uniform texture and color and shall be so maintained by the proprietor as to insure maximum safety to the public, obscure the junk from normal view of the public and preserve the general welfare of the neighborhood. The fence or wall shall be installed in a way that retains all scrap, junk or other materials within the yard. Scrap, junk or other salvaged materials shall be piled or stored so that they are not visible from outside the fenced in area and do not exceed the height of the enclosing fence or wall.
 3. *Loading/unloading.* No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall or within the public right-of-way.
- V. *Single-Family Detached Residences—Minimum Size.* Single-family detached development shall be subject to the standards of the underlying zoning district, as modified by the following standards.
 1. *Minimum structure size.* Each single-family detached dwelling unit shall contain no less than the following square footage:
 - a. *"R-1" District.* One thousand forty (1,040) square feet.
 - b. *"R-2" District.* One thousand forty (1,040) square feet.
 - c. *"R-3" District.* One thousand forty (1,040) square feet.
 - d. Either forty percent (40%) of the lot size, or the square footage that is the average of all occupied single-family dwellings within one hundred eighty-five (185) feet of the lot in question, after the largest and smallest dwellings have been omitted from the range, whichever is smaller.
- W. *Solid Waste Collection/Processing Facilities.* The following standards shall apply to solid waste collection/processing facilities.
 1. *Screening.* The operation shall be conducted wholly within a non-combustible building or within an area surrounded on all sides by a fence or wall at least eight (8) feet in height. The fence or wall shall be of uniform height, uniform texture and color and shall be so maintained by the proprietor as to insure maximum safety to the public, obscure the junk from normal view of the public and preserve the general welfare of the neighborhood. The fence or wall

shall be installed in a way that retains all scrap, junk or other materials within the yard. No scrap, junk or other salvaged materials may be piled so to exceed the height of this enclosing fence or wall.

2. *Traffic circulation.* The operation shall provide entrances on arterial or collector streets only with ingress and egress so designed as to minimize traffic congestion. There shall be enough room on-site to accommodate peak traffic volume and company vehicles. A traffic analysis shall be required.
 - a. *Storage bins.* Storage bins or trailers will be allowed to be stored on-site as an ancillary use, providing they are durable, covered and meet the same setbacks required for the structure on the site. The bins shall be screened as part of the operation.
 - b. *Loading/unloading.* No solid waste or junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside an enclosed building, fence or screened area or within the public right-of-way, except the use of storage bins placed on the outside an enclosed building for recycling. The operation shall be attended on days of operation to maintain the property in a clean, litter free condition.
 - c. *Separation for residential.* No structures shall be located within three hundred (300) feet a "R-1", "R-2", "R-3" or "MP" zoned property.
 - d. *Hours of operation.* Uses shall not operate before sunrise or after sunset if located within one thousand (1,000) feet of a "R-1", "R-2", "R-3" or "MP" zoned property.
 - e. *Paving.* All roads, driveways, parking lots and loading/unloading areas within five hundred (500) feet of any lot line shall be graded and paved with an approved concrete or asphalt/concrete surface.
 - f. *Stormwater management.* A stormwater management plan may be required at the discretion of the City Engineer.
 - g. *Other regulations.* All operations shall be licensed if required, have proper permits from the Missouri Department of Natural Resources and shall meet all City, County, State and Federal Health Department requirements pertaining to facilities, equipment and other features.
 - h. *Time limit and renewal of conditional use permit.* The conditional use permit shall be effective for one (1) year, at which time it may be renewed in accordance with procedures applicable to the original approval. If renewed, a new time limit on the conditional use permit shall be established at the public hearing. The conditional use permit shall be revoked by the Zoning Administrator if it is determined by the Zoning Administrator that the use is creating a nuisance for nearby residents or businesses or is failing to comply with the conditions imposed on the operation.
- X. *Temporary Uses.* Activities, sales and/or services conducted outside of the principal building or use area on a zoning lot, subject to restrictions contained herein:
1. Typically allowed temporary uses requiring permit:
 - a. Food sales (food preparation facilities will be subject to Lawrence County Health Department rules);

- b. Arts and crafts;
 - c. Sales of dry goods;
 - d. Exhibits, displays or demonstrations of services, materials or equipment not designated as prohibited by this Section or any other provision of the City Code.
2. Typically prohibited uses:
- a. New or used car/truck sales;
 - b. Sales of farm machinery;
 - c. Recreational vehicles, boats or other rolling stock;
 - d. Large volume sales of lumber, tires, or other bulk materials.
3. Restrictions concerning permitted temporary uses:
- a. Temporary use permit must be applied for and approved by the Zoning Administrator. Permit fee amount is as prescribed on the current list kept on record in the City Clerk's office. Permit is valid for one hundred eighty (180) days and may be renewed no sooner than one (1) year from issuance. The one hundred eighty (180) days of temporary use activity need not be consecutive.
 - b. The number of temporary uses (vendors) is limited to two (2) per zoning lot at any one time.
 - c. Permit must be conspicuously displayed on site.
 - d. Temporary use activity is prohibited on any public right-of way or City-owned property, including streets, alleys, parks and other City property.
 - e. The equipment or structures incorporated in the temporary use must be readily movable. Tent-type collapsible structures are allowed. Temporary buildings of frame construction or structures on skids are prohibited.
 - f. Placement of equipment and allowed structures must be on the permit application and shall be located in such a manner as will maintain unobstructed traffic flow and emergency vehicle access along with sight triangle clearances near intersections of streets and driveways.
 - g. A completed permission form signed by the landowner will be required at the time of the permit application.
 - h. A copy of a valid Missouri retail sales license as well as valid Lawrence County merchant's license will be required from the vendor at time of permit application.
 - i. Other safety equipment such as fire extinguishers or other may be required based on the type of activity.

4. Exemptions from permit:
 - a. Vendors registered with the Mount Vernon Chamber of Commerce to participate in Apple Butter Makin' Days. Said vendors will be subject to Lawrence County Health Department rules and other provisions of the City Code as required.
 - b. Accessory structures for seasonal/temporary uses by permanent business(es) located on a zoning lot.
 - c. Other activities approved by the City prior to adoption of these regulations.
 - d. Temporary uses by not-for-profit organizations primarily for fundraising.
 - e. Exempt activities still subject to site requirements for traffic safety and emergency vehicle access.
- Y. *Transitional Living Facility.* Transitional living centers shall be subject to the following standards.
 1. *Size.* No more than ten (10) persons, including staff, shall reside in the center at one time.
 2. *Separation.* No transitional living center shall be located within one thousand five hundred (1,500) feet of any other transitional living center or substance abuse treatment facility, nor shall a transitional living center be located within three hundred (300) feet of any religious assembly, school, "R-1", "R-2", "MP" zoned property.
- Z. *Vehicle/Equipment Sales, Vehicle/Equipment Storage Yards And Vehicle Repair (Limited And General).* All vehicle and equipment storage areas and parking areas must be hard surfaced and dust free.
- AA. *Minimum Floor Area For Duplexes And Twin-Home Structures.* One thousand (1,000) square feet for each dwelling unit exclusive of decks, porches and attached garages.
- BB. Accessory detached storage buildings exceeding two hundred (200) square feet but not exceeding four hundred (400) square feet in floor area, either built on site or placed as a manufactured/portable structure, shall be located and anchored on a concrete grade beam, or grade beam with slab, at least twelve (12) inches below finished grade, all in accordance with the adopted International Building Code. Multiple piers of either concrete or masonry construction shall be by approved design. Buildings greater than four hundred (400) square feet in area shall be constructed in accordance with Chapters 18 and 23 of the International Building Code. Post and beam (pole barn style) construction is subject to Chapter 23 of the International Building Code.
- CC. *Apartment, Efficiency.* Efficiency apartments shall be allowed only in "R-3" Multi-Family Dwelling Districts when conditionally permitted under Section 405.150 for intensity of use, and at least two thousand five hundred (2,500) square feet of lot area per housekeeping unit. Use standards set forth in Subsection (Q) of this Section shall apply for new construction of such buildings or the alteration/reutilization of existing buildings for such use. Use standard:
 1. A single unit occupied by two (2) or less individuals shall have no less than two hundred twenty (220) square feet of open area, exclusive of closets, bathrooms, and areas within thirty (30) inches of the working side of kitchen appliances.
 2. A single unit occupied by the allowed maximum of three (3) individuals shall have no less than three hundred twenty (320) square feet of open area, as defined in Subsection (1) above.
 3. Each unit shall be provided with a separate garment or storage closet.

4. Each unit shall be provided with a separate bathroom containing a water closet, lavatory, and a tub or shower.
5. Each unit shall be provided with a kitchen sink, a cooking appliance and refrigeration facilities.
6. The requirements for interior environment of the unit are to include, but not be limited to, ceiling height, heating, ventilation, lighting, water supply, means of egress, and any other applicable Sections of the Building Codes, Chapter 500, Municipal Code of the City of Mount Vernon. (Ord. No. 2.56 §2(Art. 5 §2), 1-9-01; Ord. No. 2.77 §1(2-7), 2-11-03; Ord. No. 2.100 §2, 7-27-04; Ord. No. 2.104 §1, 6-28-05; Ord. No. 2.110 §1, 1-10-06; Ord. No. 2.114 §1, 2-28-06; Ord. No. 2.135 §3, 4-22-08; Ord. No. 2.143 §1, 4-27-10; Ord. No. 2.146 §1, 9-28-10; Ord. No. 2.147 §1, 9-28-10; Ord. No. 2.148 §1, 3-22-11; Ord. No. 2.149 §2, 4-24-12)

ARTICLE VII. NON-CONFORMING USES

SECTION 405.460: GENERAL

Non-conformities are of three (3) types: non-conforming lots of record, non-conforming structures and non-conforming uses. A definition of each type is as follows:

1. *Non-conforming lot of record.* An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
2. *Non-conforming structure.* An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
3. *Non-conforming use.* An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located. (Ord. No. 2.56 §2(Art. 10 §1), 1-9-01)

SECTION 405.470: NON-CONFORMING LOTS OF RECORD

The Building Inspector shall issue a building permit for any non-conforming lot of record, provided that:

1. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
2. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
3. Said lot can meet all yard regulations for the district in which it is located, and
4. Said lot can be served by municipal sewerage disposal or can meet minimum standards for on-site sewage treatment as required by the County Health Office should the City determine that the lot cannot be served by the municipal disposal system. (Ord. No. 2.56 §2(Art. 10 §2), 1-9-01)

SECTION 405.480: NON-CONFORMING STRUCTURES

- A. *Authority To Continue.* Any non-conforming structure, which is devoted to a use which is permitted in the zoning district in which it is located, may be continued so long as it remains otherwise lawful.
- B. *Enlargement, Repair, Alterations.* Any non-conforming structure may be enlarged, maintained, repaired or remodeled; provided however, no such enlargement, maintenance, repair or remodeling shall either create any additional non-conformity or increase the degree of existing non-conformity of all or any part of such structure; provided further, existing manufactured home parks not meeting the requirements of this Section shall be declared non-conforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of this Section.
- C. *Damage Or Destruction.* In the event that any non-conforming structure is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its appraised value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of fifty percent (50%) or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.
- D. *Moving.* No non-conforming structure shall be moved in whole or in part for any distance whatever to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved. (Ord. No. 2.56 §2(Art. 10 §3), 1-9-01)

SECTION 405.490: NON-CONFORMING USES

- A. *Authority To Continue.* Any lawfully existing non-conforming use or part or all of a structure or any lawfully existing non-conforming use of land may be continued so long as otherwise lawful.
- B. *Ordinary Repair And Maintenance.*
1. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing may be performed on any structure that is devoted in whole or in part to a non-conforming use.
 2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.
- C. *Extension.* A non-conforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activities shall include, without being limited to:
1. Extension of such use to any structure or land area other than that occupied by such non-conforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become non-conforming).
 2. Extension of such use within a structure to any portion of the floor area that was not occupied by such non-conforming use on the effective date of these regulations (or on the effective date

of subsequent amendments hereto that cause such use to become non-conforming); provided however, that such use may be extended throughout any part of such structure that was lawfully and manifestly designed or arranged for such use on such effective date.

- D. *Enlargement.* No structure that is devoted in whole or in part to a non-conforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. *Damage Or Destruction.* In the event that any structure that is devoted in whole or in part to a non-conforming use is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its appraised value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is fifty percent (50%) or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.
- F. *Moving.* No structure that is devoted in whole or in part to a non-conforming use and no conforming use of land shall be moved in whole or in part for any distance whatever to any other location on the same or any other lot unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning districts in which it is located after being so moved.
- G. *Change In Use.* If no structural alterations are made, any non-conforming use of a structure or structure and premises may as a conditional use be changed to another non-conforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with Article XI. Once a change is made to a more appropriate use, the use shall not be returned to the original use or a less appropriate use.
- H. *Abandonment Or Discontinuance.* When a non-conforming use is discontinued or abandoned for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished or resumed and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
- I. *Non-Conforming Accessory Uses.* No use which is accessory to a principal non-conforming use shall continue after such principal use shall cease or terminate.
- J. *Non-Conforming Residential Uses.* Notwithstanding the provisions of Sections 405.490(C) and (D), any structure which is devoted to a residential use and which is located in a business or industrial district may be remodeled, extended, expanded and enlarged; provided that after any such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work. (Ord. No. 2.56 §2(Art. 10 §4), 1-9-01)

SECTION 405.495: EXCEPTION OR WAIVER OF REGULATIONS FOR NON-CONFORMING USES

- A. Whenever the Planning and Zoning Commission deems that extraordinary hardship or practical difficulties may result from strict compliance with these regulations and/or the purpose of these regulations may be better served by an alternative proposal, it may recommend an exception or waiver of the conditions of these regulations. In recommending exception or waiver, the Planning

and Zoning Commission shall consider the following:

1. The conditions that the request is based upon constitute special circumstances or conditions affecting the property for which the relief is sought are not generally applicable to other property.
 2. The exception or waiver is necessary for the reasonable and acceptable development of the property in question and involves a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
 3. The granting of the exception or waiver will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
 4. The granting of the exception or waiver will not in any manner vary the provisions of the zoning regulations.
 5. Certain conditions that may be deemed necessary by the City for the granting of an exception or waiver shall be documented and authorized by both the City and petitioner and are to be kept on permanent file with the City.
- B. *Procedure.* A completed application for an exception or waiver of conditions shall be submitted in writing to the Zoning Administrator, along with the appropriate fee by the owner or owner's authorized, agent. The application shall then be placed on the agenda for the next regular meeting of the Planning and Zoning Commission for review and recommendation. The Board of Aldermen shall consider the Commission's recommendation, with conditions, if any, at the next regularly scheduled meeting of the Board. The Board may:
1. Approve the Commission's recommendation by a simple majority vote.
 2. Override the Commission's recommendation by a two-thirds ($\frac{2}{3}$) majority vote of the membership of the Board.

Should the applicant's request be denied, the reasons shall be stated on the record. Should the applicant's request be granted by the Board, the City shall adopt an ordinance to that effect. Such waiver or exception, along with conditions, if any, shall run with the land and bind all successors, heirs and assignees of the owner. (Ord. No. 2.130 §1, 4-24-07)

SECTION 405.500: STATUS OF CONDITIONAL USES

- A. *Status Of Existing Conditional Uses.* Where a use exists at the effective date of these regulations and is permitted by these regulations only as a conditional use in the zoning district in which it is located, such use shall not be deemed to be a non-conforming use but shall, without further action, be deemed a lawful conforming use in such zoning district. Such conditional use shall not be enlarged or expanded unless a conditional use application is approved as set out in Article IX of these regulations.
- B. *Status Of Future Conditional Uses.* Any use for which a conditional use permit has been issued, as provided in these regulations, shall not be deemed to be a non-conforming use but shall, without further action, be deemed a lawful conforming use. (Ord. No. 2.56 §2(Art. 10 §5), 1-9-01)

ARTICLE VIII. SIGN REGULATIONS

SECTION 405.510: INTENT AND PURPOSE

It is the intent and purpose of these sign regulations to qualify, supplement or define the allowable uses of the several types of signs allowed in the district regulations appearing elsewhere in this regulation. (Ord. No. 2.56 §2(Art. 9 §1), 1-9-01)

SECTION 405.520: APPLICABILITY

Any sign shall, by definition, be a structure. No land, personal property or structure shall be used for sign purposes except as specified herein. (Ord. No. 2.56 §2(Art. 9 §2), 1-9-01)

SECTION 405.530: NON-CONFORMING SIGNS

All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal non-conformance. Signs in legal non-conformance shall not be enlarged, moved,

lighted or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. (Ord. No. 2.56 §2(Art. 9 §3), 1-9-01)

SECTION 405.540: REMOVAL OF NON-CONFORMING SIGNS

Should any non-conforming sign be damaged by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of damage, it shall not be reconstructed except in conformity with the provisions of these regulations.

1. *Removal of on-site non-conforming signs.* All on-site non-conforming signs not otherwise prohibited by the provisions of these regulations shall be removed or shall be altered to conform to the provisions of this regulation (a) when the nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size or legend or (b) when the name of the business changes and the sign is changed or modified either in shape, size or legend.
2. *Removal of signs upon destruction of principal structures.* When a principal structure is destroyed or removed due to natural or manmade circumstances, all signs on the property shall be removed within ninety (90) days, unless a building permit has been issued to replace the structure within said time period. (Ord. No. 2.56 §2(Art. 9 §4), 1-9-01)

SECTION 405.550: PERMIT REQUIRED

- A. No sign except temporary signs, as defined in this Article, may be erected or altered until a sign permit has been issued by the Building Inspector.
- B. *Application.* Application for permits required under this Article shall be made on forms provided by the Building Inspector and accompanied by the following, if required by the Building Inspector or if required by the provisions hereof:
 1. Plans and specifications of the proposed sign; the right to inspect all permanent signs and marquees prior to their installation and erection and prior to the issuance of a permit.
 2. A certificate of accident public liability insurance issued to the person or firm installing or erecting a sign or marquee over public property and providing coverage of fifty thousand dollars (\$50,000.00) per person, one hundred thousand dollars (\$100,000.00) per accident and twenty-five thousand dollars (\$25,000.00) property damage.
- C. *Permit Fees.* Every application before being granted a permit hereunder shall pay to the City Clerk the following permit fee for each such sign or other advertising structure regulated by this Article:
 1. All signs requiring a permit but not requiring engineering—fifteen dollars (\$15.00). All signs requiring engineering as per Section 405.580(J), General Provisions—fifty dollars (\$50.00).
 2. Temporary signs—ten dollars (\$10.00), when required.
- D. *Inspection.* As soon as a sign has been erected, the permittee shall notify the Building Inspector who shall inspect such sign and approve the same if it is in compliance with the provisions of this Article. The Building Inspector may, from time to time, as he/she deems necessary, inspect all signs or other advertising structure regulated by this Article for the purpose of ascertaining whether the same is secure or insecure or whether it is in need of removal or repair.

- E. *Permit Revocable At Any Time.* All rights and privileges acquired under the provisions of this Article or any amendment thereto, are mere licenses revocable at any time by the Building Inspector and all such permits shall contain this provision. (Ord. No. 2.56 §2(Art. 9 §5), 1-9-01; Ord. No. 2.100 §2, 7-27-04)

SECTION 405.560: REVIEW AND ACTION

The Zoning Administrator shall review the sign permit application in detail for the purpose of determining whether the proposed sign complies with all the applicable sign regulations of this Article, if applicable. Within fifteen (15) days of the submission of a complete application for a sign permit, the Zoning Director shall either:

1. Issue the sign permit if the sign complies in every respect with the standards of this Article, if applicable; or
2. Deny the sign permit if the sign fails in any way to comply with the standards of this Article. The Zoning Administrator shall specify all reasons for the denial. (Ord. No. 2.56 §2(Art. 9 §6), 1-9-01)

SECTION 405.570: CLASSIFICATION OF SIGNS

A. Functional Types.

1. *Advertising sign (billboards).* A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
2. *Bulletin board sign.* A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
3. *Business sign.* A sign which directs attention to a business or profession conducted or to products, services or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.
4. *Identification sign.* A sign giving only the name and address of a structure, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
5. *Memorial sign.* A sign, monument or statue serving to help people remember some person or event.
6. *Name plate sign.* A sign giving the name and/or address of the owner or occupant of a structure or premises on which it is located and, where applicable, a professional status.
7. *Temporary sign.* A display sign as listed below that is limited in time that such sign may remain in use either by the limitations of these regulations or the conditions of a sign permit.

- a. *Real estate sign.* A temporary sign pertaining to the sale or lease of a lot or tract of land on which the sign is located or to the sale or lease of one (1) or more structures or a portion thereof on which the sign is located.
- b. *Construction sign.* A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
- c. *Political campaign sign.* Any sign relating to a candidate, political party, ballot issue or other issue to be voted upon in any public election.
- d. *Banner signs and pennants.* Made of flexible, non-permanent type material that is intended for short term use and not for permanent display. Subject to display limitations as described in banner permit application.

B. *Structural Types.*

1. *Awning, canopy or marquee sign.* A sign that is mounted on, painted on or attached to an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.

Figure 5 - Canopy Sign

2. *Ground sign.* Any sign placed upon or supported by the ground independent of the principal structure on the property where the bottom edge of the sign is less than six (6) feet above the ground, the height is no greater than ten (10) feet and the base is no less than fifty percent (50%) of the width of the face of the sign presenting a monolithic structure.

Figure 6 - Ground Sign

10 feet maximum height

If the height of the sign base is less than 5 feet, no planter is required

3. *Monument sign.* Any sign whose base is greater in width than the face of the sign and whose height is no greater than six (6) feet.

Figure 7 - Monument Sign

X = 110% of the width of the sign face
Y = 10% of the width of the sign face
6 feet maximum height

4. *Elevated sign.* Any sign placed upon or supported by, the ground independent of the principal structure on the property where the bottom edge of the sign is ten (10) feet or more above the ground level.

Figure 8 - Elevated Sign—Recommended Design

X = the width of the sign face
Y = ¼ the width of the base
Z = 30 feet above based elevation
30 feet maximum height
Bottom of sign base to be a minimum of 10 feet from ground elevation

5. *Portable display sign.* Any movable display structure, capable of relocation, under its own power or towed by a motor vehicle. The display message of the sign may be painted or non-painted and capable of being readily altered. Portable display signs may be with or without electrical illumination and power and with or without wheels.

Figure 9 - Portable Display Sign

6. *Projecting sign.* A sign that is wholly or partly dependent upon a structure for support and which projects more than twelve (12) inches from such structure. Sign area is limited to a maximum of twenty (20) square feet.

Figure 10 - Projecting Sign

7. *Wall sign.* A sign fastened to or painted on a wall of a structure in such a manner that the wall becomes merely the supporting structure or forms the background surface and which does not project more than twelve (12) inches from such structure.

Figure 11 - Wall Sign

8. *Roof sign.* A sign totally supported on the roof of a structure. Roof signs shall not project more than twelve (12) inches beyond the face of the structure.

Figure 12 - Roof Sign

9. *Window sign.* Any sign, pictures, symbol or combination thereof designed to communicate information about an activity, business, commodity, event, sale or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Figure 13 - Window Sign

(Ord. No. 2.56 §2(Art. 9 §7), 1-9-01; Ord. No. 2.69 §1, 8-13-02)

SECTION 405.580: GENERAL PROVISIONS

- A. *Gross Area Of Sign.* Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one (1) side of a detached sign is utilized as a sign, then only the largest side shall be computed and shall be counted as a portion of the gross area. On lots where more than one (1) sign is located, the total gross area of all the signs shall not exceed the maximum gross area for one (1) sign permitted by this regulation.

For computing the gross area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.

- B. *Sign Height.* Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.
- C. *Illuminated Signs.* A sign designed to give forth artificial light or designed to reflect light derived from any source.
- D. Illuminated signs shall be designed as to reflect or direct light away from any residential dwelling district and any illuminated sign located on a lot adjacent to, in front of or across the street from any residential district, which sign is visible from such residential district, shall not be illuminated between the hours of 11 P.M. and 7 A.M.
1. Illuminated signs in direct vision of a traffic signal shall not be in red, amber or green illumination.
- E. *Flashing Or Moving Signs.* For the purpose of this regulation, any sign that is revolving, rotating, moving, animated, has moving lights or creates the illusion of movement shall be considered a moving sign. Any illuminated sign on which the artificial light is not constant in intensity and color at all times is considered a flashing sign.
1. Flashing signs shall not be permitted which are in any way similar to traffic signals or emergency vehicle lights.
 2. A sign which displays the current time and/or temperature by use of intermittent lighting shall

not be deemed a flashing sign if the lighting changes are limited to text indicating time, temperature or other public messages. Such sign shall not in any case exceed thirty-two (32) square feet in area.

- F. *Accessway Or Window.* No sign shall block any required accessway or window.
- G. *Signs On Trees Or Utility Poles.* No sign shall be attached to any utility pole or tree.
- H. *Traffic Safety.*
1. No sign shall be maintained at any location where by reason of its position, size, shape or color may obstruct, impair, obscure, interfere with the view of or be confused with any traffic or railroad control sign, signal or device or where it may interfere with, mislead or confuse traffic.
 2. Any sign located within three (3) feet of a driveway, alley or within a parking area shall have its lowest elevation at least eight (8) feet above the curb level; however, in no event shall any sign be placed so as to project over any public right-of-way, except in the "B-2" Central Business District where signs may project over a sidewalk. The sign may not extend within two (2) feet of the curbline.
 3. Under no circumstances shall any sign be placed in the sight triangle as defined by this regulation. Sight triangles at driveway/street intersections are to be measured from a point ten (10) feet up the left or right driveway edge to a point fifty (50) feet right or left of the driveway opening along the street curb.
 4. All elevated, projecting or other detached signs must maintain a ten (10) foot minimum clearance to overhead electric conductors over six hundred (600) volts.
- I. *Landscaping.* Ground signs, monument signs and elevated signs shall be landscaped. The landscaping shall extend no less than three (3) feet from the base of the sign and, in the case of ground signs and monument signs, shall be incorporated within a decorative planter.
- J. *Scale And Context.* Signs shall be in scale with the site or structure where located and in context with the site, structure and service offered.
1. Scale includes both human scale and proportion. Signs shall be proportional to the element they are attached to and the facade as a whole.
 2. Context includes form, style, color, balance and structure lines.
 - a. *Form.* Sign shape and its relationship to the structure or service offered.
 - b. *Style.* Historical, eclectic, modern or contemporary shapes, texts and colors.
 - c. *Color.* Analogous or complementary in relation to site or structure.
 - d. *Balance.* Location of sign in structure element relating to balance through location, mass and color.
 - e. *Structure lines.* Major lines of building elements and compatibility to outlines, horizontal and vertical lines such as roof line, ground line, window lines, etc.

- K. Elevated and ground signs over one hundred (100) square feet in area and/or over twenty (20) feet from ground level to bottom of sign effective area require engineering with calculations from an engineer/architect licensed to practice in the State of Missouri. A signed seal is required on calculations and drawings for the proposed sign structure. This also applies to roof-mounted signs over one hundred (100) square feet in effective area. Roof signs requiring engineering must also show details of supporting roof structure to verify ability of the roof to support imposed loads based on International Building Code criteria. Calculations shall be based on thirty (30) p.s.f. and seventy (70) m.p.h. exposure values for both elevated and roof signs.
- L. *Regulations For Allowing Two (2) Advertising, Elevated, Ground Or Monument Signs On A Zoning Lot.*
1. To be allowed only in districts designated as "B-1", "B-3", "M-1" and "M-2" zoning.
 2. The lot must have four hundred (400) feet or more of frontage along an arterial street, expressway or freeway as defined in the City of Mount Vernon Major Street Table 6.2 of the Comprehensive Plan. Multiple frontages may not be added together to qualify for the four hundred (400) feet minimum.
 3. A two hundred fifty (250) foot minimum spacing between signs must be maintained.
 4. A twenty (20) foot setback must be maintained from all interior, adjacent property line.
 5. An additional sign is allowed for each additional four hundred (400) feet of frontage. Same setback and spacing rules apply as above.
 6. A zoning lot with frontage along two (2) arterials, expressways, freeways or any combination thereof is permitted a sign for each street. This does not allow an additional sign if allowed by Subsection (5) above.
 7. Maximum sign area and height is to be in accordance with Section 405.660 "Sign Standards" based on the zoning district in which it is located.
 8. This Section applies to new developments and existing lots containing only one (1) business.
- M. Special provisions for allowing additional detached signs on existing multi-tenant, non-residential zoning lots.
1. Total number of detached signs allowed is based on the number of existing businesses at the time of adoption of this Special Provision.
 2. The total number allowed would be reduced by the number of any existing detached advertising, monument, ground or elevated signs.
 3. Total area of all detached signs would be subject to the maximum allowable area for a single sign, based on its type, in that zoning district.
 4. Each allowable sign, as determined by Subsections (1) and (2) above, would share an equal percentage of the total allowable area as determined by Subsection (3) above.
 5. Existing signs would reduce the total allowable area by the percentage as determined in Subsection (4) above, not by its actual area.

6. Any future businesses desiring advertising space on any existing sign structure, as permitted by this Special Provisions Section, would be restricted to the allowed percentage of the sign structure on which it is located. (Ord. No. 2.56 §2(Art. 9 §8), 1-9-01; Ord. No. 2.69 §1, 8-13-02; Ord. No. 2.83 §1(D), 4-8-03; Ord. No. 2.84 §1(1), 5-13-03)

SECTION 405.590: EXEMPTIONS

- A. *Total Exemptions.* The following signs shall be exempt from the requirements of this Article, except for the provisions of Sections 405.580(G) and 405.600:
 1. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization displayed on private property.
 2. Signs of a duly constituted governmental body including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.
 3. Memorial signs displayed on public or private property.
 4. Small signs, not exceeding three (3) square feet in area, displayed on private property for the convenience of the public including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and other similar signs; except that such signs shall not display logos or other business advertisements.
 5. Scoreboards in athletic stadiums.
 6. Temporary signs for the sale of household goods at a residence (for example, garage sales or auctions) for a period not to exceed five (5) days.
 7. Political campaign signs.
- B. *Exemptions From Sign Permit.* The following signs are exempt from the sign permit Section of this Article but shall comply with all of the other regulations imposed by this Article:
 1. Name plate signs not exceeding two (2) square feet in gross area accessory to a single-family or two-family dwelling.
 2. Bulletin board signs not exceeding one hundred (100) square feet in gross area accessory to a church, school or public or non-profit institution.
 3. Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.
 4. Real estate signs not exceeding nine (9) square feet in area.
 5. Construction signs not exceeding nine (9) square feet in area.
- C. Window signs not exceeding twenty-five percent (25%) of the window surface in commercial and industrial districts. (Ord. No. 2.56 §2(Art. 9 §9), 1-9-01)

SECTION 405.600: PROHIBITED SIGNS

- A. *Signs On Public Property.* Any sign installed or placed on public property, except in conformance with the requirements, shall be forfeited to the public and subject to confiscation, except that logo signs on public athletic fields shall be allowed. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.
- B. *Obscene Or Indecent Advertisement.* No person shall display upon any sign or other advertising structure any obscene, indecent or immoral matter.
- C. *Located On Right-Of-Way.* Any sign located on public right-of-way, except those signs required by governmental authority or political signs as may be permitted. (Ord. No. 2.56 §2(Art. 9 §10), 1-9-01; Ord. No. 2.69 §1, 8-13-02)

SECTION 405.610: TEMPORARY PORTABLE DISPLAY SIGNS WITH OR WITHOUT WHEELS ATTACHED

Portable display signs shall be allowed on a premises in a commercial or industrial zoning district for not more than seven (7) consecutive days and no more than thirty (30) days in a twelve (12) month period. (Ord. No. 2.56 §2(Art. 9 §11), 1-9-01)

SECTION 405.620: TEMPORARY SIGNS

Temporary signs shall be erected and maintained in a safe and attractive manner and shall be subject to applicable regulations except as specifically modified herein.

1. *Real estate signs.* Real estate signs shall be removed within one (1) week of the date of sale, rental or lease. Signs shall not exceed thirty-two (32) square feet in area. Signs shall be limited to nine (9) square feet in area when located in an "R-1" or "R-2" zoning district.
2. *Construction signs.* Construction signs shall be thirty-two (32) square feet or less. Signs may be erected at the start of construction and shall be removed upon project completion. Signs shall be limited to nine (9) square feet in area when located in an "R-1" or "R-2" zoning district.
3. *Banners and pennants.* Banners and pennants shall require a permit for display. A maximum of thirty-two (32) square feet is allowed with only one (1) banner per business to be displayed at one time. Banner and pennant permits are ten dollars (\$10.00) per thirty (30) day period of display with a maximum time of one hundred eighty (180) days per calendar year allowed. Banners must conform to all requirements for display as stated in the permit application.
4. *Political campaign signs.* Shall be limited to a maximum of nine (9) square feet in area when located in an "R-1", "R-2", "R-3" or "MP" zoned district. For all other zoning districts, they shall be limited to the area requirements for permanent detached or wall signs in accordance with the zoning district in which they are located. They shall be subject to placement in accordance with Section 405.580, Part G, "Traffic Safety". Permission shall be obtained from the owner when displayed on private property. Display time is limited to no more than thirty (30) days prior to an election and no more than seven (7) days after. (Ord. No. 2.56 §2(Art. 9 §12), 1-9-01; Ord. No. 2.69 §1(11), 8-13-02; Ord. No. 2.83 §1(B-C), 4-8-03; Ord. No. 2.136 §1, 8-12-08)

SECTION 405.630: MAINTENANCE

- A. All signs within the City shall be maintained in a safe condition and in such a manner that they shall

not become a visual detriment to the community at large. The Building Inspector shall be charged with the responsibility and authority to inspect all signs within the City and direct the maintenance of said signs. "*Maintenance of signs*" is defined as keeping sign structures in a safe condition, free of rust, with broken glass or plastic replaced, electrical lights and other electrical operations in operable condition, letters and other sign components in the equivalent condition as on the sign permit or as approved.

- B. Should the Building Inspector find a non-maintained sign as defined above, it shall cause the owner of said sign to be notified as to the deficiency and the corrective action that needs to be taken. Any sign that advertises products, goods or services no longer available at that site or at the described location on the sign for more than one (1) year shall be considered an abandoned sign/non-maintained sign.
- C. Should the owner fail to exhibit evidence of compliance within thirty (30) days after the mailing of the letter of notification, the Building Inspector shall cause the owner to be cited for violation of this regulation.
- D. *Painted Sign Maintenance.* The owner of any sign as defined and regulated by this regulation shall be required to have properly painted at least once every two (2) years all parts and supports of the sign, unless the same are galvanized or otherwise treated to prevent rust. (Ord. No. 2.56 §2(Art. 9 §13), 1-9-01; Ord. No. 2.69 §1(12), 8-13-02)

SECTION 405.640: SHOPPING CENTERS, PLANNED DISTRICTS AND OFFICE PARKS

In the case of a proposed shopping center or other grouping of two (2) or more tenants or establishments (new or remodeled), the developer shall prepare and submit to the Planning and Zoning Commission a master signage plan for all permanent exterior signs. Such plan shall set standards that shall run with all leases or sales of portions of the development. A full and accurate description of all signs shall be included indicating location, placement, materials, graphic design styles, type of illumination, etc. Final development plans shall not be approved until the Planning and Zoning Commission has approved the sign standards. For purposes of this Section the terms "*shopping center, office park or their groupings*" shall mean a project of one (1) or more buildings that has been planned as an integrated unit or cluster of units on property under unified control or ownership. The sale, subdivision or other partition of the site does not exempt the project or portions thereof from complying with these regulations.

- 1. In the case of a "shopping center or other grouping" which is occupied by more than one (1) tenant, one (1) elevated sign or ground sign may be permitted in addition to the wall-mounted signs. Advertising space shall be reserved for any and all future tenants unless owner/developer chooses not to offer such space. This determination must be made at the time a final development plan is submitted for approval.
- 2. Owners of existing occupied office centers, shopping centers or other commercial groupings with two (2) or more tenants, must provide for advertising space for any and all current or future tenants on any monument, ground or elevated sign that is permitted to be constructed for that center or grouping, should no such sign be existing at time of application. Should the owner desire not to provide advertising space for any tenant, then only a single sign identifying the center or group will be permitted. (Ord. No. 2.56 §2(Art. 9 §14), 1-9-01; Ord. No. 2.69 §1(13-15), 8-13-02; Ord. No. 2.77 §1(12), 2-11-03)

SECTION 405.650: DISTRICT REGULATIONS

Prohibited on one- and two-family residences:

1. Bulletin board signs.
2. Business signs other than as allowed for home occupations.
3. Monument signs other than as allowed for home occupations.
4. Wall signs other than as allowed for home occupations.
5. Identification signs other than as allowed for home occupations.

| | ZONING DISTRICT | | | | | | | | | |
|---|------------------------|------------|------------|------------|-----------|------------|------------|------------|------------|------------|
| | A-R | R-1 | R-2 | R-3 | MP | B-1 | B-2 | B-3 | M-1 | M-2 |
| STANDARDS | | A | A | A | A | B | C | D | D | D |
| FUNCTIONAL SIGN TYPES | | | | | | | | | | |
| Advertising Sign | | | | | | | | C | C | C |
| Bulletin Board | P | P | P | P | P | P | P | P | P | P |
| Business Sign | P | P | P | P | P | P | P | P | P | P |
| Construction Sign | P | P | P | P | P | P | P | P | P | P |
| Identification Sign | P | P | P | P | P | P | P | P | P | P |
| Name Plate Sign | P | P | P | P | P | P | P | P | P | P |
| Temporary Sign | P | P | P | P | P | P | P | P | P | P |
| STRUCTURAL SIGN TYPES | | | | | | | | | | |
| Awning, Canopy or Marquee Sign | | | | | | P | P | P | P | P |
| Elevated Sign | | | | | | P | | P | P | P |
| Ground Sign | | | | | | P | | P | P | P |
| Monument Sign | P | P | P | P | P | P | | P | P | P |
| Portable Display Sign | | | | | | | | P | P | P |
| Projecting Sign | | | | | | P | P | P | P | P |
| Wall Sign | | P | P | P | P | P | P | P | P | P |
| Roof Sign | | | | | | | | | | P |
| Window Sign | | | | | | P | P | P | P | P |
| P= Permitted C = Conditionally permitted | | | | | | | | | | |

(Ord. No. 2.56 §2(Art. 9 §15), 1-9-01; Ord. No. 2.69 §1(16), 8-13-02; Ord. No. 2.100 §2, 7-27-04; Ord. No. 2.111 §1, 1-10-06)

SECTION 405.660: SIGN STANDARDS

A. *"R-1" Single-Family Residential District, "R-2" Two-Family Residential District, "R-3" Multi-Family Dwelling District, "MP" Manufactured Home Park Residential District.*

1. *Number of signs permitted.* One (1) sign per zoning lot; and two (2) signs per zoning lot on a corner lot, with one (1) sign facing each street.
2. *Maximum gross area.*
 - a. *Business signs—home occupations.* Twelve (12) square feet, non-illuminated. Sign

display to be limited to either one (1) detached sign or one (1) wall sign only. Corner lots also limited to one (1) sign of either type.

- b. *Bulletin board and identification signs.* Fifty (50) square feet.
 - c. *Temporary signs.* As regulated by Section 405.620 of this Article.
 - d. *Name plate signs.* Four (4) square feet.
 - e. *Monument sign.* Thirty-six (36) square feet.
 - f. *Maximum height.* Fifteen (15) feet.
3. *Required setback.* No sign shall be placed closer to the front property line than one-half ($\frac{1}{2}$) the distance of the front yard; except that real estate signs shall be exempt from setback requirements.
 4. *Illumination.* Bulletin board signs may be indirectly illuminated with incandescent or fluorescent lighting.
- B. *"B-1" Mixed-Use District And "M-1" Light Industrial District And "M-2" Heavy Industrial District.*
1. *Number of signs permitted.* Same as "B-3", except as modified by advertising signs in Subsection (B)(7) below.
 2. *Maximum gross surface area for detached signs.* Four (4) square feet per lineal foot of street frontage, provided no single sign exceeds a gross surface area of three hundred (300) square feet, except as modified by advertising signs in Subsection (B)(7) below.
 3. *Maximum gross surface area for wall signs.* Same as "B-3" zoning.
 4. *Maximum height.* Thirty (30) feet above highest point for roof and wall signs and thirty (30) feet for all others, except as modified by advertising signs in Subsection (B)(7) below.
 5. *Required setback.* None.
 6. *Illumination.* Illuminated signs shall be permitted, except as modified by advertising signs in Subsection (B)(7) below.
 7. *Advertising signs (billboards).* Advertising signs (billboards) may be established along Interstate 44, provided that they meet the following conditions:
 - a. No advertising sign shall be located within six hundred sixty (660) feet of another advertising sign abutting either side of the same street or highway.
 - b. No advertising sign shall be located closer than twenty (20) feet from a property line adjoining a public right-of-way or ten (10) feet from any interior boundary lines of the premises on which the advertising sign is located. Setbacks shall be measured from the surface display area to the vertical extension of the property line.
 - c. The surface display area of any side of an advertising sign may not exceed four hundred (400) feet. In the case of advertising sign structures with tandem or stacked advertising sign faces, the combined surface display area of both faces may not exceed four hundred (400) square feet.

- d. The height of an advertising sign shall not exceed thirty-five (35) feet above the grade of the ground on which the advertising sign sits or the grade of the abutting roadway, whichever is higher.
 - e. No advertising (billboard) type sign, as defined in these regulations, shall be located less than one hundred twenty-five (125) feet from an "R-1", "R-2" or "R-3" zoning district.
8. No advertising sign shall be on top of, cantilevered or otherwise suspended above the roof of any building.
- a. An advertising sign may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises. In no event shall any advertising sign have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
 - b. An advertising sign must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. An advertising sign must be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.
 - c. An advertising sign established within a business, commercial or industrial area, as defined in the "Highway Advertising Act of 1972" (1972 PA 106, as amended), bordering interstate highways, freeways or primary highways as defined in said Act shall, in addition to complying with the above conditions, also comply with all applicable provisions of the Act and the regulations provided thereunder, as such may from time to time be amended.

C. *"B-2" Central Business District.*

1. *Number of signs permitted.* No limit for wall signs. Total areas combined not to exceed total allowable area based on street frontage. Detached signs are not permitted.
2. *Maximum gross surface area.* Four (4) square feet for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of one hundred (100) square feet.
3. *Maximum height.* NA; except wall and projecting signs may extend to the roof eave line.
4. *Required setback.* None.
5. *Illumination.* Illuminated signs shall be permitted.

D. *"B-3" General Commercial District.*

1. *Number of signs permitted.*
 - a. *Awning, canopy or marquee signs and wall signs.* No limitations.
 - b. *Ground, monument, elevated or projecting signs.* Two (2) per zoning lot on double frontage lots. Double frontages may be either corner lots or through lots. Both frontages must be on an arterial, major arterial, expressway, or freeway, or combination thereof as determined in the Comprehensive Plan Table. Corner through lots are allowed a sign for each street frontage.

2. *Maximum gross surface area for detached signs:*
 - a. Four (4) square feet for each lineal foot of street frontage.
 - b. No single sign shall exceed one hundred (100) square feet in area.
 - c. No elevated sign shall exceed two hundred fifty (250) square feet in area.
 3. *Maximum gross surface area for wall signs:* Two (2) square feet per lineal foot of building frontage.
 4. *Maximum height.* Thirty (30) feet, except as otherwise limited in height by this Article.
 5. *Required setback.* None.
 6. *Illumination.* Illuminated signs shall be permitted.
- E. *Establishment Of An Interstate Sign District.* Zoning lots are included as follows:
1. All lots fronting the north side of right-of-way of Business Route 44 for a distance of one thousand seven hundred ninety-two (1,792) feet west of east Mount Vernon City limits.
 2. All lots fronting the north side right-of-way of Industrial Drive frontage road for a distance of one thousand four hundred sixty-eight (1,468) feet east of the intersection of the eastern Mount Vernon City limits and the north right-of-way line of Business Route 44.
 3. All lots fronting the north and south right-of-way of Business Route 44 (Mount Vernon Boulevard) west of the east Mount Vernon City limits to the east right-of-way line of McCause Street.
 4. All lots fronting the south right-of-way of Daniel Drive west from the east Mount Vernon City limits to a point of intersection with the Interstate 44 right-of-way.
 5. Maximum sign heights of seventy (70) feet above ground level are allowed in this district. All other requirements are in accordance with the zoning district regulation in which the sign is located.
- F. *Establishment Of A Historic Sign District.* In keeping with the recommendations set forth in the current Comprehensive Plan concerning the maintaining of the cultural and historical significance of the "B-2" Downtown Business District, a Historic Sign District is designated with the following requirements:
1. The District will include only the currently zoned "B-2" Downtown Business District.
 2. Permits are required for installation of any historic sign structure. Freestanding (detached) signs will not be allowed. Installation will be in accordance with the following City Code Sections. Projecting signs must maintain height and setback from curb requirements as per Section 405.580(G)(2) General Provisions. Roof signs will be allowed subject to engineering requirements as per Section 405.580(J).
 3. All permit applications for this type of sign will be reviewed by Planning and Zoning before approval.

4. The sign work must have been displayed at least twenty-five (25) years prior to the date of application for such a sign.
5. Documentation should be included in the form of photographs (past or present) verifying the prior display of the sign work at that location. Other information that may be deemed reliable by the Planning and Zoning Commission should also be provided by the applicant. An on-site inspection by the Planning and Zoning Commission may be required.
6. The sign work is considered as only an esthetic feature to the building and will not affect or be affected by the requirements and allowances for current signage advertising goods and/or services available on that parcel. All installed historic signs will be subject to maintenance requirements in accordance with Section 405.630 of this Code. (Ord. No. 2.56 §2(Art. 9 §16), 1-9-01; Ord. No. 2.69 §1(8,17-18), 8-13-02; Ord. No. 2.77 §1(13), 2-11-03; Ord. No. 2.80 §1(1), 2-25-03; Ord. No. 2.83 §1(A,E), 4-8-03; Ord. No. 2.84 §1(2), 5-13-03; Ord. No. 2.100 §2, 7-27-04; Ord. No. 2.101 §1, 9-28-04; Ord. No. 2.111 §2, 1-10-06; Ord. No. 2.137 §1, 9-23-08)

ARTICLE IX. CONDITIONAL USE PERMITS

SECTION 405.670: GENERAL CONSIDERATIONS

- A. *Delegation Of Power.* The Board of Aldermen shall decide whether conditional use permits shall be granted only after having received a recommendation from the Planning and Zoning Commission. In no event shall a conditional use permit be granted where the proposed use is not authorized by the terms of these regulations or where the standards of this Article are not found to exist.
- B. *Conditions And Guarantees.* Prior to the granting of any conditional use permit, the Planning and Zoning Commission or Board of Aldermen may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use permit as is

deemed necessary for the protection of the public interest and to secure compliance with the standards and conditions contained herein. In all cases in which a conditional use permit is granted, the Planning and Zoning Commission may recommend or the Board of Aldermen may require such evidence and guarantees as may be deemed necessary to ensure that the conditions stipulated are being and will be fully complied with.

- C. *Conditional Use Permits In Residential Districts.* In no event shall conditional use permits in residential districts be transferable from an owner-applicant to a subsequent owner of the subject real estate or structure. (Ord. No. 2.56 §2(Art. 11 §1), 1-9-01)

SECTION 405.680: PROCEDURES

- A. *Application.* A written application for a conditional use permit shall be filed with the Zoning Administrator and shall include a statement indicating the Section of the Article under which the permit is sought, the grounds upon which it is requested and sufficient evidence to show that the use will conform to the standards set forth. The application shall be accompanied by an area map and site plan of the subject property.
- B. *Fees.* Every application for a conditional use permit shall be subject to a filing fee as established by the Board of Aldermen.
- C. *Site Plan.* All applicants for a conditional use permit shall submit with their application ten (10) copies of a development plan for the property which shall include the following:
1. A site plan showing:
 - a. Approximate size and locations of all structures.
 - b. Access from streets.
 - c. Parking arrangements and numbers of spaces.
 - d. Interior drives and service areas.
 - e. Landscaped areas.
 - f. All proposed signs.
 2. Location map showing development and zoning of adjacent property within one hundred (100) feet.
 3. The full legal description of the boundaries of said development area.
 4. A description of the general character of all structures.
- D. *Hearing.* Upon receipt of the formal application and all accompanying material, the Zoning Administrator shall call a public hearing for the next scheduled meeting of the Planning and Zoning Commission; provided however, that notice must be published in a newspaper of general circulation at least fifteen (15) days prior to the date set for hearing. The Planning and Zoning Commission shall submit a recommendation to their Board of Aldermen within thirty (30) days after the close of the public hearing.

- E. *Findings.* In making a recommendation to the Board of Aldermen, the Planning and Zoning Commission shall specify the particular grounds relied upon and their relation to the proposed use and shall make affirmative findings that the proposed use conforms with the general standards set forth in this Article. In no case shall a conditional use permit be granted if the proposed use will constitute a nuisance or a public health or safety hazard to adjacent properties or to the community at large.
- F. *Action By The Board Of Aldermen.* The Board of Aldermen shall consider the Planning and Zoning Commission's recommendation at the next regularly scheduled Board of Aldermen meeting for which the agenda item can be docketed. The Board of Aldermen shall consider the recommendation of the Planning and Zoning Commission and act in accordance with the procedures for amending zoning district boundaries. If the Board of Aldermen fails to act upon a recommendation within one hundred twenty (120) days from the receipt thereof, the application shall be deemed to have been denied. (Ord. No. 2.56 §2(Art. 11 §2), 1-9-01)

SECTION 405.690: STANDARDS FOR ISSUANCE OF CONDITIONAL USE PERMITS

Before any permit shall be granted, the Planning and Zoning Commission shall make written findings certifying that adequate provision has been made for the following:

1. The location and size of the proposed use in relation to the site and to adjacent sites and uses of property and the nature and intensity of operations proposed thereon.
2. Accessibility of the property to Police, Fire, refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas.
3. Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility.
4. The location, nature and height of structures, walls, fences and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.
5. The adequacy of required yard and open space requirements and sign provisions.
6. The general compatibility with adjacent properties, other properties in the district and the general safety, health, comfort and general welfare of the community. (Ord. No. 2.56 §2(Art. 11 §3), 1-9-01)

SECTION 405.700: ADDITIONAL CONDITIONS FOR CONDITIONAL USES

In granting a conditional use, the City may impose such conditions, safeguards and restrictions upon the premises to reduce or minimize any potential injurious effect of such conditional uses upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. The use standards specified for the uses listed in Section 405.450 of Article VI shall also be requirements for the approval of a conditional use permit. (Ord. No. 2.56 §2(Art. 11 §4), 1-9-01)

SECTION 405.705: TIME LIMIT

- A. *Sunset.* A conditional use permit shall expire upon public hearing, unless a building permit is taken within twelve (12) months to effectuate such specially permitted use; or if no building permit is required, evidence of use is filed with Building Inspector.
- B. *Abandonment.* Once a conditionally permitted use ceases or is abandoned for a period of more than twelve (12) months, the conditional use permit shall expire upon public hearing; except that the conditional use permit for an auto salvage yard shall automatically expire if the State license for operating the auto salvage yard lapses for a period of time more than six (6) months.
- C. *Home Occupation.* A conditional use permit for a home occupation shall not be transferable to a new owner of the real estate. (Ord. No. 2.56 §2(Art. 11 §5), 1-9-01)

ARTICLE X. SITE PLAN REVIEW**SECTION 405.710: INTENT**

- A. The City of Mount Vernon recognizes that the very nature of land development creates potential for traffic congestion, overcrowding, adverse visual environmental impacts and health problems. Also, the City strives to achieve the goal of promoting growth in Mount Vernon while stabilizing the established residential patterns of the area. The City seeks to ensure that any location that must accommodate urban uses shall be subject to site plan review by the Planning and Zoning Commission. The site plan review process shall help ensure that the meaning and intent of the zoning regulations and all portions thereof are fully complied with.
- B. The site plan review regulates the development of structures and sites in a manner that considers the following concerns:
 - 1. The balancing of landowners' rights to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g., noise, smoke, fumes, dust, odor, glare, stormwater runoff, etc.);
 - 2. The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas or roads;
 - 3. The adequacy of waste disposal methods and protection from pollution of surface or ground water;
 - 4. The protection of historic and natural environmental features on the site under review and in adjacent areas; and
 - 5. The stability of the built environment—particularly residential neighborhoods—by promoting urban development that is compatible with clearly identified natural resources. (Ord. No. 2.56 §2(Art. 12 §1), 1-9-01)

SECTION 405.715: APPLICABILITY

The Zoning Administrator shall require that all applications for building permits for developments in the multi-family, commercial and industrial zoning districts be subject to site plan review in accordance with these regulations and for redevelopment in the following circumstances: if the redevelopment enlarges the size of the original structure by more than fifty percent (50%). Developments shall be encouraged to implement the objectives of the future land use plan to foster compatibility among land uses in the City of Mount Vernon. Site plan reviews shall be performed by the Zoning Administrator and submitted to the Planning and Zoning Commission for approval if in conjunction with a public hearing. (Ord. No. 2.56 §2(Art. 12 §2), 1-9-01)

SECTION 405.720: SITE PLAN REVIEW

- A. The Planning and Zoning Commission shall perform their review at the next regularly scheduled meeting of the Planning and Zoning Commission for which the item may be scheduled and shall adjourn and reconvene as is determined necessary.
- B. The applicant may appeal a site plan review determination to the Board of Aldermen for approval in the event that an applicant alleges that there is an error in any order, requirement, decision or determination made by the Zoning Administrator or the Planning and Zoning Commission in the enforcement of site plan review. The request for review by the Board of Aldermen shall be accompanied by a complete description of the error(s) alleged. (Ord. No. 2.56 §2(Art. 12 §3), 1-9-01)

SECTION 405.725: AUTHORITY

Building permits shall not be issued for any use of land or proposed construction on a lot in the zoning districts in which site plan review is applicable, unless site plan review approval has been granted. (Ord. No. 2.56 §2(Art. 12 §4), 1-9-01)

SECTION 405.730: SUBMISSION REQUIREMENTS

- A. The site plan shall include the following data, details and supporting plans which are relevant to the proposal. The number of pages submitted will depend on the proposal's size and complexity. The applicant shall make notations explaining the reasons for any omissions.
- B. Site plans shall be prepared at a discernable scale.
 - 1. Name of the project, address, boundaries, date, north arrow and scale of the plan.
 - 2. Name and address of the owner of record, developer and seal of the engineer, architect, land surveyor or landscape architect.
 - 3. Name and address of all owners of record of abutting parcels.
 - 4. All existing lot lines, easements and rights-of-way. Include area in acres or square feet, abutting land uses and structures.

5. The location and use of all existing and proposed structures within the development. Include all dimensions of height and floor area and show all exterior entrances and all anticipated future additions and alterations. For developments in the "B-2" Central Business District, indicate design details to make new construction compatible with existing structures.
6. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs and fences. Location, type and screening details for all waste disposal containers shall also be shown.
7. The location, height, intensity and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials and design of all proposed signage.
9. A landscape plan showing all existing open space, trees, forest cover and water sources and all proposed changes to these features including size and type of plant material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas.
10. The location of all present and proposed utility systems including:
 - a. Sewerage system;
 - b. Water supply system;
 - c. Telephone, cable and electrical systems; and
 - d. Storm drainage system including existing and proposed drain lines, culverts, catch basins, head walls, end walls, hydrants, manholes and drainage swells.
11. Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table and flooding of other properties, as applicable.
12. Existing and proposed topography shown at not more than two (2) foot contour intervals. All elevations shall refer to the United States Geodetic Survey (USGS) datum. If any portion of the parcel is within the 100-year floodplain, the area shall be shown with base flood elevations; and the developer shall present plans for meeting Federal Emergency Management Agency (FEMA) requirements.
13. Existing and proposed zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site.

The Zoning Administrator may require a detailed traffic study for mixed use and multi-tenant developments or for developments in heavy traffic areas to include:

- a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;

- b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
- c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given. (Ord. No. 2.56 §2(Art. 12 §5), 1-9-01)

SECTION 405.735: STANDARDS OF REVIEW

The recommendations of the Zoning Administrator shall be based on the following standards:

1. The extent to which the proposal conforms to the previous Sections of these regulations.
2. The extent to which the development would be compatible with the surrounding area and the development guidelines of this Article.
3. The extent to which the proposal conforms to the provisions of the City's subdivision regulations.
4. The extent to which the proposal conforms to customary engineering standards used in the City.
5. The extent to which the location of streets, paths, walkways and driveways are located so as to enhance safety and minimize any adverse traffic impact on the surrounding area.
6. The extent to which the site plan implements the guidelines for the Comprehensive Plan Downtown Overlay District, if applicable. (Ord. No. 2.56 §2(Art. 12 §6), 1-9-01)

SECTION 405.740: DEVELOPMENT GUIDELINES, DOWNTOWN "B-2" DISTRICT AND COMPREHENSIVE PLAN DOWNTOWN OVERLAY DISTRICT

In the Downtown zoning district and the Comprehensive Plan Downtown Overlay District, buildings should meet the following minimum guidelines based on site plan review:

1. Raised exterior walls or screen walls should be designed to enclose groups of equipment. Roof-mounted equipment, including ventilators and satellite dishes, shall be screened from view one hundred percent (100%) opacity or isolated so as not to be visible from ground level of any adjacent public thoroughfare or residentially-zoned area up to a maximum of three hundred (300) feet away. The appearance of roof screens shall be coordinated with the building to maintain a unified appearance.
2. The form and proportion of buildings shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
3. The use of unusual shapes, color and other characteristics that cause new buildings to call excessive attention to themselves and create disharmony shall not be allowed.
4. The rhythm of structural mass to voids, such as windows and glass doors of a front facade, should relate to the rhythms established in adjacent buildings.

5. Where large structures are proposed with overly long facades (walls), where one (1) dimension exceeds the length of the perpendicular dimension, such as warehouses, building mass should be articulated with variations in the building plane and parapet height and through the use of other unique design or site plan features. Parking lots along the facade can also relieve horizontally through the use of landscaped fingers and islands containing trees and shrubs.
6. Architectural design should create visual interest through the use of different textures, complementary colors, shadow lines and contrasting shapes. The use of walls in a single color with little detailing or completely blank is discouraged.
7. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest.
8. Careful consideration of durable materials, proportions and shapes emphasizing the importance of roofs as integral and embracing elements of the over-all design is particularly important.
9. Use of substantial amounts of masonry materials (face brick, stucco, stone) is encouraged. The use of aluminum siding, metal ribbed panels and extensive mirrored glass surfaces are discouraged. Evaluation of building materials shall be based on the quality of its design and relationship and compatibility to building materials in the immediate neighborhood.

Corrugated metal facades should be complemented with abundant use of masonry, whether brick, stone, stucco or split-face block, especially along perimeter streets. Architectural metal panels may be an acceptable substitute for masonry. Appropriate landscaping can be used to complement and enhance a building's design, color and material.

10. Architectural treatments (e.g., building materials, colors, facade design, roof lines, screening) shall be consistent and compatible on all sides. Treatment that is uniform on all sides will be deemed to meet the requirements of this principle. Adjacent land uses, visibility from public streets, use of screening devices (walls, fences, berms, landscaping) are criteria to be considered when varying this treatment. The applicant will have the burden of demonstrating the reasons for differing treatment on different sides (e.g., the need for truck accesses on one (1) side and pedestrian access on another).

Long expanses of overhead doors should be relieved by matching their color to the wall or trim, recessing the doors or adding architectural details to diminish the dominance of the doors. (Ord. No. 2.56 §2(Art. 12 §7), 1-9-01)

ARTICLE XI. BOARD OF ADJUSTMENT

SECTION 405.745: FORMATION

- A. A Board of Adjustment is hereby created in accordance with State Statutes governing such creation. The word "*Board*", when used in this Article, shall mean Board of Adjustment. The Board shall consist of five (5) members who shall be residents of the City. The membership of the first (1st) Board appointed shall serve respectively one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. Thereafter, members shall be appointed for terms of five (5) years each.

- B. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, ordinances or resolutions. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board, the decision of the Board and the vote of each member upon each question or, if absent or failing to vote, indicating such fact and will keep records of its examinations and other official actions, all of which shall be filed in the office of the Board immediately and shall be a public record. (Ord. No. 2.56 §2(Art. 13 §1), 1-9-01)

SECTION 405.750: POWERS AND JURISDICTION

The Board shall have the following powers and jurisdictions:

1. *Appeals.* To hear and decide where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.
 - a. Appeals to the Board of Adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in Section 32.105, RSMo., representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would, in his/her opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
 - b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application or notice to the Zoning Administrator of good cause shown.
2. *Variances.* To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured and substantial justice done.
 - a. The applicant must show that his/her property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property

at the time of the effective date of the district zoning regulations or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances, that the strict application of the terms of the zoning regulations actually prohibits the use of his/her property in the manner similar to that of other property in the zoning district where it is located.

- b. Variances may be granted for any modifications of the specific terms of the zoning regulations, except that a variance may not be granted to allow the establishment of a use not permitted in the district regulations.
- c. A request for a variance may be granted upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination of each condition and the finding shall be entered in the record.
 - d. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or applicant.
 - e. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 - (1) The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 - (2) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 - (3) The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
3. *Conditions of determination.* In exercising the foregoing powers, the Board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and to that end shall have all the powers of the officer from where the appeal is taken, may attach appropriate conditions and may issue or direct the issuance of a permit.

A majority of the Board shall constitute a quorum for the transaction of business and a concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant upon any matter which it is required to pass under any such regulation or to affect any variation in such regulation. Upon the hearing, any party may appear in person or by agent or by attorney. (Ord. No. 2.56 §2(Art. 13 §2), 1-9-01; Ord. No. 2.77 §1(14), 2-11-03)

SECTION 405.755: APPLICATIONS

- A. The procedure for requesting a hearing before the Board shall be as follows:
 1. All applications to the Board shall be in writing on forms provided by the Board.
 2. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by

the City) at least fifteen (15) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest and to the Planning and Zoning Commission.

3. An application shall be accompanied by a filing fee of one hundred dollars (\$100.00). A separate filing fee of one hundred dollars (\$100.00) shall be required for each request.
- B. In addition to the above requirements, certain applications require additional information as follows:
1. *Appeals.*
 - a. An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator.
 - b. A copy of the order, requirement, decision or determination of the Zoning Administrator which the appellant believes to be in error.
 - c. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
 - d. Where necessary, a plot plan, drawn to scale, shall be submitted in duplicate showing existing and proposed plans for the area in question.
 2. *Variances.*
 - a. The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested and outlining in detail the manner in which it is believed that this application will meet each of the five (5) conditions as set out in Section 405.750(2) (c) (3) of this Article.
 - b. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application, the structures existing thereon and the structures contemplated necessitating the variance requested. All appropriate dimensions should be included and any other information that would be helpful to the Board in consideration of the application. (Ord. No. 2.56 §2(Art. 12 §3), 1-9-01; Ord. No. 2.63 §1, 8-14-01)

SECTION 405.760: PERFORMANCE

- A. In making any decisions varying or modifying any provisions of the zoning regulations, the Board shall impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property.
- B. The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board and shall be enforceable by or payable to the City in the sum equal to the cost of constructing the required improvements.
- C. In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration. (Ord. No. 2.56 §2(Art. 12 §4), 1-9-01)

SECTION 405.765: WHO MAY APPEAL FROM THE BOARD DECISION

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, any neighborhood organization as defined in Section 32.105, RSMo., representing such person or persons or any officer, department, board or bureau of the municipality, may present to the Circuit Court of the County or City in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board. Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under sections 89.080 to 89.110 shall have preference over all other civil actions and proceedings. (Ord. No. 2.56 §2(Art. 12 §5), 1-9-01)

ARTICLE XII. AMENDMENTS**SECTION 405.770: AMENDMENTS TO CHANGE ZONING REGULATIONS OR DISTRICT BOUNDARIES**

The Board of Aldermen, from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the Board of Aldermen or the Planning and Zoning Commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Applications for conditional use permits shall be considered by the same procedure as zoning district amendments. Any such amendment, if in accordance with the adopted Comprehensive Plan, shall be presumed to be reasonable. (Ord. No. 2.56 §2(Art. 15 §1), 1-9-01)

SECTION 405.775: PUBLIC HEARING

All such proposed amendments first shall be submitted to the Planning and Zoning Commission for recommendation. The Planning and Zoning Commission shall hold a public hearing thereon at its next regular meeting for which the application may be scheduled, shall cause an accurate written summary to be made of the proceedings and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations. Such notice shall fix the time and

place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration. (Ord. No. 2.56 §2(Art. 15 §2), 1-9-01)

SECTION 405.780: PUBLIC NOTICE

In addition to such publication notice, written notice of such proposed amendment shall be mailed at least fifteen (15) days before the hearing to all owners of record of lands located within at least one hundred eighty-five (185) feet of the area proposed to be altered. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning and Zoning Commission or the Board of Aldermen. Such notice is sufficient to permit the Planning and Zoning Commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard. (Ord. No. 2.56 §2(Art. 15 §3), 1-9-01)

SECTION 405.785: ADOPTION

- A. The procedure for the consideration and adoption of a recommendation to amend zoning district boundaries shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of a quorum of the Planning and Zoning Commission at the hearing shall be required to recommend approval or denial of the amendment to the Board of Aldermen. If the Planning and Zoning Commission fails to make a recommendation on a rezoning request, the Planning and Zoning Commission shall be deemed to have made a recommendation of disapproval. When the Planning and Zoning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the Board of Aldermen may:
1. Adopt such recommendation by ordinance;
 2. Override the Planning and Zoning Commission's recommendation by a two-thirds ($\frac{2}{3}$) vote of the membership of the Board of Aldermen; or
 3. Return such recommendation to the Planning and Zoning Commission with a statement specifying the basis for the Board of Aldermen's failure to approve or disapprove.
- B. If the Board of Aldermen returns the Planning and Zoning Commission's recommendation, the Planning and Zoning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Board of Aldermen, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or it need take no further action thereon. If the Planning and Zoning Commission fails to deliver its recommendation to the Board of Aldermen following the Planning and Zoning Commission's next regular meeting after receipt of the Board of Aldermen's report, the Board of Aldermen shall consider such course of inaction on the part of the Planning and Zoning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution. (Ord. No. 2.56 §2(Art. 15 §4), 1-9-01)

SECTION 405.790: APPLICATIONS

Any party desiring any change in zoning district boundaries or regulations contained in this Zoning Ordinance, as to any lot, tract or area of land, shall file with the Zoning Administrator an application and such application shall be accompanied by such data and information as prescribed in these regulations. (Ord. No. 2.56 §2(Art. 15 §5), 1-9-01)

SECTION 405.795: FILING DEPOSIT AND FEE

An application fee and filing deposit in amounts as established by the Board of Aldermen shall accompany each application filed with the City. Promptly upon the filing of any such application, the Zoning Administrator shall refer the application to the Planning and Zoning Commission agenda for study and recommendation and shall submit a report to the Board of Aldermen concerning the nature of the application and that said application has been referred to the Planning and Zoning Commission. (Ord. No. 2.56 §2(Art. 15 §6), 1-9-01)

SECTION 405.800: COMPREHENSIVE PLAN

- A. Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by the Planning and Zoning Commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the Board of Aldermen. No Comprehensive Plan shall be effective unless approved by the Board of Aldermen.
- B. An attested copy of the Comprehensive Plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan. (Ord. No. 2.56 §2(Art. 15 §7), 1-9-01)

SECTION 405.805: MATTERS TO BE CONSIDERED FOR ZONING DISTRICT AMENDMENTS

In order to recommend approval or disapproval of a proposed zoning district amendment, the Planning and Zoning Commission shall consider the following matters:

1. Character of the neighborhood.
2. Consistency with the Comprehensive Plan and ordinances of the City of Mount Vernon.
3. Adequacy of public utilities and other needed public services.
4. Suitability of the uses to which the property has been restricted under its existing zoning.
5. Compatibility of the proposed district classification with nearby properties.
6. The extent to which the zoning amendment may detrimentally affect nearby property.
7. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain. (Ord. No. 2.56 §2(Art. 15 §8), 1-9-01)

SECTION 405.810: AMENDMENTS TO TEXT

When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the Planning and Zoning Commission shall contain a statement as to the nature and effect of such proposed amendment and determination as to the following items:

1. Whether such change is consistent with the intent and purpose of these regulations;
2. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
3. Whether the proposed amendment is made necessary because of changed or changing conditions in the areas and zoning districts affected or in the area of jurisdiction of such changed or changing conditions. (Ord. No. 2.56 §2(Art. 15 §9), 1-9-01)

SECTION 405.815: PROTEST

Regardless of whether or not the Planning and Zoning Commission approves or disapproves a zoning amendment, if a protest against such amendment is filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, signed by the owners of thirty percent (30%) or more, either of the areas of the land (exclusive of streets and alleys) included in such proposed change or within an area determined by lines drawn parallel to and one hundred eight-five (185) feet distant from the boundaries of the district proposed to be changed, such amendment shall not become effective except by the favorable vote of two-thirds ($\frac{2}{3}$) of all the membership of the Board of Aldermen. (Ord. No. 2.56 §2(Art. 15 §10), 1-9-01)

ARTICLE XIII. ADMINISTRATION**SECTION 405.820: LEGISLATIVE AND QUASI-JUDICIAL REGULATION OF LAND USE**

The City shall regulate land use as provided by Statute and appoint a Planning and Zoning Commission by City ordinance, which Planning and Zoning Commission shall prepare and adopt bylaws for the conduct of their business, including adoption of a Comprehensive Plan. (Ord. No. 2.56 §2(Art. 16 §1), 1-9-01)

SECTION 405.825: OFFICE OF THE ZONING ADMINISTRATOR

- A. *Authorization.* A Zoning Administrator shall be appointed by the Board of Aldermen and shall be responsible for the enforcement of these regulations.
- B. *Duties Of The Zoning Administrator.* The Zoning Administrator shall enforce these regulations and in addition thereto and in furtherance of said authority he/she shall:
 1. Approve and issue all zoning and occupancy certificates and make and maintain records thereof.

2. Conduct inspections of structures and uses of land to determine compliance with the provisions of the zoning regulations.
3. Receive, file and forward to the Board of Adjustment the records in all appeals and all applications for variances.
4. Maintain permanent and current records of the zoning regulations including, but not limited to, all zoning maps, amendments, variances, appeals and applications therefore and records of hearing thereon.
5. Maintain for distribution to the public a supply of copies of the Zoning Map or maps, the compiled text of the zoning regulations and the rules of the Board of Adjustment. (Ord. No. 2.56 §2(Art. 16 §2), 1-9-01)

SECTION 405.830: BUILDING PERMITS

A. *Building Permits.* Unless a building permit shall first have been obtained from the Building Inspector:

1. The construction, moving, remodeling or reconstruction of any structure shall not be commenced; and
2. The improvement of land preliminary to any use of such land shall not be commenced.

Any building permit issued in conflict with the provisions of these regulations shall be null and void.

B. *Application For Building Permit.* Every application for a building permit shall include at least the following:

1. A plat, in duplicate, of the piece or parcel of land, lot, lots, block or blocks or parts or portions thereof drawn to scale showing the actual dimensions of the piece or parcel, lot, lots, block or blocks or parts or portions thereof according to the recorded plat of such land.
2. A plot plan, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator showing the location, ground area, height and bulk of all present and proposed structures, drives and parking lots, the structure lines in relation to lot lines, waste disposal areas, the use to be made of such present and proposed structures on the land and such other information as may be required by the Zoning Administrator for the proper enforcement of these regulations.

One (1) copy of both the plat and the plot plan shall be retained by the Zoning Administrator as a public record.

3. A copy of the utility permit issued by the City if the project to which the building permit application applies will involve a street cut or connection to the City's water service or sanitary sewer service.

C. *Issuance Of Building Permit.* A building permit shall be either issued or refused by the Zoning Administrator within ten (10) days after the receipt of an application or within such further period as may be agreed to by the applicant. No building permit shall be issued unless all the zoning requirements of these regulations are met. No building permit for accessory structures to be placed on land or lot located in residential districts "R-1", "R-2" or "R-3" shall be issued unless and until a building permit for the principal structure to be placed thereon is issued.

D. *Posting Of Building Permits.* Upon issuance of a building permit by the Zoning Administrator, the

building permit shall be posted on the job site by the applicant. The building permit shall remain posted on the job site for the entire duration of the project for which the building permit was issued. Said building permit shall be posted in a conspicuous place that is visible from the street.

- E. *Period Of Validity.* A building permit shall become null and void six (6) months after the date on which it is issued unless within such six (6) month period construction, moving, remodeling or reconstruction of a structure is commenced or a use is commenced. If the construction, moving, remodeling or reconstruction of any structure is not commenced within said six (6) month period, issuance of a new building permit shall be required.
- F. *Certificate Of Occupancy Requirement.* No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a Certificate of Occupancy. An approved final inspection shall precede the issuance of a Certificate of Occupancy. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this Chapter. (Ord. No. 2.56 §2(Art. 16 §3), 1-9-01; Ord. No. 2.76 §1, 2-11-03)

ARTICLE XIV. VIOLATIONS AND PENALTY

SECTION 405.835: VIOLATION AND PENALTY

- A. The owner or agent of a structure or premises in or upon which a violation of any provision of this regulation has been committed or shall exist; or the lessee or tenant of an entire structure or entire premises in or upon which violation has been committed or shall exist; or the agent, architect, structure or premises in or upon which violation has been committed or shall exist shall be punished by a fine not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) for each and every day that such violation continues, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) for each and every day such violation shall continue or by imprisonment for ten (10) days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court.
- B. In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any structure or land is used in violation of this regulation, the appropriate authorities, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of said structure or land. (Ord. No. 2.56 §2(Art. 14), 1-9-01)

ARTICLE XV. VALIDITY

SECTION 405.840: SEPARABILITY

It is hereby declared to be the intention of the City that the several provisions of these regulations are separable in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.

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2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure. (Ord. No. 2.56 §2(Art. 3 §8), 1-9-01)

CHAPTER 410: SUBDIVISION REGULATIONS

ARTICLE I. GENERAL PROVISIONS

SECTION 410.010: TITLE

These regulations, including all appendices made a part hereof, shall be known and may be cited as the "Mount Vernon Subdivision Regulations" and shall hereinafter be referred to as "these regulations". (Ord. No. 2.56 §3(Art. 1 §1.01), 1-9-01)

SECTION 410.020: JURISDICTION

These regulations shall apply to all land located within the incorporated area of Mount Vernon, Missouri. (Ord. No. 2.56 §3(Art. 1 §1.02), 1-9-01)

SECTION 410.030: AUTHORITY

- A. *Planning And Zoning Commission.* The Planning and Zoning Commission of the City of Mount Vernon, Missouri, is vested with the authority to review, approve, conditionally approve and disapprove applications for the subdivision of land per these regulations. The Planning and Zoning Commission may grant variances from these regulations pursuant to the provisions of Section 410.380.
- B. *Governing Body.* The Governing Body of the City of Mount Vernon, Missouri, is vested with the authority to accept or refuse the dedication of land for public purposes. (Ord. No. 2.56 §3(Art. 1 §1.03), 1-9-01)

SECTION 410.040: ENACTMENT

In order that land may be subdivided in accordance with these purposes and policies, these regulations are hereby adopted and made effective as of January 9, 2001. All applications for subdivision approval, including final plats, pending on the effective date of these regulations shall be reviewed under these regulations except that these regulations will not apply if preliminary plat approval was obtained prior to the effective date of these regulations, unless the Planning and Zoning Commission determines that application of these regulations is necessary to avoid a substantial risk of injury to public health, safety and general welfare. (Ord. No. 2.56 §3(Art. 1 §1.04), 1-9-01)

SECTION 410.050: RESERVATIONS AND REPEALS

Upon the adoption of these regulations according to law, the subdivision regulations of the City of Mount Vernon, Missouri, _____ Addition adopted as Ordinance _____, as amended, are hereby repealed, except as to those Sections expressly retained in these regulations. (Ord. No. 2.56 §3(Art. 1 §1.05), 1-9-01)

SECTION 410.060: PURPOSE AND INTENT

The purpose and intent of these regulations is to provide for the harmonious development of the community and the surrounding area; to provide for the proper location and width of streets, building lines, open spaces, safety and recreation facilities, utilities, drainage and for the avoidance of congestion of population through application of minimum lot width, depth and area and the compatibility of design requirements; to require and fix the extent to which and the manner in which streets shall be graded and improved and water, sewer, drainage and other utility mains and piping or connections or other physical improvements shall be installed; and to provide for and secure the actual construction of such physical improvements. (Ord. No. 2.56 §3(Art. 1 §1.06), 1-9-01)

SECTION 410.070: APPLICABILITY

The owner or owners of any land located within the jurisdiction of these regulations subdividing said land into two (2) or more lots and blocks or tracts or parcels for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto shall cause a plat to be made in accordance with these regulations, unless exempted under Section 410.080. In addition, these regulations shall apply to the issuance of a building permit. (Ord. No. 2.56 §3(Art. 1 §1.07), 1-9-01)

SECTION 410.080: EXEMPTIONS

These regulations shall not apply in the following instances:

1. A change in the boundary between adjoining lands which does not create an additional or substandard lot.
2. Land used for street or railroad right-of-way, a drainage easement or other public utilities subject to local, State or Federal regulations where no new street or easement of access is involved.
3. Any resubdivision of lots, parcels or tracts must be done in accordance with these regulations.
4. Any transfer by operation of law.
5. Lots that have been previously platted and zoned for industrial purposes may be divided into two (2) or more tracts without replatting or resubdividing such lots in conformance with these regulations. (Ord. No. 2.56 §3(Art. 1 §1.08), 1-9-01)

SECTION 410.090: INTERPRETATION AND CONFLICT

Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purpose for which they are adopted.

1. *Public provisions.* These regulations are not intended to interfere with, repeal or annul any

other ordinance, rule or regulation, Statute or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations or any other ordinance, rule or regulation or other provision of law, the provision that is more restrictive or imposes higher standards shall control.

2. *Private provisions.* These regulations are not intended to repeal any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such an easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties or obligations more restrictive or standards that are higher than the requirements of these regulations or the determinations of the Planning and Zoning Commission or the Governing Body in approving a subdivision or in enforcing these regulations and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations. (Ord. No. 2.56 §3(Art. 1 §1.09), 1-9-01)

SECTION 410.100: APPROVALS NECESSARY FOR ACCEPTANCE OF SUBDIVISION PLATS

All plans, plats or replats of land laid out in building lots and the streets, alleys or other portions of the same intended to be dedicated for public use or for the use of purchasers or owners of the lots fronting thereon or adjacent thereto shall be submitted to the Mount Vernon Planning and Zoning Commission and Board of Aldermen for their official review and action as applicable per these regulations. The Recorder of Deeds shall not record any plat, as required by law, until such plat is approved by the Planning and Zoning Commission and Governing Body and is signed by the Chairman and Secretary of the Planning and Zoning Commission, by the Mayor, City Clerk and City Engineer of the City of Mount Vernon, Missouri, and the Fire Chief or other authorized personnel of the applicable fire protection district. (Ord. No. 2.56 §3(Art. 1 §1.14), 1-9-01)

SECTION 410.110: PLAT PREPARATION

All final plats shall be prepared and stamped by a professional surveyor licensed in the State of Missouri. (Ord. No. 2.56 §3(Art. 1 §1.15), 1-9-01)

SECTION 410.120: DEFINITIONS

A. Usage.

1. For the purpose of these regulations, certain numbers, abbreviations, terms and words shall be used, interpreted and defined as set forth in Subsection (B).
2. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.

B. Specific Definitions. As used in this Chapter, the following terms shall have these prescribed meanings:

ALLEY: A public or private right-of-way designed to serve as primary vehicular access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT: The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises. See also "*DEVELOPER*", "*OWNER*" and "*SUBDIVIDER*".

BLOCK: A tract of land entirely surrounded by streets or by a combination of streets and public rights-of-way or as otherwise determined by the Planning and Zoning Commission or its authorized representative.

BOARD OF ALDERMEN: See "*GOVERNING BODY*".

BOND: Any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit, in an amount and form satisfactory to the Governing Body. All bonds shall be approved by the Governing Body wherever a bond is required by these regulations.

BUILDING: See "*STRUCTURE*".

BUILDING INSPECTOR: The person or persons authorized and empowered by the Board of Aldermen to administer and enforce the permitting and inspecting process within the City.

CASH IN LIEU OF LAND: Payment of money into fund earmarked by the City of Mount Vernon to provide for acquisition of facilities off-site in place of dedicating land or providing such facility on site.

CERTIFICATE OF OCCUPANCY: An official certification indicating that a use or building (as built) conforms to the provisions of these regulations and may be used or occupied.

CERTIFY: Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the City of Mount Vernon by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.

CITY: The City of Mount Vernon, Missouri.

CITY ENGINEER: The licensed engineer designated by the Governing Body to furnish engineering assistance for the administration of these regulations.

COMMON OWNERSHIP: Ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations in which a stockbroker, partner or associate or a member of his/her family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

CONSTRUCTION DOCUMENTS: The maps or drawings showing the specific location and design of improvements to be installed in a subdivision in accordance with the requirements of the Planning and Zoning Commission as a condition of the approval of the plat.

CUL-DE-SAC: A local street with only one (1) outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic movement.

DEDICATION: The transfer of private to public or common ownership for a public purpose. The

transfer may be in fee simple title or less than fee simple interest including easements. Dedication requires the acceptance of the interest to be complete.

DEVELOPER: The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations. See also "*OWNER*" and "*SUBDIVIDER*".

EASEMENT: A permanent or temporary grant of right by a property owner to the public, a corporation or other persons of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.

ESCROW: A deposit of cash with the local government or escrow agent to secure the promise to perform some act.

ESCROW AGENT: A title company, bank, savings and loan association, trust company, attorney or any other person or agency approved by the City to act as an escrow agent.

FAIR MARKET VALUE: The fair market value of a designated unit at the time such value is approved by the Governing Body.

FRONTAGE: The length of the property abutting on one (1) side of a street measured along the dividing line between the property and the street.

GOVERNING BODY: The duly elected Mayor and Board of Aldermen of the City of Mount Vernon.

HOMEOWNERS' ASSOCIATION: See "*PROPERTY OWNERS' ASSOCIATION*".

IMPROVEMENT: Any roadway, drainage ditch, sidewalk, pedestrianway, parkway, tree lawn, off-street parking area, lot improvement or other facility for which the City of Mount Vernon may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which the City of Mount Vernon responsibility is established.

LOT: A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or possession or for building development.

LOT SPLIT: The division of a single lot into not more than two (2) tracts, per these regulations, without having to resubdivide said lot, providing that the resulting lots shall not again be divided without replatting.

OFF-SITE: Any premises not located within the area of the property to be subdivided, whether or not in the common ownership of the applicant for subdivision approval.

OWNER: The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under the definition of Same Ownership.

PERSON: Any individual or group of individuals or any corporation, general or limited partnership, joint venture, unincorporated association or governmental or quasi-governmental entity.

PLANNING AND ZONING COMMISSION: The Mount Vernon City Planning and Zoning Commission.

PLAT, FINAL: A drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared to be recorded after approval by the Planning and Zoning Commission and including any accompanying material as described in these regulations.

PLAT, PRELIMINARY: A drawing described in these regulations showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided indicating the proposed manner or layout of the subdivision to be submitted to the Planning and Zoning Commission for approval.

PLAT SKETCH: A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Zoning Administrator as to the form of the plat and the objectives of these regulations.

PLOT: One (1) or more contiguous parcels of land under single ownership or control designated by its owner, at the time of filing an application for a building permit, as a tract to be used, developed or built upon as a unit. It may or may not coincide with the deed description thereof or the boundaries of the same as shown on a map thereof filed for record or otherwise and it may subsequently be subdivided into two (2) or more plots, provided all such plots conform to all the regulations of the district. The boundaries of any plot for which a building permit or certificate of occupancy is requested shall be accurately drawn on the application therefor.

PROFESSIONAL SURVEYOR: A practicing surveyor licensed in the State of Missouri.

PROPERTY OWNERS' ASSOCIATION: An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision—be it a lot, parcel site, unit plot, condominium or any other interest—is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a prorated share of expense of the association which may become a lien against the lot, parcel, unit, condominium or other interest of the member.

PUBLIC UTILITIES: Publicly owned or regulated utilities including water, sewer, telephone, gas and electric.

RESUBDIVISION: The act of amending or changing an approved final plat, including any change in any street layout or other public improvement, any lot line, the amount of land reserved for public use or the common use of lot owners or any easements shown on the approved plat.

RIGHT-OF-WAY: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term "*right-of-way*" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and are not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

SALE OR LEASE: Any immediate or future transfer of ownership or any possessory interest in land, including contract of sale, lease, devise or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot and block description.

SANITARY SEWER SYSTEM: A totally enclosed system consisting of an underground collection system and a treatment system so installed that when the treatment is completed, the affluent discharge meets the standard of the jurisdictional health agency.

SETBACK: The required minimum horizontal distance between the structure line and the related front, side or rear property line.

STREET: A way set aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one (1) parcel of land.

STREET, ARTERIAL: A street or highway designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic.

STREET, COLLECTOR: A street that carries or will carry intermediate volumes of traffic from local streets to arterial streets.

STREET, DEAD-END: A street or a portion of a street with only one (1) vehicular-traffic outlet. See also *CUL-DE-SAC*.

STREET, RESIDENTIAL AND MAJOR RESIDENTIAL: A street that is used or will be used primarily for access to abutting properties and which carry or will carry limited volumes of traffic.

STREET, MARGINAL ACCESS: A street that is parallel to and adjacent to arterial streets and highways and that serves to reduce the number of access points to the arterial streets and thereby increase traffic safety.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

SUBDIVIDER: Any person who:

1. Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who
2. Directly or indirectly, sells, leases or develops or offers to sell, lease or develop or advertises for sale, lease or development any interest, lot, parcel, site, unit or plot in a subdivision; or who
3. Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plot in a subdivision; and who
4. Is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purposed of offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and non-residential zoned land, whether by deed, metes and bound description, map, plat or other recorded instrument.

SUBDIVISION IMPROVEMENT AGREEMENT: A contract entered into by the applicant and the Governing Body by which the applicant promises to complete the required public improvements, as specified within these regulations, within the subdivision within a specified time period following final subdivision plat approval.

SUBDIVISION, MAJOR: All subdivisions not classified as minor subdivisions.

SUBDIVISION, MINOR: Any subdivision containing not more than five (5) lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities or the creation of any public improvements and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, zoning regulations or these regulations.

SUBDIVISION REGULATIONS: The term "*subdivision regulations*" or "*these regulations*" shall mean the requirements stipulated in this Chapter and shall mean the lawfully adopted subdivision regulations of the City of Mount Vernon.

SUBDIVISION, STAGED: Any subdivision within a drainage sub-basin in which public sewer is projected to be developed in the future, but for which it is not feasible to provide public sewer at the time of development and meeting the requirements of these regulations.

TRACT: A lot. The term "*tract*" is used interchangeably with the term "*lot*", particularly in the context of subdivision, where a "*tract*" is subdivided into several lots, parcels, sites, plots, tracts or interests. See also "*LOT*" and "*PLOT*".

VESTED RIGHTS: Right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect prior to or following completion of the project associated with the use.

ZONING ADMINISTRATOR: The person or persons authorized and empowered by the Board of Aldermen to administer the requirements of these zoning regulations. (Ord. No. 2.56 §3(Art. 3 §§3.01–3.02), 1-9-01; Ord. No. 2.88 §1, 8-12-03)

ARTICLE II. PROCEDURES, SPECIFICATIONS AND APPROVAL PROCESS

SECTION 410.130: GENERAL PROCEDURE

A. *Classification Of Subdivisions.* Land proposed to be subdivided shall be classified according to one (1) of the following:

1. *Minor subdivision.* Any residential subdivision that meets all the following criteria:
 - a. The subdivision will not result in the creation of more than five (5) lots fronting on an existing street built to City standards and will not require the construction of any new street or road;
 - b. The subdivision will not require the extension of municipal facilities or the creation of any public improvements;

- c. The subdivision is consistent with the applicable provisions and portions of the Comprehensive Plan;
 - d. The City Engineer has determined, following review of the applicant's preliminary drainage information, that no detailed drainage plan or improvements are needed; and
 - e. The proposed subdivision does not have any topography, access, sewage disposal or design concerns that would warrant review and consideration within the requirements of the major subdivision classification designation.
2. *Major subdivision.* Any subdivision not classified as a minor subdivision including, but not limited to, any sized subdivision requiring any new street, extension of municipal facilities or the creation of public improvements and which will be served with public sewer upon development.
- B. *Procedure By Classification.* Before any land is subdivided, the owner of the property proposed to be subdivided or his/her authorized agent shall apply for and secure approval of the proposed subdivision in accordance with the following procedures:
1. *Minor subdivision.*
 - a. Sketch plat.
 - b. Final plat.
 2. *Major subdivision.*
 - a. Sketch plat.
 - b. Preliminary plat.
 - c. Final plat.
- C. *Official Submission Dates.* For the purpose of these regulations for major and minor subdivisions, the date of the Planning and Zoning Commission meeting at which the application is first considered, shall constitute the official submission date of the plat on which the statutory period required for formal approval, conditional approval or disapproval of the preliminary or final plat shall begin. (Ord. No. 2.56 §3(Art. 4 §4.01), 1-9-01)

SECTION 410.140: SKETCH PLAT

- A. *Intent.* The sketch plat gives general guidance in preparing a preliminary or final plat. This plat is a conceptual representation of the applicant's desire and ability to meet the standards of these regulations. Dimensions, measurements and calculations shown on the sketch plat are assumed to be illustrative. Detailed planning and engineering following sketch plat review are expected to result in changes in detail but not the overall concept.
- B. *General.* Before preparing and submitting a preliminary plat for major subdivisions or final plat for minor subdivisions, the applicant shall schedule a meeting with the Zoning Administrator and the Public Works Director to discuss the proposed subdivision and existing conditions, projected conditions and the regulations and ordinances that will impact the development, including:

1. The subdivision classification;
2. The procedure for approval of plats;
3. The availability of existing services including sewer, water, emergency services, schools, etc.;
4. The Comprehensive Plan requirements for major streets, land use, parks, schools and public open spaces;
5. The zoning requirements for the property in question and adjacent properties;
6. The required improvements and design criteria; and
7. The applicable fees.

In addition, staff shall direct the applicant, when appropriate, to discuss the proposed subdivision with those staff or officials who must eventually approve specific aspects of the subdivision plat falling within their jurisdiction or responsibility.

- C. *Classification And Notice To Proceed.* Within five (5) working days of the date that the sketch plat meeting was held, the Zoning Administrator shall determine whether the sketch plat constitutes a minor or major subdivision and notify the applicant of the classification and any issues to be addressed or conditions to be met prior to proceeding. Upon verification that any issues have been addressed and conditions met, staff shall issue a "notice to proceed" with the plat as required for the specified classification. (Ord. No. 2.56 §3(Art. 4 §4.02), 1-9-01; Ord. No. 2.113 §1, 1-24-06)

SECTION 410.150: PRELIMINARY PLAT

- A. *Intent.* The preliminary plat contains accurate preliminary planning and engineering. Although not a survey, the accuracy and design is such that only minor changes are to be expected in the final plat. Only minor revisions warranted by final engineering, surveying or other required changes are expected following approval of the preliminary plat. Unless part of a planned development district zoning or otherwise specified, the preliminary plat is not recorded. Rather it serves as a bench mark for reviewing and approving the final plat. A revised preliminary plat may be required for any subdivision that proposes a major deviation from a previously approved preliminary plat at the time of final plat application.
- B. *General.*
1. Preliminary plat submittal is required for all major subdivisions.
 2. In order to proceed, the applicant shall submit an application for approval of a preliminary plat within one hundred eighty (180) days of the notice to proceed. If the preliminary plat application is not filed within the one hundred eighty (180) day period, the applicant must resubmit a sketch plat and meet with the Zoning Administrator per the requirements of Section 410.140, unless a reasonable extension is granted by staff.
 3. The preliminary plat shall generally conform to the sketch plat that formed the basis for the notice to proceed.

C. *Application Procedure And Requirements.*

1. *Application.* Preliminary plat application shall be made on forms available at City Hall or in the City of Mount Vernon Procedures Manual. All applications shall be filled out in their entirety. Applications shall be reviewed for completeness within five (5) working days of filing. If the City determines that the application is complete, the application shall then be processed. If the City determines that it is incomplete, the City shall, within such five (5) day period, notify the applicant of the specific ways in which the application is deficient. Incomplete applications will not be accepted or placed on an agenda for review and consideration. As such, applicants are encouraged to submit applications earlier than the deadlines specified in the adopted City of Mount Vernon application and review schedule.
2. *Fees.* A filing fee and deposit shall be charged and collected from the applicant in an amount as established by the Governing Body by ordinance or resolution. A separate filing fee and deposit shall be required for each preliminary plat application. The preliminary plat shall not be accepted for filing until the filing fee and deposit has been paid by the subdivider.
3. *Submittal materials.* The subdivider shall submit one (1) original and three (3) folded prints or copies of the preliminary plat and a vicinity map (if not on the preliminary plat) showing the location of the proposed subdivision. These plans shall be filed with the Zoning Administrator according to the adopted City of Mount Vernon application and review schedule.
4. *Proof of ownership.* A title report by an abstract or a title insurance company or an attorney's opinion of title showing the name of the owner of the land and all other persons who have an interest in or an encumbrance on the plat and any easements or other constraints.
5. *Notification.* The subdivider shall notify all owners of record of all unplatted land within one hundred eighty-five (185) feet of property being proposed for subdividing or resubdividing of the intent to subdivide or resubdivide the subject property. Notification shall be sent via regular mail and a copy of a letter of notification shall be submitted with the preliminary plat. The subdivider shall also submit a complete list of the names and mailing addresses of, as prepared by the County Clerk or a title company.

D. *Preliminary Plat Features.* All preliminary plats shall contain:

1. Scale of the plat, one (1) inch equals one hundred (100) feet or larger.
2. A vicinity map at a scale of one (1) inch equals one thousand (1,000) feet or larger, showing streets and street names within five hundred (500) feet of the boundaries of the proposed subdivision.
3. *The proposed name of the subdivision.* The name shall not duplicate or too closely resemble the name or names of an existing subdivision(s).
4. The location of the boundary lines of the subdivision and reference to the section or quarter section lines.
5. The names and addresses of the subdivider, developer, owner and the engineer or land surveyor who prepared the plat.
6. Date of preparation and north point.

7. *Existing conditions.*

- a. Current zoning classification, existing, projected and proposed land use.
- b. Location, width and name of platted streets or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.
- c. Names of adjacent subdivisions together with arrangement of streets.
- d. Location of watercourses, bridges, wooded areas, lakes, ravines, floodplain and such other features as may be pertinent to the subdivision.
- e. Soil types and location for all subdivisions proposed to be developed without access to public sanitary sewer.

8. *Proposed improvements.*

- a. The general arrangements of lots and their approximate size.
- b. Location and width of proposed streets, alleys and pedestrian ways and easements.
- c. Location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation or dedication for public use including calculations for required open space dedication.
- d. General street layout of adjacent property within one hundred eighty-five (185) feet to show how streets and other public facilities in the proposed subdivision relate to the adjacent property.
- e. Approximate gradient of streets.
- f. Relation to adjacent unsubdivided land.
- g. Gross acreage, total number of buildable lots, minimum and maximum lot sizes shall be stated on the plat.

E. *Reserved.*

F. *Preliminary Plat Action.* After the Planning and Zoning Commission has reviewed the preliminary plat and applicable reports submitted and held a public hearing, the Planning and Zoning Commission shall approve, conditionally approve or disapprove the preliminary plat within sixty (60) days from the official submission date. If the preliminary plat is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions necessary for approval.

G. Action by the Planning and Zoning Commission shall be conveyed to the subdivider in writing within seven (7) working days after the meeting at which the plat was considered. One (1) copy of the preliminary plat shall be returned to the developer with the date of approval, conditional approval or disapproval and the reasons therefore accompanying the plat. The approval of the preliminary

plat does not constitute an acceptance of the subdivision but is deemed to be an authorization to proceed with the platting process.

- H. *Standards For Approval Of A Preliminary Plat.* No preliminary plat of a proposed subdivision shall be approved by the Planning and Zoning Commission unless the applicant proves by clear and convincing evidence that:
1. Provisions have been made for adequate public facilities. The water supply system shall be sufficient in terms of quantity, dependability and quality to provide an appropriate supply of water for the type of subdivision proposed. If a public sewage system is proposed, adequate provision has been made for such a system and if other methods of sewage disposal are proposed, that such systems will comply with Federal and State laws and regulations in addition the requirements of these regulations;
 2. All areas of the proposed subdivision that may involve soil or topographic conditions presenting hazards or special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;
 3. The proposed subdivision will not result in the scattered subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels; and
 4. The subdivider has taken every effort to mitigate the impact of the proposed subdivision on the public health, safety and welfare.

The Planning and Zoning Commission is authorized to disapprove the preliminary plat even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the Comprehensive Plan.

- I. *Effective Date.* The approval of a preliminary plat shall be effective for a period of twelve (12) months from the date that the preliminary plat is approved by the Planning and Zoning Commission. At the end of this period the applicant must have submitted a final plat for approval or the Planning and Zoning Commission must have granted an extension to the validity of the preliminary plat at the request of the property owner. (Ord. No. 2.56 §3(Art. 4 §4.03), 1-9-01; Ord. No. 2.113 §1, 1-24-06)

SECTION 410.160: FINAL PLAT

- A. *Intent.* The final plat should be in substantial conformance with the preliminary plat or sketch plat and should reflect a final subdivision layout based upon completed construction documents. The final plat is the document to be recorded. All construction shall be in accordance with the final plat and construction documents.
- B. *General.*
1. Final plat submittal is required for all subdivision classifications.
 2. In order to proceed, the applicant shall submit an application for approval of a final plat within one hundred eighty (180) days of the notice to proceed or twelve (12) months of the approval of a preliminary plat. If the final plat application is not filed within the one hundred eighty (180) day or twelve (12) month period, the applicant must resubmit a sketch plat and/or a

preliminary plat as required for the subdivision classification, unless an extension is granted by staff.

3. The final plat shall conform substantially to the sketch plat or preliminary plat as applicable.
4. The preliminary plat may constitute only a portion of the final plat that the subdivider proposes to record and develop.

C. *Application Procedure And Requirements.*

1. *Application.* Final plat application shall be made on forms available at City Hall or in the City of Mount Vernon Procedures Manual. All applications shall be filled out in their entirety. Applications shall be reviewed for completeness within five (5) working days of filing. If the City determines that the application is complete, the application shall then be processed. If the City determines that it is incomplete, the City shall, within such five (5) day period, notify the applicant of the specific ways in which the application is deficient. Incomplete applications will not be accepted or placed on an agenda for review and consideration. As such, applicants are encouraged to submit applications earlier than the deadlines specified in the adopted City of Mount Vernon application and review schedule.
2. *Fees.* Charges incurred during professional third (3rd) party reviews of construction documents and other materials, as deemed necessary by the City, will be charged to the developer and must be paid before approval to proceed to construction is granted by the Planning and Zoning Commission.
3. *Submittal materials.* The subdivider shall submit four (4) paper copies of the final plat.

D. *Final Plat Features.* All final plats shall contain:

1. Scale of plat, one (1) inch equals one hundred (100) feet or larger, on twenty-four (24) inch by thirty-six (36) inch sheets. If more than one (1) sheet is required to cover the entire development, an index map of the same dimensions shall be filed showing the entire development at a smaller scale. The dimensions indicated are standard for all final plats and shall be complied with.
2. *The proposed name of the subdivision.* The name shall not duplicate or too closely resemble the name or names of any existing subdivision(s).
3. Location of the proposed subdivision in relation to section, township, range, County and State, including the description boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions that must be mathematically correct. The allowable error of closing on any portion of the plat shall be one (1) foot in five thousand (5,000) feet.
4. The location of existing monuments or bench marks shall be shown and described on the final plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including the true angles and distances to such reference points or monuments.
5. The location of lots, streets, public highways, alleys, parks and other features with accurate dimensions in feet and decimals of feet with the length of radii on all curves and other information necessary to reproduce the plat on the ground.

6. Lots shall be numbered clearly. Blocks shall be numbered or lettered clearly in the center of the block.
 7. The exact locations, widths and names of all streets and alleys to be dedicated.
 8. Boundary lines and description of the boundary lines of any area other than streets and alleys that are to be dedicated or reserved for public use.
 9. All building setback lines with dimensions.
 10. The location of any floodplain located within the proposed subdivision and a statement regarding compliance with the City's adopted floodplain regulations.
 11. Name, signature and seal of the licensed land surveyor preparing the plat.
 12. Scale of the plat (scale to be shown graphically and in feet per plat scale inch), date of preparation and north point.
 13. Statement dedicating all easements, streets, alleys and all other public areas not previously dedicated.
 14. Acknowledgments for Planning and Zoning Commission Chairperson/Secretary and Board of Aldermen Mayor/City Clerk to show titles only, no proper names.
- E. *Supplemental Data.* The following additional information shall be submitted with the final plat at the time of application:
1. *Restrictive covenants.* A copy of any restrictive covenants applicable to the subdivision.
 2. A certificate showing that all taxes and special assessments due and payable have been paid in full; or if such taxes have been protested as provided by law, monies or other sufficient escrows guaranteeing such payment of taxes in the event the protest is not upheld may be placed on deposit with such official or governing bodies to meet this requirement.
 3. *Owner's acknowledgment.* The names and signatures of the owner or owners of the property duly acknowledged and notarized shall appear on the original and copies or prints submitted.
 4. *Final landscaping plan.* The subdivider shall submit a final landscaping plan, per the City of Mount Vernon zoning regulation requirements, for landscaping and buffering. This plan is intended to be detailed suitable for construction.
- F. *Final Plat Action By The Planning And Zoning Commission.* After the Planning and Zoning Commission has reviewed the preliminary plat, applicable reports submitted and any additional materials submitted to determine conformance with the subdivision regulations and preliminary plat, the Planning and Zoning Commission shall approve, conditionally approve or disapprove the final plat within sixty (60) days from the official submission date. If such determination is not made within sixty (60) days after the first (1st) meeting of the Planning and Zoning Commission following the date of the submission of the plat to the Zoning Administrator, such plat shall be deemed to have been approved and a certificate of approval shall be issued by the Secretary of the Planning and Zoning Commission upon demand.

If the Planning and Zoning Commission finds that the plat does not conform to the requirements of the subdivision regulations or the preliminary plat and is approved conditionally or tabled for further consideration, the applicant shall be advised of any required changes and/or additions and the Zoning Administrator shall notify the owner or owners of such fact in writing within five (5) working days of the meeting in which the plat was considered. If the plat conforms to the requirements of the regulations and the preliminary plat, there shall be endorsed thereon the fact that the plat has been submitted to and approved by the Planning and Zoning Commission. The action of the Planning and Zoning Commission on final subdivision plats shall be taken by a majority vote of the entire membership of the Planning and Zoning Commission.

G. *Standards For Approval Of A Final Plat.* The final plat of a proposed subdivision shall be approved by the Planning and Zoning Commission if the applicant proves by clear and convincing evidence that:

1. The plat meets the requirements of these regulations;
2. The construction documents have been approved by the City Engineer; and
3. The plat is in substantial compliance with the approved preliminary plat (major subdivisions) or sketch plat (minor subdivision). The final plat shall be deemed to be in substantial compliance with the approved preliminary plat provided any modification to the plat does not:
 - a. Vary the proposed gross residential density or intensity of use by more than five percent (5%) or involve a substantial reduction in the area set aside for common open space, nor the substantial relocation of such area, nor
 - b. Substantially change the design of plat so as to significantly alter, as determined by the Planning and Zoning Commission:
 - (1) Pedestrian or vehicular traffic flow.
 - (2) The arrangement of the site.
 - (3) The relation of open space to residential development.
 - (4) The proposed phasing of construction.

H. The Governing Body shall accept or refuse the dedication of land for public purpose within thirty (30) days after the first (1st) meeting of the Governing Body following the date of the submission of the plat to the Zoning Administrator from the Planning and Zoning Commission. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. If the Governing Body defers or refuses such dedication, it shall advise the Planning and Zoning Commission of the reasons therefore. (Ord. No. 2.56 §3(Art. 4 §4.04), 1-9-01; Ord. No. 2.88 §1, 8-12-03; Ord. No. 2.113 §1, 1-24-06)

SECTION 410.170: STORMWATER CONTROL–DRAINAGE STUDY

A. *General Requirements.*

1. A stormwater control proposal shall be submitted for all major subdivisions at the time of final plat application.

2. Design must be in regards to the effects of upstream drainage areas developed to the maximum watershed potential allowed by the zoning district in which they are located. This also applies to on-site engineering and the ability of downstream facilities to accommodate the calculated stormwater discharge from the project.
3. Determination must be made if storm sewers are required in regards to part (2) above. Design shall be in accordance with the Standard Specifications and Design Criteria of the City of Mount Vernon.
4. Calculations shall consider flow from 2-, 10- and 100-year storm events for each on-site drainage area.
5. Construction documents shall contain plans, profiles, details, specifications and cost estimates of storm drainage improvements. These are required at the time of final plat submission.
6. Any development within a National Flood Insurance Program designated floodplain shall be in accordance with all current NFIP regulations as adopted by the City of Mount Vernon.
7. Where springs or other sources of surface water exist or result from the development, the City may require the developer to construct adequate facilities for drainage. Such facilities shall be located in the street right-of-way where feasible or in perpetual, unobstructed easements.
8. If connection to a public storm sewer will be provided eventually, as determined by the City Engineer and the Planning and Zoning Commission, the developer shall make arrangements for future stormwater disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.

B. *Detention Facilities.*

1. *Simple analysis.* For areas where there are no imminent downstream flooding problems, and where the peak runoff rate from the drainage area (off site and on site) upstream of the detention facility does not exceed one hundred fifty (150) cubic feet per second based on a 100-year storm event under fully developed conditions, the simplified volume formula may be used.
2. *Detailed analysis.*
 - a. In areas where residences or other structures located downstream of a development can be shown to have an imminent flooding hazard, a detailed analysis using hydrographs and reservoir routing techniques will be required.
 - b. Residences or other structures will be defined as having an imminent flooding hazard when the lowest point at which runoff may gain entry is located at or below the estimated flooding level which would result from a 10-year storm event or greater under conditions existing in the basin prior to development of the applicant's property.
 - c. Detailed analysis will be required for all detention facilities where the peak runoff rate from the area upstream of the detention facility (off site and on site) exceeds one hundred fifty (150) cubic feet per second for a 100-year storm event under fully developed conditions.

C. *Calculation Methods.*

1. Simple analysis refers to the rational method of runoff calculations or as referred to here as the simplified volume formula.
2. Detailed analysis refers to those techniques developed by the Corps of Engineers and the Soil Conservation Service. These methods are preferred, however other proven methods will be accepted. The type of method must be designated on the submitted stormwater control study. (Ord. No. 2.56 §3(Art. 4 §4.05), 1-9-01; Ord. No. 2.100 §1, 7-27-04; Ord. No. 2.113 §1, 1-24-06)

SECTION 410.180: CONSTRUCTION DOCUMENTSA. *General.*

1. Construction documents must be submitted for all required improvements.
2. Upon the approval of the preliminary plat, the subdivider shall have prepared by a licensed professional engineer construction documents for the required improvements.

B. *Application Procedure And Requirements.*

1. *Application.* Construction documents are to be submitted with any final plat application as specified in Section 410.160 (E)(7).
2. *Submittal materials.* The subdivider shall submit copies of the construction drawings in accordance with the City's application and review schedule. These documents shall be submitted at the time of final plat application.

C. *Construction Documents Contents.*

1. Plans, profiles, details, specifications and cost estimates for roadway and sidewalk construction, including plans and profiles for each street with a typical cross section of the roadway. The profiles of grade lines shall be shown to a scale of one (1) inch equals fifty (50) feet horizontal and one (1) inch equals five (5) feet vertical. The City Engineer may require a larger format

as necessary to show adequate detail. This information shall be shown on standard plan and profile sheets unless otherwise required. Where steep slopes exist, cross sections of all proposed streets at one hundred (100) foot stations may be required as follows: On a line at right angles to the centerline of the street and said elevation points shall be at the centerline of the street, each property line and points twenty-five (25) feet inside each property line.

2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.
 3. Plans, profiles, details, specifications and cost estimates of proposed water distribution systems and proposed water supply facilities and hydrants, if any.
 4. Plans, profiles, details, specifications and cost estimates of sewerage systems and of any required sewage treatment facilities.
 5. Grading plans for all lots and other sites in the subdivision.
 6. Erosion control plan for the subdivision.
 7. Copies of all State and Federal permits required to begin construction.
 8. When unusual site conditions exist, staff may require such additional plans, specifications and drawings as may be necessary for an adequate review of the improvements to be installed.
 9. All plans shall be based on City or U.S.G.S. datum for vertical control.
- D. *Review Of Plans.* The City Engineer shall review all construction documents in order to determine that they comply with City design standards. The City Engineer shall notify the subdivider and the planning staff in the event that the drawings do not so conform or comply and shall specify the specific manner in which such drawings do not so comply. The subdivider shall then correct any defective drawings and resubmit the corrected drawings.
- E. *Approval By Planning And Zoning Commission.* The Planning and Zoning Commission shall approve a final plat only after consideration of the City Engineer's opinion that the drawings are consistent with the approved sketch plat and/or preliminary plat and comply with their design standards. (Ord. No. 2.56 §3(Art. 4 §4.06), 1-9-01)

SECTION 410.190: RESUBDIVISION OF LAND

- A. *Procedure For Resubdivision.* Whenever a developer desires to resubdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.
- B. *Resubdivision.* Resubdivision includes:
1. Any change in any street layout or other public improvement;
 2. Any change in any lot line;
 3. Any change in the amount of land reserved for public use or the common use of lot owners; or

4. Any change in any easements shown on the approved plat.
- C. *Procedure When Future Resubdivision Is Indicated.* Whenever land proposed for resubdivision includes land for which future resubdivision is indicated, such resubdivision shall conform to the criteria specified in preliminary platting.
- D. *Waiver.* Whenever the Planning and Zoning Commission, in its sole discretion, makes a finding on the record that the purposes of these regulations may be served by permitting resubdivision by the procedure established in this Section, the Planning and Zoning Commission may waive the requirements of Section 410.370(A).

The Planning and Zoning Commission, after an express request for waiver, shall approve, approve conditionally or disapprove such request based upon staff recommendation and other relevant considerations including, but not limited to, the following:

1. The proposed changes to the final plat;
 2. The extent of development completed within the subdivision and the impact of the proposed changes on such development;
 3. The impact of the proposed changes on surrounding development; and
 4. Conformance with the regulations herein.
- E. *Request For Waiver Content.* All requests for waiver shall include the following:
1. The number of copies of the final plat in accordance with the City's application and review schedule illustrating the proposed changes;
 2. A written statement describing the proposed changes, the need for such and how the changes meet the matters to be considered from Section 410.190(C) above;
 3. Any additional documents which may further explain the proposed changes; and
 4. Any additional information needed to determine the appropriateness of the proposed changes. (Ord. No. 2.56 §3(Art. 4 §4.07), 1-9-01)

ARTICLE III. LOT SPLITS

SECTION 410.200: GENERAL

The intent of this Section is to provide for the issuance of building permits on lots divided into not more than two (2) tracts without having to replat or resubdivide said lot, provided that the resulting lots shall not again be divided without resubdividing.

1. The applicant shall first meet with the Zoning Administrator, all applicable City staff members and City consultants to receive an explanation of the lot split procedure, including its requirements and limitations, and an application form.

2. The lot split application shall be completely filled out and returned to the Office of the Zoning Administrator with the appropriate fee.
3. An application fee shall be paid at the time the site plan application is submitted. The fee shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial fee, the applicant shall be required to pay the additional amount. An application for a lot split shall not be processed until it has been fully completed, the appropriate application fee, and all requested information submitted.
4. As a part of the application, four (4) copies of a scale drawing (Plat of Survey) shall be submitted which shall show the following:
 - a. Boundaries of the existing parcel.
 - b. Location of all structures and proposed disposition of them.
 - c. Legal description of the lots to be formed.
 - d. Name, signature, and seal of the licensed engineer or the registered land surveyor who prepared the drawing.
5. Upon submission of a completed application and payment of the application fee, the Zoning Administrator shall schedule a meeting with the Public Works Director and City Engineer to review the application.
6. No lot split shall be approved if:
 - a. A new street or alley is needed or proposed.
 - b. Vacation of streets, alleys, setback lines, access control or easements is required or proposed.
 - c. If the lot split will result in significant increases in service requirements, (i.e., utilities, schools, traffic control, streets, etc.); or will interfere with maintaining existing service levels (i.e., additional curb cuts, repaving, etc.).
 - d. All easement requirements have not been satisfied.
 - e. The split will result in a tract without direct access to a street.
 - f. A substandard-sized lot or parcel will be created.
 - g. The lot has been previously split in accordance with this Article.
7. Upon review of a lot split application in relation to the above specified criteria, the Zoning Administrator, Public Works Director, and City Engineer may require such additional information as deemed necessary to carry out the intent and purpose of existing land development regulations and City policy. Requirements may include, but not be limited to, installation of public facilities, dedication of rights-of-way and easements, access control, and submission of covenants for the protection of other landowners in the original subdivision.

8. The Zoning Administrator, Public Works Director, and City Engineer shall, in writing, either approve, with or without conditions, or disapprove of the lot split within thirty (30) working days of application. If approved, the Zoning Administrator and Public Works Director shall sign and furnish a certificate of approval to be affixed to the lot split survey and a certified copy thereof shall be filed with the Recorder of Deeds. Copies of the approved lot split shall also be provided to the Zoning Administrator and the applicant.
9. No building permit shall be issued for any site which contains a division of a platted lot of record, unless such division has been ratified in the manner provided in the subdivision regulations.
10. *Appeal.* If disapproved by the Zoning Administrator, Public Works Director, and City Engineer, applicants can appeal the decision to the Board of Adjustment. (Ord. No. 2.56 §3(Art. 5 §5.01), 1-9-01; Ord. No. 2.88 §1, 8-12-03)

ARTICLE IV. IMPROVEMENTS, DEDICATIONS AND DESIGN

SECTION 410.210: GENERAL IMPROVEMENTS

Conformance To Applicable Rules And Regulations. In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules and regulations:

1. All applicable statutory provisions.
2. The zoning regulations, Building Codes, fire safety standards and all other applicable laws of the City of Mount Vernon.
3. The Comprehensive Plan, street classification map and capital improvements program of the City of Mount Vernon, including all streets, utility systems and parks indicated in the Comprehensive Plan as adopted.
4. The special requirements of these regulations and any rules of the Health Department and/or State of Missouri, Lawrence County or other appropriate agencies.
5. The rules of the Missouri Department of Transportation if the subdivision or any lot contained therein abuts a State highway or connecting street.
6. The standards, regulations and policies adopted by all boards, commissions, agencies and officials of the City of Mount Vernon.
7. All pertinent standards contained within any and all applicable overlay districts or development specific guidelines as adopted.
8. Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines and policies as well as the purposes of these regulations established in Section 410.060 of these regulations. (Ord. No. 2.56 §3(Art. 6 §6.01), 1-9-01)

SECTION 410.220: ADEQUATE PUBLIC FACILITIES

- A. *General.* In order to ensure that property is developed only with appropriate urban services and in accordance with the service plans set out in the Comprehensive Plan; that subdivision of land is not scattered or premature involving danger or injury to the public health, safety, welfare or prosperity by reason of lack of adequate water supply, wastewater disposal, stormwater disposal, roads, right-of-way or other public services; or that would necessitate an excessive expenditure of public funds for the supply of such services (such as undue maintenance costs for inadequate roads or stormwater drainage), no preliminary plat shall be approved unless the Planning and Zoning Commission determines that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning and Zoning Commission, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision.
- B. *Standards.*
1. *Water supply.* There will be an adequate public water supply available for the proposed occupancy. An adequate public water supply shall include potable water for consumption and other inside and outside uses and adequate water pressure for fire flow to meet established standards for fire protection.
 2. *Sanitary sewer.* There will be adequate connections to public wastewater disposal systems with adequate capacity to handle the type and volume of flow from the proposed occupancy with evidence that the existing system has capacity availability to accept the additional flows proposed. Limited, residential development may be served by a septic system subject to compliance with the regulations specified herein.
 3. *Storm sewer.* The proposed storm sewer system, both on-site and off-site, will be adequate to carry projected peak flows in a design storm without causing damage to downstream public or private property. The subdivider shall install culverts, storm sewers, rip-rap slopes, stabilized ditches, stormwater detention facilities and other improvements necessary to adequately handle stormwater. All improvements shall comply with the minimum standards of these regulations.
 4. *Stormwater management.* Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The City Engineer and Planning and Zoning Commission may require the use of control methods such as retention or detention and/or the construction of off-site drainage improvements to mitigate the impacts of the proposed developments.
 5. *Roads.* Proposed roads shall provide a safe, convenient and functional system for vehicular, pedestrian and bicycle circulation; shall be properly related to the Comprehensive Plan; and shall be appropriate for the particular traffic characteristics of each proposed development.
 6. *Rights-of-way.* Right-of-way shall be provided as shown in the Comprehensive Plan and as required by these regulations.
 7. *Other public services.* Other public services such as schools, Police and Fire protection and emergency services affected by the proposed development will be substantially adequate to serve the development at existing levels of service. (Ord. No. 2.56 §3(Art. 6 §6.02), 1-9-01)

SECTION 410.230: LOTS

- A. *Lot Orientation.* All lots shall front on a public street. The lot line common to the street right-of-way shall be the front line. All lots shall face the front line and a similar line across the street. On corner lots, the side with the least distance in measurement shall constitute the front side.
- B. *Lot Width.* The width of lots shall conform to those of the zoning regulations and shall be measured at the front setback line.
- C. *Lot Arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning regulations and health regulations and in providing driveway access to buildings on the lots from an approved street. Lots shall contain a building site completely free from the danger of flooding. Except where unfeasible, side lot lines shall be at right angles to straight street lines and radial to curved street lines. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line of an adjacent lot.
- D. *Lot Dimensions.* Lot dimensions shall comply with the minimum standards of the zoning regulations. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated as established in the zoning regulations.
- E. *Double Frontage Lots And Access To Lots.*
1. *Double frontage lots.* Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.
 2. *Access from arterial streets.* Lots shall not, in general, derive access exclusively from an arterial street. Where driveway access from an arterial street may be necessary for several adjoining lots, the Planning and Zoning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on the street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial street.
- F. *Soil Preservation And Final Grading.* No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot covered with soil with an average depth of at least six (6) inches which shall contain no particles more than two (2) inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets or where the grade has not been changed or natural vegetation has not been seriously damaged. Topsoil shall not be removed from residential lots or used as spoil but shall be redistributed so as to provide at least six (6) inches of cover on the lots and at least four (4) inches of cover between the sidewalks and curbs and shall be stabilized by seeding or planting per the landscaping and buffering requirements of the zoning regulations.
- G. *Lot Drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.
- H. *Debris And Waste.* No cut trees, timber, debris, rocks, stones, junk, rubbish or other waste materials of any kind or earth/soil containing such shall be buried in any land or left or deposited

on any lot or street at the time of the issuance of a certificate of occupancy and removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence nor excess earth/soil shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

- I. *Waterbodies And Watercourses.* If a tract being subdivided contains a waterbody, watercourse or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the waterbody or watercourse among the ownership of adjacent lots. The Planning and Zoning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the waterbody or watercourse is so placed that it will not become a local government responsibility. No more than twenty-five percent (25%) of the minimum area of a lot required under the zoning regulations may be satisfied by land that is under water or subject to periodic flooding. Such land(s) shall not be computed in determining the number of lots to be utilized for average density procedures. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by the City Engineer.
- J. *Subdivision Improvement Agreement And Security To Include Lot Improvement.* The applicant shall enter into a separate subdivision improvement agreement per Section 410.320 to guarantee completion of all lot improvement requirements including, but not limited to, soil preservation, final grading, lot drainage, lawn coverage, removal of debris and waste, fencing and all other lot improvements required by the Planning and Zoning Commission. Whether or not a certificate of occupancy has been issued, the City of Mount Vernon may enforce the provisions of the subdivision improvement agreement where the provisions of this Section or any other applicable law, ordinance or regulation have not been met. (Ord. No. 2.56 §3(Art. 6 §6.03), 1-9-01)

SECTION 410.240: BLOCKS

- A. *Connectivity.* Intersecting streets shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets in the neighborhood.
- B. *Width.* In residential subdivisions, blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial or collector streets, railroads or waterways. Blocks intended for business or industrial use shall be on such width as may be considered most suitable for the prospective use.
- C. *Length.* In residential subdivisions, the lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block shall not exceed one thousand two hundred (1,200) feet or twelve (12) times the minimum lot width required in the zoning district, whichever is greater, except that a greater length may be permitted where topography or other conditions justify a departure from this maximum. Block length shall not be less than three hundred (300) feet in length. Blocks intended for business or industrial use shall be on such length as may be considered most suitable for the prospective use.
- D. *Easements.* In long blocks, the Planning and Zoning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic.
- E. *Pedestrian Access.* Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the Planning and Zoning Commission through the center of blocks more than eight hundred (800) feet long or where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities. (Ord. No. 2.56 §3(Art. 6 §6.04), 1-9-01; Ord. No. 2.88 §1, 8-12-03)

SECTION 410.250: STREETS**A. General Requirements.**

1. *Relationship to adjoining street systems.* The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities or where the continuation is in accordance with the City of Mount Vernon major thoroughfare plan of the Comprehensive Plan. The width of such streets in new subdivisions shall be not less than the minimum street widths established herein. Alleys, when required, and street arrangement must cause no hardship to owners of adjoining property when they plat their land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted and dedicated as a public way.

Where topographical conditions make such street continuance or conformity impracticable, the Planning and Zoning Commission may approve an alternative layout.

2. *Frontage on improved roads.* No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street as follows:
 - a. An existing street as shown on the City's current street map; or
 - b. An existing State, County or township street or highway; or
 - c. A street shown upon a plat approved by the Planning and Zoning Commission and recorded in the Lawrence County Recorder of Deeds office. Such street or highway must be suitably improved as required by the highway rules, regulations, specifications or orders or be secured by a performance bond required under these subdivision regulations with the width and right-of-way required by these subdivision regulations. Wherever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.
3. *Grading and improvement plan.* Roads shall be graded and improved and conform to the City of Mount Vernon construction standards and specifications and shall be approved as to design and specifications by the City Engineer in accordance with the construction plans required to be submitted prior to final plat approval.
4. *Classification.* All roads shall be classified as an arterial, collector or residential and major residential street. In classifying roads, the Planning and Zoning Commission shall consider the major thoroughfare plan of the Comprehensive Plan and the projected traffic demands.
5. *Arrangement.*
 - a. Streets shall be related appropriately to the topography. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. All streets shall be arranged so as to obtain as many building sites as possible at or above the grades of the streets. Specific standards are contained in the design standards of these regulations.

- b. Arterial and collector streets through subdivisions shall conform to the major thoroughfare plan of the Comprehensive Plan as adopted by the Planning and Zoning Commission and Governing Body. All arterial and collector streets shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.
 - c. Residential streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems and to require the minimum number of streets necessary to provide convenient and safe access to property.
 - d. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions or unless in the opinion of the Planning and Zoning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
 - e. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities and the provision of alleys, truck loading and maneuvering areas and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
6. Where the plat submitted covers only a portion of the contiguous land owned by the subdivider, a sketch of the prospective future street system of the entire ownership shall be submitted.
 7. *Access to arterial streets.* Where a subdivision borders on or contains an existing or proposed arterial, the Planning and Zoning Commission may require that access to such streets be limited by one (1) of the following means:
 - a. The subdivision of lots so as to back onto the primary arterial and front onto a parallel local street; no access shall be provided from the arterial and screening shall be provided in a strip of land along the rear property line of such lots.
 - b. A series of cul-de-sacs, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street with the rear lines of their terminal lots backing onto the primary arterial.
 - c. A marginal access or service road (separated from the arterial by a planting or grass strip and having access at suitable points).
 8. *Road names.* Streets that are in alignment with other already existing and named streets shall bear the names of the existing streets. Names shall be sufficiently different in sound and spelling from other street names in the municipality so as not to cause confusion. The Planning and Zoning Commission shall approve street names upon recommendation of the Zoning Administrator at the time of preliminary approval. The Zoning Administrator shall consult the local emergency communications department (911) prior to rendering its recommendation to the Planning and Zoning Commission.
 9. *Street lights.* Installation of street lights shall be required in accordance with the standard specifications and design criteria of the City Engineer.

10. *Reserve strips.* The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to the street.
 11. *Dead-end roads.*
 - a. *Dead-end roads (temporary).* If the adjacent property is undeveloped and a street more than one (1) lot deep or on which lots front must temporarily be a dead-end street, the right-of-way and road improvement shall be extended to the property line. A temporary dustproof turnaround of at least fifty (50) feet in radius shall be provided at the terminal end on all temporary dead-end streets three (3) or more lots in depth. Temporary dead-end streets two (2) or less lots deep may utilize double turnout (hammerhead; see diagram marked "Exhibit A" which is on file in the City offices and made a part hereof as though fully set out herein) style of construction at the terminal end of the street. They must be of a permanent type construction for curb, gutter, wear surface and dimensioned as prescribed in the City's Design Standards for Subdivisions. Removal of this temporary turnout for future subdivision construction will be at the expense of the subsequent developer. When a temporary turnaround is required, a notation shall be added on the subdivision plat indicating that land outside the normal street right-of-way shall revert to abutting property owners whenever the street is continued. The Planning and Zoning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.
 - b. *Dead-end roads (permanent).* Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning and Zoning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Planning and Zoning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street. An adequate turnaround of not less than a sixty (60) foot radius right-of-way shall be provided at the closed end of any dead-end street that is longer than one (1) lot in length and that is designed to permanently remain as a dead-end street. Cul-de-sacs shall provide a paved turnaround having a street radius, at the back of curb, of fifty (50) feet. Streets designed in excess of eight hundred (800) feet, measured from the center of the cul-de-sac to the center of the closest through street, are subject to review by the Planning and Zoning Commission. Streets designed to serve no more than twenty-five (25) residential lots may be permitted to extend up to one thousand (1,000) feet in length in the "A-R" zoning district. For greater convenience to traffic and more effective Police and fire protection, parking shall not be permitted in the bulb of permanent dead-end streets.
 12. *Private streets.* No private streets shall be permitted in the City of Mount Vernon except as approved by the Board of Aldermen. Such streets shall meet the minimum standards herein and maintenance assurances shall be provided.
- B. *Street Design Standards.*
1. *General.*
 - a. In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to Police, firefighting, snow removal, sanitation and road-maintenance equipment and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for streets are hereby required.
 - b. Unless otherwise specified within these regulations, all streets shall be designed and constructed in accordance with the standards specified in the standard specifications and design criteria of the City Engineer.

2. *Street alignment.*

- a. *Reverse curves.* On streets with reverse curves, a reasonable tangent shall be provided between curves to permit a smooth flow of traffic.
- b. Where there is a deflection angle of more than ten degrees (10°) in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made.
- c. Every change in grade shall be connected by a vertical curve constructed so as to afford the minimum required site stopping distance in conformance with The City Engineer. Said site stopping distance being measured from a driver's eye level, that is assumed to be three and one-half ($3\frac{1}{2}$) feet above the pavement surface, to an object six (6) inches high on the pavement.

3. *Street grades and elevations.* The minimum and maximum street grades for streets and alleys, dedicated and accepted, shall conform to the adopted requirements and guidelines of the City Engineer.

4. *Excess right-of-way.* Right-of-way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate slopes. Such slopes shall not be in excess of three (3) to one (1).

5. *Intersections.*

- a. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) streets at an angle of less than seventy-five degrees (75°) shall not be acceptable. Any street that does not approach an intersecting street at a right angle should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet from such intersection. Not more than two (2) streets shall intersect at any one (1) point unless specifically approved by the Planning and Zoning Commission as recommended by the City Engineer.
- b. Proposed new intersections along one (1) side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect arterial or collector streets, their alignment shall be continuous unless specifically approved by the Planning and Zoning Commission as recommended by the City Engineer.
- c. Minimum curb radius at the intersection of two (2) streets shall be at least twenty-five (25) feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practices to permit safe vehicular movement. Whenever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction.
- d. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) grade at a distance of sixty (60) feet measured from the nearest right-of-way line of the intersecting street.

- e. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance as specified by the site triangle standard of the zoning regulations.
 - f. No lot or other parcel of land that abuts on and has access to either a residential or collector shall have a service drive, curb cut or other means of access to an arterial street within seventy-five (75) feet of the right-of-way of any street that intersects such arterial street on the side on which such lot or parcel is located.
6. *Bridges.* Bridges of primary benefit to the applicant, as determined by the Planning and Zoning Commission, shall be constructed at the full expense of the applicant without reimbursement from the City of Mount Vernon.
7. *Road dedications and reservations.*
- a. *New perimeter streets.*
 - (1) The dedication of right-of-way for new streets measured from lot line to lot line shall be as shown on the City Comprehensive Plan and shall meet the following standards.

| Minimum Street Right-of-Way | |
|--------------------------------------|--|
| Street Type | Minimum R.O.W. Width (Feet) |
| Marginal Access | 50 |
| Residential/Major Residential Street | 50 |
| Collector | 60–80 |
| Arterial | 80–120 |

- (2) Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning and Zoning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.
- b. *Widening and realignment of existing streets.* Where a subdivision borders an existing narrow road or when the Comprehensive Plan, capital improvement plan or zoning setback regulations indicate plans for realignment or widening a road that would require use of some of the land in the subdivision, the applicant shall be required to improve and dedicate at its expense those areas for widening or realignment of those roads in accordance with the minimum requirements of these regulations. Frontage roads and streets as described above shall be improved and dedicated by the applicant at its own expense to the full width as required by these subdivision regulations when the applicant's development activities contribute to the need for the road expansion. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the zoning regulations whether the land is to be dedicated to the municipality in fee simple title or an easement is granted to the City of Mount Vernon.

C. *Street Improvements.*

1. *Curbs and gutters.* The subdivider shall provide curbs and gutters on all streets. As to specifications, see the Design Criteria manual.
2. *Street surfacing.*
 - a. After sanitary sewer, storm sewer and water utilities have been installed by the developer, the developer shall construct curbs and gutters as required in these regulations and shall surface or cause to be surfaced roadways to the following minimum widths as measured from back of curb to back of curb:

| Minimum Street Widths | |
|--------------------------------------|----------------------|
| Street Type | Minimum Width |
| Marginal Access | 28 feet |
| Residential/Major Residential Street | 28 feet |
| Collector | 37 feet |
| Arterial | 48 feet |

- b. All streets must be hard surfaced. All paving must be provided with a stabilized sub-base and curb and gutter. Adequate provision shall be made for culverts, drains and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds and sidewalks shall be incorporated into the construction plans required to be submitted by the developer for plat approval.
3. *Grading.*
 - a. All streets, roads and alleys shall be graded to their full width by the subdivider so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions may be allowed by approval of the City Engineer and Planning and Zoning Commission.
 - b. *Preparation of the subgrade.* Before grading is started, the entire right-of-way area shall first be cleared of all trees, stumps, roots, bushes and other objectionable materials and of all trees not intended for preservation. The subgrade shall be properly shaped, rolled and uniformly compacted to conform with the accepted cross section and grades.
 - (1) *Cuts.* In cuts, all tree stumps, boulders, organic materials, soft clay, spongy material and other objectionable materials shall be removed to a depth of at least two (2) feet below the graded surface. Rock, when encountered, shall be removed to a depth of at least twelve (12) inches below the graded surface.
 - (2) *Fill.* In fill, all tree stumps, boulders, organic materials, soft clay, spongy material and other objectionable materials shall be removed to a depth of at least two (2) feet below the natural ground surface.
 - (3) *Disposal of objectionable matter.* The objectionable matter required to be removed from cuts and fills shall be removed from the right-of-way area and be disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system. (Ord. No. 2.56 §3(Art. 6 §6.05), 1-9-01; Ord. No. 2.88 §1, 8-12-03; Ord. No. 2.105 §1, 6-28-05; Ord. No. 2.117 §1, 12-12-06)

SECTION 410.260: DEDICATION OF DRAINAGE EASEMENTS

- A. *General requirements.* When a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and of such width and construction as will be adequate for the purpose.
- B. *Drainage easements.*
1. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least fifteen (15) feet in width for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.
 2. The applicant shall dedicate, either in fee simple title or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the City Engineer and the Planning and Zoning Commission.
 3. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainageways. (Ord. No. 2.56 §3(Art. 6 §6.06), 1-9-01; Ord. No. 2.100 §1, 7-27-04)

SECTION 410.270: SANITARY SEWERS

- A. *General Requirements.* The applicant shall install sanitary sewer facilities. All plans shall be designed, approved and constructed to the current standards established in the design criteria for sanitary sewers from the City Engineer and in accordance with the rules, regulations and standards of the Missouri Department of Natural Resources, unless otherwise specified within these regulations. Necessary action shall be taken by the applicant to extend or create a sanitary sewer district for the purpose of providing sewerage facilities to the subdivision when no district exists for the land to be subdivided.
- B. *High-Density Residential And Non-Residential Districts.* Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted.
- C. *Low- And Medium-Density Residential Districts.* Sanitary sewerage systems shall be constructed as follows:
1. When a public sanitary sewerage system is reasonably accessible either by gravity flow or by other constructed means within one thousand three hundred twenty (1,320) feet (one-quarter (1/4) mile), the applicant shall connect with same and provide sewers accessible to each lot in the subdivision.
 2. When public sanitary sewerage systems are not reasonably accessible but will become available

within a reasonable time (not to exceed fifteen (15) years), the applicant may choose one (1) of the following alternatives:

- a. Central sewerage system with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition, a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate the system; or
 - b. *Individual disposal systems.* Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition, a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate each individual lot or subdivision as applicable.
3. When sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the applicant may install sewerage systems as follows:
- a. *Medium-density residential districts.* Only a central sewerage system may be constructed. No individual disposal system will be permitted. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition, a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate the system.
 - b. *Low-density residential district.* Individual disposal systems or central sewerage systems may be used. Where plans for future public sanitary sewerage systems exist, the applicant shall design connections to the public system and dedicate easements to accommodate such. In addition, a covenant of non-opposition to future improvements shall be submitted. Adequate soil conditions must exist to accommodate each individual lot or subdivision as applicable.
- D. *Individual Disposal System Requirements.* If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the zoning regulations unless additional area is required to assure adequate soil conditions to serve each individual lot or subdivision as applicable. Percolation tests and test holes shall be made as directed by the City Inspector. The individual disposal system, including the size of the septic tanks and size of the fields or other secondary treatment device, shall be approved by the Health Department. (Ord. No. 2.56 §3(Art. 6 §6.07), 1-9-01; Ord. No. 2.88 §1, 8-12-03)

SECTION 410.280: WATER SUPPLY

- A. The subdivider shall construct a complete water distribution system that shall adequately serve all lots. The system shall include fire hydrants spaced no more than five hundred (500) feet apart and at high points in the line or as otherwise necessary to ensure that all lots are within two hundred fifty (250) feet of a hydrant, unless otherwise approved by the City Engineer and Fire Chief. This system shall be properly connected with the public water supply. The Planning and Zoning Commission may deny subdivision approval for areas that cannot be served by adequate water supply and pressure.

- B. To eliminate future street openings, all underground utilities for water distribution system and fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final paving of a street shown on a plat. (Ord. No. 2.56 §3(Art. 6 §6.08), 1-9-01)

SECTION 410.290: UTILITIES

- A. *Location.* All utility facilities, including, but not limited to, gas, electric power, telephone and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning and Zoning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- B. *Easements.*
1. Easements located on front property line shall be provided for utilities (private and municipal) and such easements shall be twenty (20) feet wide. The first ten (10) feet from the front property line shall be reserved for City (municipal) electrical power. The second ten (10) feet shall be reserved for all other private utilities.
 2. When topographical or other conditions are such as to make impractical the inclusion of utilities within the front lot lines, perpetual unobstructed easements at least twenty (20) feet wide (ten (10) feet each side) shall be provided along side lot lines with satisfactory access to the road or rear lot lines as needed. Easements shall be indicated on the plat. (Ord. No. 2.56 §3(Art. 6 §6.09), 1-9-01; Ord. No. 2.88 §1, 8-12-03)

SECTION 410.295: RESERVED

Editor's Note—Ord. No. 2.97 §1, adopted May 11, 2004, repealed section 410.295 "fee for residential underground electrical services and procedure" in its entirety. Former section 2.97 derived from ord. no. 2.75 §§1–3, 1-28-03.

SECTION 410.300: SIDEWALKS

- A. *Required Improvements.*
1. Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads as follows:
 - a. Arterial streets.
 - b. Collector streets.
 - c. Major residential and marginal access streets.

- d. Residential streets.
 2. Sidewalks shall be improved as required by these regulations. Sidewalks shall be located one (1) foot inside the street right-of-way or adjacent to the curb. See Standard Specification and Design Criteria manual.
 3. Crosswalks shall be required to provide safe and convenient access across streets along existing and future sidewalk network. Curb cuts meeting the minimum standards of the Americans with Disabilities Act shall be provided where sidewalks meet street curbs or connection to another sidewalk across a street is required. Crosswalks across collector or arterial streets shall be clearly marked with approved paint or other more permanent means such as use of unique paving patterns as approved by the City Engineer.
- B. *Pedestrian Accesses.* The Planning and Zoning Commission may require, in order to facilitate pedestrian access from the roads to schools, parks, playgrounds or other nearby roads, perpetual unobstructed easements at least ten (10) feet in width with a paved walkway of five (5) to eight (8) feet. To minimize the impact of the impact on adjacent property, the walkway shall be adequately landscaped and screened as required by the Planning and Zoning Commission. Pedestrian easements shall be indicated on the plat. (Ord. No. 2.56 §3(Art. 6 §6.10), 1-9-01; Ord. No. 2.88 §1, 8-12-03; Ord. No. 2.90 §1, 9-23-03; Ord. No. 10.46 §1, 3-13-07)

SECTION 410.310: RESERVED

Editor's Note—Ord. no. 2.88 §1, adopted August 12, 2003, repealed this section 410.310 "open space" in its entirety with no replacement provisions. We have left this section "reserved" for the city's future use.

ARTICLE V. IMPROVEMENT PROCEDURES

SECTION 410.320: IMPROVEMENT COMPLETION AND IMPROVEMENT AGREEMENT

- A. *Completion Of Improvements.* Before the final subdivision plat is signed by the City, all applicants shall be required to complete, in accordance with the approved construction drawings and to the satisfaction of the City Engineer, all the street, sanitary and other public improvements, including lot improvements on the individual lots of the subdivision, as required in these regulations, specified in the final plat and as approved by the Planning and Zoning Commission and to dedicate those public improvements to the City of Mount Vernon free and clear of all liens and encumbrances on the dedicated property and public improvements. The applicant shall covenant to maintain each required public improvement for a period of one (1) year following the acceptance of the Governing Body of the dedication of that completed public improvement. In addition, the covenant shall warrant that all required public improvements will be free from defect for a period of two (2) years following acceptance by the Governing Body of the last completed public improvement.
- B. *Subdivision Improvement Agreement And Guarantee.*
 1. *Agreement.* The Governing Body in its sole discretion may waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the final plat and, as an alternative, permit the applicant to enter into a subdivision improvement agreement by which the subdivider covenants to complete all required public improvements no later than

two (2) years following the date of the approval of the improvement agreement. The applicant shall covenant to maintain each required public improvement for a period of one (1) year following the acceptance by the Governing Body of the dedication of that completed public improvement. In addition, the covenant shall warrant that all required public improvements will be free from defect for a period of two (2) years following the acceptance by the Governing Body of the last completed public improvement. The subdivision improvement agreement shall contain such other terms and conditions agreed to by the applicant and the Governing Body.

2. *Covenants to run.* The subdivision improvement agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs and assignees of the subdivider. The subdivision improvement agreement will be adopted by the Governing Body and shall be recorded in the office of the Lawrence County Recorder of Deeds.
3. *Security.* Whenever the Governing Body permits an applicant to enter into a subdivision improvement agreement, it shall require the applicant to provide a cash escrow or letter of credit as security for the promises contained in the subdivision improvement agreement. The security shall be in an amount equal to one hundred fifty percent (150%) of the estimated cost of completion of the required public improvements, including lot improvements. The escrow agent shall be acceptable to the Governing Body.

a. *Cash escrow.* The escrow instructions shall provide:

- (1) That the subdivider will have no right to a return of any of the funds except as provided in Section 410.340(E)(2); and
- (2) That the escrow agent shall have a legal duty to deliver the funds to the City whenever the City Attorney presents an affidavit to the agent attesting to the City's right to receive funds whether or not the subdivider protests that right. If and when the Governing Body accepts the offer of dedication for the last completed required public improvement, the Governing Body shall execute a waiver of its right to receive all but twenty-five percent (25%) of the funds represented by the cash escrow if the subdivider is not in breach of the subdivision improvement agreement. The residual funds shall be security for the subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.

b. *Letter of credit.* Letter of credit shall provide:

- (1) That the subdivider will have no right to return any of the funds obtained by the City pursuant to the terms of the letter of credit except as provided in Section 410.340(E)(2); and
- (2) That the financial institution issuing the letter of credit shall have the legal duty to deliver funds thereunder to the City whenever the City Attorney presents an affidavit to the lending institution attesting to the City's right to receive funds whether or not the subdivider protests that right. If and when the Governing Body accepts the offer of dedication for the last completed required public improvement, the Governing Body shall execute a waiver of its right to receive the funds represented by the letter of credit.

- C. *Temporary Improvement.* The applicant shall build and pay for all costs of temporary improvements required by the Planning and Zoning Commission and shall maintain those temporary improvements for the period specified by these regulations. Prior to construction of any temporary facility or

agreement and cash escrow in an appropriate amount for temporary facilities, which improvement, the developer shall file with the Governing Body a separate subdivision improvement agreement and escrow shall ensure that the temporary facilities will be properly constructed, maintained and removed.

- D. *Costs Of Improvements.* All required improvements shall be made by the developer, at its expense, without reimbursement by any improvement district except that, as is allowed under State law, the developer may form or cause to be formed a benefit district or districts to construct and finance the construction of required public improvements excluding lot improvements on individual lots. If the subdivider does form or cause to be formed a benefit district for the purposes identified in this Section, the Governing Body of the City shall not release the subdivider from its obligations under any improvement agreement nor shall the Governing Body of the City release any security, in whole or in part, until the benefit district has sold bonds or otherwise certifies to the Governing Body of the City that it has an absolute right to raise revenues sufficient to construct, maintain and warrant the quality of the required public improvements.
1. City shall provide labor and pay for all material to install a complete electrical system in subdivision, including, but not limited to, underground primary, conduit, vaults, meter pedestals, street lighting and all necessary appurtenances.
 2. Development shall reimburse the City, excluding costs for labor, one hundred percent (100%) of materials costs to effect the above-described improvements. The date and time of reimbursement from developer to City shall be as agreed upon by and between the City and developer; however, date of reimbursement shall be no later than the date of the acceptance of Final Plat by City ordinance.
 3. A "per lot" cost of improvements shall be determined by City after review of Preliminary Plat and Notice to Proceed to Final Plat.
 4. City shall reimburse developer at the rate of seventy percent (70%) of predetermined per lot cost, said reimbursement to be paid by City to developer only after certificate of occupancy has been issued by Building Inspector. No reimbursement shall be made from City to developer after a date five (5) years from the date of acceptance of Final Plat by City ordinance.
- E. *Governmental Agencies.* Governmental agencies to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf agreeing to comply with the provisions of this Article.
- F. *Failure To Complete Improvement.* For subdivisions for which no subdivision improvement agreement has been executed and no security has been posted, if the improvements are not completed within one (1) year of the date of approval of the final plat, the final plat approval shall be deemed to have expired. In those cases where a improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the Governing Body may then:
1. Declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;
 2. Suspend final plat approval until the improvements are completed and record a document to that effect for the purpose of public notice;

3. Obtain funds under the security and complete improvements itself or through a third (3rd) party;
 4. Assign its right to receive funds under the security to any third (3rd) party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision;
 5. Exercise any other rights available under the law.
- G. *Acceptance Of Dedication Offers.* Acceptance of formal offers of dedication of streets, public areas, easements and parks shall be by ordinance of the Governing Body. The approval of a subdivision plat by the Planning and Zoning Commission, whether preliminary or final, shall not be deemed to constitute or imply the acceptance by the municipality of any street, easement or park shown on plat. (Ord. No. 2.56 §3(Art. 7 §7.01), 1-9-01; Ord. No. 2.98 §1, 5-11-04; Ord. No. 2.108 §1, 8-9-05)

SECTION 410.330: DEFERRAL OF REQUIRED IMPROVEMENTS

- A. The Governing Body may defer public improvements, subject to appropriate conditions, when, in its judgment, such improvements are not requisite in the interests of the public health, safety and general welfare or that are inappropriate because of the inadequacy or in existence of connecting facilities. Any determination to defer the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.
- B. Whenever it is deemed necessary by the Governing Body to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or non-existent connecting facilities or for other reasons, the subdivider shall pay his/her share of the costs of the future improvements to the City prior to signing of the final subdivision plat by the Mayor. As an alternative, the Governing Body may accept a separate improvement agreement secured by a letter of credit guaranteeing completion of the deferred improvements as specified by the Governing Body.
- C. In addition to providing financial assurance for the future completion of deferred improvements, the subdivider shall submit a covenant of non-opposition to the future construction of the deferred improvements. Such covenant shall run with the land and bind all successors, heirs and assignees of the subdivider. (Ord. No. 2.56 §3(Art. 7 §7.02), 1-9-01)

SECTION 410.340: INSPECTION AND ACCEPTANCE OF IMPROVEMENTS

- A. *General Procedure And Fees.* All improvements constructed or erected shall be subject to inspection by the City Engineer or the office of the Building Inspector. The cost attributable to all inspections shall be charged to and paid by the subdivider. Fees shall be due and payable upon demand of the City and no building permits or certificates of occupancy shall be issued until all fees are paid. The subdivider shall give at least forty-eight (48) hours' written notification to the inspector prior to the performance of any work.
- B. *Inspection Procedure.* After proper notice is received, the City Inspector shall conduct an on-site inspection to determine that the work complies with the approved construction drawings and specifications. If the said inspector determines that such work does not comply with the approved construction drawings and specifications, said inspector shall so notify the subdivider and may require the subdivider to terminate all further work until necessary steps are taken to correct any

defect, deficiency or deviation to the satisfaction of said inspector. Upon the correction of such defect, deficiency or deviation, the subdivider shall notify the inspector for a reinspection.

- C. *Final Inspection.* Upon completion of all improvements within the area covered by the final plat, the subdivider shall notify the City Inspector who shall thereupon conduct a final inspection of all improvements installed.
- D. *As-Built Drawings.* Before acceptance of any public improvement project, the applicant shall provide the City Inspector with one (1) original set on mylar, one (1) copy of the original set and an electronic copy of the as-built drawings. Electronic copies shall be in a format compatible with the City's designated software.

The drawings must include results of a post-construction survey. The post-construction survey shall include, but shall not be limited to, the following:

1. Elevation of all structures including sanitary sewer manholes, storm sewer inlets, pipe inverts and structure top elevations;
2. Final adjusted stationing of all structures including, but not limited to, valves, hydrants and blow-off assemblies; and
3. Final adjusted contours as featured in the grading and drainage plans.

The as-built drawings must include a signed engineer's certification stating that the drawings are as-built and conform to construction records and post-construction survey information.

- E. *Formal Acceptance And Release Or Reduction Of Security.*

1. *Certificate of satisfactory completion.* The Governing Body will not accept dedication of required improvements, nor release nor reduce the amount of any security posted by the subdivider, until the City Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed; and until
 - a. The applicant's engineer or surveyor has certified to the City Engineer, through submission of a detailed "as-built" drawing as required by Section 410.340(D), that the layout of the line and grade of all public improvements is in accordance with construction drawings for the subdivision; and
 - b. A title insurance policy has been furnished to and approved by City Attorney indicating that the improvements have been completed, are ready for dedication to the local government and are free and clear of any and all liens and encumbrances.

Upon such approval and recommendation by the City Engineer and City Attorney, the Governing Body shall thereafter accept the improvements for dedication. The Governing Body shall so notify the subdivider in writing, the final plat shall be signed by the Mayor and after payment of all fees required, the subdivider may file the subdivision with the Lawrence County Recorder of Deeds.

2. *Reduction of escrowed funds and security.* The amount of the escrow shall be reduced upon actual acceptance of the dedication of public improvements and then only to the ratio that the cost of the public improvement for which dedication was accepted bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow be reduced below

twenty-five percent (25%) of the principal amount. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the Governing Body. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider. (Ord. No. 2.56 §3(Art. 7 §7.03), 1-9-01)

SECTION 410.350: MAINTENANCE OF IMPROVEMENTS

The developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Governing Body. If there are any certificates of occupancy on a street not dedicated to the City, the City may on twelve (12) hours' notice plow the street or effect emergency

repairs and charge those costs to the developer. Following the acceptance of the dedication of any public improvement, the Governing Body may, in its sole discretion, require the subdivider to maintain the improvement for a period of one (1) year from the date of acceptance. (Ord. No. 2.56 §3(Art. 7 §7.04), 1-9-01)

SECTION 410.360: ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

- A. *Building Permits.* Unless the required improvements have been installed and accepted by the Governing Body or guaranteed according to Section 410.210 for a lot or tract, no building permits shall be issued for that lot or tract.
- B. *Occupancy Permits.* No occupancy permit shall be issued until all improvements have been installed and accepted by the Governing Body. (Ord. No. 2.56 §3(Art. 7 §7.05), 1-9-01)

SECTION 410.370: TEMPORARY OCCUPANCY–ESCROW DEPOSITS FOR IMPROVEMENTS

- A. *Acceptance Of Escrow Funds.* Whenever, by reason of a period of inclement weather or the season of the year, any improvements required by the subdivision regulations cannot be performed, the Building Inspector may issue a certificate of occupancy, provided there is no danger to health, safety or general welfare upon accepting a cash escrow deposit in an amount equal to one hundred fifty percent (150%) of the estimated cost of completion of the lot improvements. The subdivision improvement agreement and security covering the lot improvements shall remain in full force and effect.
- B. *Procedures On Escrow Fund.* All required improvements for which escrow monies have been accepted by the Building Inspector at the time of issuance of a certificate of occupancy shall be installed by the subdivider as soon as weather permits and in no case more than a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the Building Inspector shall give two (2) weeks written notice to the developer requiring it to install the improvements and if they are not then installed properly, the Building Inspector may request the Governing Body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the Building Inspector, the developer shall obtain and file with the Building Inspector prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Building Inspector to install the improvements at the end of the nine (9) month period if the improvements have not been duly installed by the subdivider. (Ord. No. 2.56 §3(Art. 7 §7.06), 1-9-01)

ARTICLE VI. ADMINISTRATION AND PENALTY

SECTION 410.380 VARIANCES, EXCEPTIONS AND WAIVER OF CONDITIONS

- A. *General.* Whenever the Planning and Zoning Commission deems that extraordinary hardship or practical difficulties may result from strict compliance with these regulations and/or the purpose of these regulations may be better served by an alternative proposal, it may authorize a variance,

exception or waiver of the conditions of these regulations. In authorizing such variance, exception or waiver, the Planning and Zoning Commission shall consider the following:

1. The conditions that the request is based upon constitute special circumstances or conditions affecting the property for which the relief is sought and are not generally applicable to other property.
 2. The variance, exception or waiver is necessary for the reasonable and acceptable development of the property in question and involve a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
 3. The granting of the variance, exception or waiver will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.
 4. The granting of the variance, exception or waiver will not in any manner vary the provisions of the zoning regulations, Comprehensive Plan or Official Map, except that those documents may be amended in the manner specified by law.
- B. *Conditions.* In approving variances, exception or waiver of conditions, the Planning and Zoning Commission may require such conditions as will, in its judgment, secure substantially the purpose described in Section 410.060 of these regulations.
- C. *Procedure.* A petition for a variance, exception or waiver of conditions shall be submitted in writing by the subdivider at the time when the preliminary or final plat is filed for the consideration of the Planning and Zoning Commission. The petition shall state fully the condition from which the petitioner is seeking relief, the grounds for the application and all of the facts relied upon by the petitioner, including the ability to meet the conditions of Section 410.380(A) above. (Ord. No. 2.56 §3(Art. 1 §1.11), 1-9-01)

SECTION 410.390: AMENDMENTS

For the purpose of protecting the public health, safety and general welfare, the Planning and Zoning Commission may from time to time propose amendments to these regulations. Such proposed amendments shall be heard as part of a public hearing following public notice as require by law. Following recommendation by the Planning and Zoning Commission, the Governing Body shall make action by approving or disapproving the amendment. (Ord. No. 2.56 §3(Art. 1 §1.12), 1-9-01)

SECTION 410.400: DUTIES OF THE ZONING ADMINISTRATOR

- A. Maintain permanent and current records with respect to these regulations including amendments thereto. Keep on file minutes and agendas of all meeting and hearings.
- B. Review all applications for sketch, preliminary and final plats and notify applicants of acceptability for review.
- C. Process and distribute all sketch, preliminary and final plats together with applications and filing fees.

- D. Transmit sketch, preliminary and final plats to the Planning and Zoning Commission along with written comments.
- E. Transmit Planning and Zoning Commission recommendations regarding acceptance of plats to the Governing Body for its action.
- F. Transmit final plats to Recorder of Deeds for filing.
- G. Review and approve, approve conditionally or disapprove lot splits per Article III. (Ord. No. 2.56 §3(Art. 2 §2.01), 1-9-01)

SECTION 410.410: DUTIES OF THE CITY ENGINEER

- A. Determine the need for a detailed drainage study or stormwater improvements based upon the submittal of the sketch plat per Section 410.140.
- B. Review all applications for sketch, preliminary and final plats and notify applicants of acceptability for review.
- C. Review and approve, approve conditionally or disapprove drainage studies per Section 410.170.
- D. Review and approve, approve conditionally or disapprove construction documents per Section 410.180.
- E. Review and approve, approve conditionally or disapprove lot splits per Article III.
- F. Review or inspect all required improvements and as-built drawings and recommend acceptance, acceptance conditionally or rejection per Section 410.340. (Ord. No. 2.56 §3(Art. 2 §2.02), 1-9-01)

SECTION 410.420: DUTIES OF THE PLANNING AND ZONING COMMISSION

- A. Review and approve, approve conditionally or disapprove preliminary plats per Section 410.150 (F–G) within sixty (60) days after the first (1st) meeting of the Planning and Zoning Commission constituting the official submission date as defined in Section 410.130.
- B. Review and approve, approve conditionally or disapprove final plats within sixty (60) days after the first (1st) meeting of the Planning and Zoning Commission following the submission of the final plat per Section 410.160 (F–G). Transmit approved final plats, together with appropriate recommendations, to the Governing Body for its acceptance of dedications of public improvements.
- C. Review and approve, approve conditionally or disapprove lot splits where an applicant has appealed staff's decision per Section 410.200.
- D. Review and approve, approve conditionally or disapprove variances, exceptions and waivers of conditions of the regulations herein per Section 410.380.
- E. Make other determinations and decisions including making recommendations of amendments to these regulations as may be required of the Planning and Zoning Commission from time to time per Section 410.390. (Ord. No. 2.56 §3(Art. 2 §2.03), 1-9-01)

SECTION 410.430: DUTIES OF THE GOVERNING BODY

- A. Consider Planning and Zoning Commission recommendations on final plats and accept or reject dedications of public improvements within thirty (30) days after the first (1st) meeting of the Governing Body following action by the Planning and Zoning Commission per Section 410.160(H).
- B. Accept or reject financial guarantees from subdividers in lieu of immediate completion or installation of improvements required by the regulation per Section 410.320.
- C. Accept, accept conditionally or reject dedication of required improvements following completion and inspection per Section 410.340.
- D. Take other action as required from time to time including the consideration of amendments to these regulations per Section 410.390. (Ord. No. 2.56 §3(Art. 2 §2.04), 1-9-01)

SECTION 410.440: SEVERABILITY AND SAVINGS CLAUSE

- A. Each Section and each Subsection of these regulations are hereby declared to be independent of every other Section or Subsection so far as the passage of these regulations are concerned and the invalidity of any Section or Subsection of these regulations shall not invalidate any other Section or Subsection thereof.
- B. These regulations shall in no manner affect pending actions either civil or criminal founded on or growing out of any ordinance or part of any ordinance hereby repealed and these regulations shall in no manner affect rights or causes of action either civil or criminal not in suit that may have already occurred or grown out of any ordinance or part of any ordinance hereby repealed.
- C. If any Section, Subsection, sentence, clause, phrase or portion of these regulations are for any reason held to be invalid or unconstitutional by the decision of any court, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. No. 2.56 §3(Art. 1 §1.10), 1-9-01)

SECTION 410.450: ENFORCEMENT, VIOLATIONS AND PENALTIES**A. General.**

1. It shall be the duty of the City Officers and Officials to enforce these requirements and to bring the attention of the Board of Aldermen and City Attorney any violations of these regulations.
2. No owner or agent of the owner of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved by the Planning and Zoning Commission in accordance with the provisions of the regulations and filed with the applicable public and quasi-public departments, offices or agencies of the City and County.
3. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the municipality have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

- B. *Violations And Penalties.* Any person, firm, association, partnership or corporation violating the provisions of these regulations is guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed five hundred dollars (\$500.00), plus costs, for each offense and shall stand committed to jail until such fine and costs be paid or otherwise discharged according to law. The City of Mount Vernon, Missouri, shall further have the authority to maintain suits or action in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection or use or to correct or abate such violation or to prevent the occupancy of the building, structure or land. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense. (Ord. No. 2.56 §3(Art. 1 §1.13), 1-9-01)

CHAPTER 415: FLOOD HAZARD PREVENTION

Editor's Note—Ord. no. 2.150 §1, adopted July 10, 2012, repealed Ch. 415 "flood hazard prevention" and enacted new provisions set out herein. Former ch. 415 derived from ord. no. 2.40 §§1–12, 2-10-87.

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

SECTION 415.010: STATUTORY AUTHORIZATION

The legislature of the State of Missouri has in Section 79.110, RSMo., delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Board of Aldermen of the City of Mount Vernon, Missouri ordains as follows. (Ord. No. 2.150, 7-10-12)

SECTION 415.020: FINDINGS OF FACT

- A. *Flood Losses Resulting From Periodic Inundation.* The special flood hazard areas of the City of Mount Vernon, Missouri are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
- B. *General Causes Of The Flood Losses.* These flood losses are caused by:
1. The cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and
 2. The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
- C. *Methods Used To Analyze Flood Hazards.* The Flood Insurance Study (FIS) that is the basis of this Chapter uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.
1. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this Chapter is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this Chapter. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one (1) year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials for Lawrence County dated August 2, 2012, as amended, and any future revisions thereto.
 2. Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
 3. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.

4. Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
5. Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood. (Ord. No. 2.150, 7-10-12)

SECTION 415.030: STATEMENT OF PURPOSE

It is the purpose of this Chapter to promote the public health, safety, and general welfare; to minimize those losses described in Article I, Section 415.020 (A); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this Chapter to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard. (Ord. No. 2.150, 7-10-12)

ARTICLE II. GENERAL PROVISIONS

SECTION 415.040: LANDS TO WHICH CHAPTER APPLIES

This Chapter shall apply to all lands within the jurisdiction of the City of Mount Vernon, Missouri identified as numbered and unnumbered A Zones and AE Zones on the Flood Insurance Rate Maps (FIRMs) for Lawrence County on map panel numbers 29109C0200D, 29109C0302D, 29109C0305D, 29109C0306D, and 29109C0310D, dated August 2, 2012, as amended, and any future revisions thereto. In all areas covered by this Chapter, no development shall be permitted except through the issuance of a floodplain development permit granted by the Board of Aldermen or its duly designated representative under such safeguards and restrictions as the Board of Aldermen or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article IV. (Ord. No. 2.150, 7-10-12)

SECTION 415.050: FLOODPLAIN ADMINISTRATOR

The Code Enforcement Officer is hereby designated as the Floodplain Administrator under this Chapter. (Ord. No. 2.150, 7-10-12)

SECTION 415.060: COMPLIANCE

No development located within the special flood hazard areas of this community shall be located,

extended, converted, or structurally altered without full compliance with the terms of this Chapter and other applicable regulation. (Ord. No. 2.150, 7-10-12)

SECTION 415.070: ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other ordinances inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only. (Ord. No. 2.150, 7-10-12)

SECTION 415.080: INTERPRETATION

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, shall be liberally construed in favor of the Governing Body, and shall not be deemed a limitation or repeal of any other powers granted by State Statutes. (Ord. No. 2.150, 7-10-12)

SECTION 415.090: WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This Chapter shall not create a liability on the part of the City of Mount Vernon, any officer or employee thereof for any flood damages that may result from reliance on this Chapter or any administrative decision lawfully made thereunder. (Ord. No. 2.150, 7-10-12)

SECTION 415.100: SEVERABILITY

If any Section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this Chapter shall not be affected thereby. (Ord. No. 2.150, 7-10-12)

ARTICLE III. ADMINISTRATION

SECTION 415.110: FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article II, Section 415.040. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development. (Ord. No. 2.150, 7-10-12)

SECTION 415.120: DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Code Enforcement Officer is hereby appointed to administer and implement the provisions of this Chapter. (Ord. No. 2.150, 7-10-12)

SECTION 415.130: DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Code Enforcement Officer shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this Chapter have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Missouri State Emergency Management Agency (Mo SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. When floodproofing techniques are utilized for a particular non-residential structure, the Code Enforcement Officer shall require certification from a registered professional engineer or architect. (Ord. No. 2.150, 7-10-12)

SECTION 415.140: APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;

3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the Code Enforcement Officer;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority. (Ord. No. 2.150, 7-10-12)

ARTICLE IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION 415.150: GENERAL STANDARDS

- A. No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A Zones and AE Zones, unless the conditions of this Section are satisfied.
- B. All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A Zones is subject to all provisions of this Chapter. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
- C. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A Zone or AE Zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- D. All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 1. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. Construction with materials resistant to flood damage;
 3. Utilization of methods and practices that minimize flood damages;
 4. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - a. All such proposals are consistent with the need to minimize flood damage;
 - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems, are located and constructed to minimize or eliminate flood damage;
 - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - d. All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

E. *Storage, Material, And Equipment.*

1. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

F. *Accessory Structures.* Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than four hundred (400) square feet may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this Chapter; and a floodplain development permit has been issued. (Ord. No. 2.150, 7-10-12)

SECTION 415.160: SPECIFIC STANDARDS

- A. In all areas identified as numbered and unnumbered A Zones and AE Zones, where base flood elevation data have been provided as set forth in Article IV, Section 415.150(B), the following provisions are required:
1. *Residential construction.* New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to two (2) feet above base flood elevation.
 2. *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to two (2) feet above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base

flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this Subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article III, Section 415.130(9).

3. Require, for all new construction and substantial improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - b. The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. No. 2.150, 7-10-12)

SECTION 415.170: MANUFACTURED HOMES

- A. All manufactured homes to be placed within all unnumbered and numbered A Zones and AE Zones on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- B. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A Zones and AE Zones on the community's FIRM on sites:
 1. Outside of manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to two (2) feet above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- C. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A Zones and AE Zones, on the community's FIRM, that are not subject to the provisions of Article IV, Section 415.170(B) of this Chapter, be elevated so that either:
 1. The lowest floor of the manufactured home is at two (2) feet above the base flood level; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. (Ord. No. 2.150, 7-10-12)

SECTION 415.180: FLOODWAY

Located within areas of special flood hazard established in Article II, Section 415.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. If Article IV, Section 415.180(B) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV.
4. In unnumbered A Zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Article IV, Section 415.150(B). (Ord. No. 2.150, 7-10-12)

SECTION 415.190: RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones and AE Zones on the community's FIRM either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days;
2. Be fully licensed and ready for highway use*; or
3. Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this Chapter.

* A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. (Ord. No. 2.150, 7-10-12)

ARTICLE V. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES**SECTION 415.200: ESTABLISHMENT OF APPEAL BOARD**

The Board of Adjustment as established by the City of Mount Vernon shall hear and decide appeals and requests for variances from the floodplain management requirements of this Chapter. (Ord. No. 2.150, 7-10-12)

SECTION 415.210: RESPONSIBILITY OF APPEAL BOARD

- A. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the Code Enforcement Officer, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board as defined in Article V, Section 415.200.
- B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Code Enforcement Officer in the enforcement or administration of this Chapter. (Ord. No. 2.150, 7-10-12)

SECTION 415.220: FURTHER APPEALS

Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Lawrence County Circuit Court as provided in Section 89.110, RSMo. (Ord. No. 2.150, 7-10-12)

SECTION 415.230: FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other Sections of this Chapter, and the following criteria:

1. The danger to life and property due to flood damage;
2. The danger that materials may be swept onto other lands to the injury of others;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flood damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges. (Ord. No. 2.150, 7-10-12)

SECTION 415.240: CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Subsections (B) through (F) below have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.
- C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon:
 1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- F. A community shall notify the applicant in writing over the signature of a community official that:
 1. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
 2. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Chapter. (Ord. No. 2.150, 7-10-12)

SECTION 415.250: CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES

Any variance granted for an accessory structure shall be decided individually based on a case-by-case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article V, Sections 415.230 and 415.240 of this Chapter. In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in Zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation must be built with flood-resistant materials in accordance with Article IV, Section 415.150(D)(2) of this Chapter.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article IV, Section 415.150(D)(1) of this Chapter. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Article IV, Section 415.150(D)(4) of this Chapter.
5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article IV, Section 415.160(A)(3) of this Chapter.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article IV, Section 415.180(B) of this Chapter. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that:
 - a. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and

- b. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Chapter.
10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction. (Ord. No. 2.150, 7-10-12)

ARTICLE VI. PENALTIES FOR VIOLATION

SECTION 415.260: PENALTIES FOR VIOLATION

Violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Mount Vernon or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 2.150, 7-10-12)

ARTICLE VII. AMENDMENTS

SECTION 415.270: AMENDMENTS

The regulations, restrictions, and boundaries set forth in this Chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Mount Vernon. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this Chapter are in compliance with the National Flood Insurance Program (NFIP) regulations. (Ord. No. 2.150, 7-10-12)

ARTICLE VIII. DEFINITIONS

SECTION 415.280: DEFINITIONS

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

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

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

ACTUARIAL RATES: See "*RISK PREMIUM RATES*".

ADMINISTRATOR: The Federal Insurance Administrator.

AGENCY: The Federal Emergency Management Agency (FEMA).

AGRICULTURAL COMMODITIES: Agricultural products and livestock.

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

APPEAL: A request for review of the Floodplain Administrator's interpretation of any provision of this Chapter or a request for a variance.

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

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

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

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

BUILDING: See "*STRUCTURE*".

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

COMMUNITY: Any State or area or political subdivision thereof which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING: For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELIGIBLE COMMUNITY OR PARTICIPATING COMMUNITY: A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

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

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

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

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland; and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM): An official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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

FLOOD ELEVATION STUDY: An examination, evaluation and determination of flood hazards.

FLOOD FRINGE: The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

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

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS): An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

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

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

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

FLOODWAY OR REGULATORY FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

FREEBOARD: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

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

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

HISTORIC STRUCTURE: Any structure that is:

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

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this Chapter.

MANUFACTURED HOME: A structure, transportable in one (1) or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "*manufactured home*" does not include a "*recreational vehicle*".

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

MAP: The Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

MARKET VALUE OR FAIR MARKET VALUE: An estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL: For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

NEW CONSTRUCTION: For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "*new construction*" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

NFIP: The National Flood Insurance Program (NFIP).

PARTICIPATING COMMUNITY (ALSO KNOWN AS AN "ELIGIBLE COMMUNITY"): A community in which the Administrator has authorized the sale of flood insurance.

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

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

RECREATIONAL VEHICLE: A vehicle which is:

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

REMEDY A VIOLATION: To bring the structure or other development into compliance with Federal, State, or local floodplain management regulations or, if this is not possible, to reduce the impacts of its non-compliance.

REPETITIVE LOSS: Flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

RISK PREMIUM RATES: Those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "*Risk premium rates*" includes provisions for operating costs and allowances.

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

SPECIAL HAZARD AREA: An area having special flood hazards and shown on an FHBM, FIRM or FBFM as Zones (unnumbered or numbered) A and AE.

START OF CONSTRUCTION: Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within one hundred eighty (180) days of the permit date. The "*actual start*" means either the first (1st) placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "*actual start of construction*" means the first (1st) alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE COORDINATING AGENCY: That agency of the State Government or other office designated by the Governor of the State or by State Statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that State.

STRUCTURE: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as manufactured home. "*Structure*", for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. The term includes Repetitive Loss buildings (see definition).

For the purposes of this definition, "repair" is considered to occur when the first (1st) repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

The term does not apply to:

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

SUBSTANTIAL IMPROVEMENT: Any combination of reconstruction, alteration, or improvement to a building, taking place during a ten (10) year period, in which the cumulative percentage of improvement equals or exceeds fifty percent (50%) of the current market value of the building. For the purposes of this definition, an improvement occurs when the first (1st) alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures which have incurred "repetitive loss" or "substantial damage", regardless of the actual repair work done. The term does not apply to:

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

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS: Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

VARIANCE: A grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

VIOLATION: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION: The height in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain. (Ord. No. 2.150, 7-10-12)

CHAPTER 420: PROCEDURES

Note—All filing forms contained in this portion of the land use regulations are on file in the City offices.

ARTICLE I. THE ROLE OF EACH PARTICIPANT

SECTION 420.010: INTRODUCTION

- A. The purpose of the City zoning regulations and subdivision regulations is to promote orderly growth and redevelopment in the City of Mount Vernon and its environs. The degree to which these regulations are effective is largely dependent upon the caliber of implementation. The best regulations are ineffective by themselves and perform their functions only through proper administration on a day-to-day basis.
- B. The purpose of this procedures manual is to set forth guidelines for the proper administration of the City zoning regulations and subdivision regulations. Included are descriptions of the general role of each participant, a discussion of the decision-making process, a recommended code of conduct and a step-by-step outline of the most common development requests. Through the use of the procedures manual, the City zoning regulations and subdivision regulations will be applied more equitably and consistently.
- C. The power to enact zoning and subdivision regulations has been granted to Cities and Counties by the State enabling legislation. These Statutes require the participation of three (3) separate bodies in the process of administering the regulations: The Planning and Zoning Commission, the Board of Zoning Adjustment and the Governing Body. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.020: MOUNT VERNON PLANNING AND ZONING COMMISSION

- A. *Comprehensive Plan.* By Missouri Statutes, in order to implement land use regulations, the Planning and Zoning Commission must adopt a City plan (Comprehensive Plan) for the physical development of the municipality. Before adopting or amending the plan, the Planning and Zoning Commission must hold a public hearing. Upon the conclusion of the public hearing, the Planning and Zoning Commission must prepare and adopt a recommendation to the Governing Body. The Governing Body must approve such plan or amendments prior to adoption. After adoption of the plan, a copy should be recorded in the office of the County Recorder of Deeds.
- B. *Zoning Regulations.* The Planning and Zoning Commission is primarily an advisory body. Under the zoning regulations, the primary duty of the Mount Vernon Planning and Zoning Commission is to hold a public hearing where public opinion can be expressed regarding proposed rezoning, conditional and special use permits and zoning regulation text amendments. In this sense, the Planning and Zoning Commission is a sounding board for community attitudes toward development. It is important for the Planning and Zoning Commission to establish the facts surrounding each development issue as clearly as possible so that decisions are not based on misinformation or conjecture. The Commission is required to adopt a recommendation to the Governing Body regarding rezoning of land, conditional and special use permits and changes to the zoning regulations.

- C. *Subdivision Regulations.* Under the subdivision regulations, the Planning and Zoning Commission is responsible for approving, conditionally approving or disapproving both preliminary and final plats. Guidelines to carry out this responsibility are provided by the plat submission standards set out in the subdivision regulations.
- D. *Board Of Zoning Adjustment.* The Board of Zoning Adjustment is primarily a quasi-judicial body rather than an advisory or legislative one. Its role in zoning administration is specifically limited to three (3) types of tasks:
1. The appeal of an administrative decision or interpretation;
 2. The granting of variances for cases of unnecessary hardship; and
 3. Other matters referred to the Board Adjustment.

In the first case, the responsibility of the Board of Zoning Adjustment is to rule on the administrative interpretation of the zoning regulations whenever there is an ambiguous provision or an alleged error. Variances are granted for unusual physical constraints and the role of the Board of Zoning Adjustment is to determine if a variance should be granted in a manner that is consistent with the intent of the zoning regulation and fair to the applicant. The Board of Zoning Adjustment is not involved in administering the subdivision regulations.

- E. *Governing Body.* The Governing Body consists of the Mayor and the Board of Aldermen and has responsibility for enacting and amending the City Comprehensive Plan and the City zoning regulations after consideration of the recommendations of the Planning and Zoning Commission. This responsibility includes amending the text of the City zoning regulations, zoning district maps and the text of the City subdivision regulations. The role of the Governing Body in the subdivision process is to accept or reject dedications of easements, rights-of-way and public lands; approve financial guarantees or financing mechanisms to ensure construction of all public improvements; and approve engineering drawings. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE II. THE BASIS OF DECISION-MAKING

SECTION 420.030: GENERALLY

As with other "Police powers", the exercise of zoning and subdivision regulations is subject to certain legal limitations. One of the most important of these limitations requires that zoning and subdivision regulations cannot be applied in an "arbitrary or capricious" manner. Decisions regarding zoning and subdivision issues cannot be fixed or arrived at through an exercise of will or by caprice without consideration or adjustment with reference to principles, circumstances or significance. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.040: ZONING ISSUES

- A. Before making any recommendation or decision on a zoning request, the Planning and Zoning Commission must first hold a public hearing. The purpose of the hearing is to allow all sides to express their views on the issue and to discuss all relevant factors. Although the hearing is a valuable mechanism for gauging the community's attitudes toward development and for establishing the facts of each case, it is important that decisions not be based solely on the opinions of the largest or most vocal group of participants.

- B. Instead, zoning decisions must be based on the best interests of the entire community and not just the interests of a particular property owner or neighboring property owners. The Planning and Zoning Commission should try to distinguish between facts and opinions at a public hearing. Unsubstantiated assertions ("This project would reduce the value of my property by seventy-five percent (75%).") or generalizations ("People who live in apartments always drive fast cars and race up and down the streets.") should be analyzed for their validity. Even "expert witnesses" should be pressed to give as factual a basis as possible for their judgments.
- C. Second, zoning decisions should include consideration of long-range community goals as well as short-range needs. The recommendations of the Comprehensive Plan should be the primary source for this information. Because of its importance in the zoning process, the Comprehensive Plan should be reviewed by the Mount Vernon Planning and Zoning Commission on a regular basis and amended as necessary to ensure that it remains current.
- D. Third, it is important to zone based on land use issues, not the personal issues affecting the individual applicant. An error frequently made is approval of a rezoning to accommodate an applicant's personal circumstances without consideration of land use conditions and characteristics. Such rezonings are rarely in the public interest and, if challenged, can be held to be invalid. Instead, decisions should be based on whether the land is appropriate for the proposed zoning district.
- E. The entire class of uses which the zoning district permits should be considered rather than just the use the applicant proposes, since a change in ownership or in market conditions could easily result in a change of the proposed or existing use.
- F. Special use permits are granted on a case-by-case approach. The zoning regulations set forth conditions that must be met before a special use permit may be granted. The district regulations also may establish additional conditions. The recommendation to grant a special use permit should be made to the Governing Body only after the Planning and Zoning Commission has found all the standards, as set forth in the zoning regulations, have been met. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.050: APPEALS AND VARIANCES

- A. The Board of Zoning Adjustment has the important task of interpreting the zoning regulations in situations where the language of the ordinance is alleged to be ambiguous, the specifics of the case are unusual enough to warrant special consideration or an appeal is made. Thus, the decisions made by the Board of Zoning Adjustment must be carefully thought out and clearly stated in order to safeguard the integrity and purpose of the zoning regulations.
- B. In deciding an appeal, the Board of Zoning Adjustment must interpret sections of the zoning regulations, as well as preserve the intent and consistency of the regulations. The specifics of the applicant's situation are largely irrelevant, since the ruling of the Board of Zoning Adjustment will affect not only the case at hand, but will also set precedent and consequently affect each subsequent use of that section of the zoning regulations.
- C. The granting of a variance requires a very careful examination of the applicant's situation. Although the Board of Zoning Adjustment should be careful to avoid setting any unintentional precedents, the variance process requires a case-by-case approach. Before a variance can be granted, facts must be presented supporting the standards set forth in the Mount Vernon zoning regulations. These conditions require the existence of practical difficulties or unnecessary hardship and that any variance granted be consistent with the intent of the regulations, the general welfare of the community and the rights of adjacent property owners.

- D. In each of the duties described above, it is important to point out that it is not the role of the Board of Zoning Adjustment or the Planning and Zoning Commission to change or weaken the intent of the zoning regulations. If the ordinance needs changing, an amendment should be passed by the Governing Body after the Planning and Zoning Commission's review and recommendation. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.060: SUBDIVISION PLATS

- A. The decision to approve or disapprove a preliminary or final plat should be based on technical standards that can be set out in written form. Standards for subdivision design are included in the subdivision regulations. Standards for engineering design and construction should be available from the Zoning Administrator. Other elements of "good subdivision design" exist, however, that are not easily quantified or expressed in writing. These include aesthetics, compatibility with adjoining subdivisions, relationship to topographic conditions, efficiency of the utility layout and general suitability of the lot and block design to the intended use of the land. Such issues will have to be resolved in the best judgment of the Planning and Zoning Commission after consideration of the plans for the subdivider. In reviewing a subdivision plat, two (2) distinct sets of interests must be considered:
1. The interests of the property owner or owners; and
 2. The City at large.
- B. Initially the subdivider is the property owner, but eventually lots in the subdivision are likely to be sold to a variety of people. The property owner(s) needs a subdivision design that can be developed easily and economically. This means an efficient street and utility layout and lots which have the appropriate size, shape and topography to develop and maintain for their intended use. The broader community needs a subdivision design that blends well with the development pattern of the City and that will not be a financial drain on local government. This means that the subdivider must adhere to appropriate standards for design and construction and give adequate financial guarantees to ensure that all public improvements are installed. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.070: SITE PLAN APPROVAL

The zoning regulations in the City of Mount Vernon require that a new building(s) or the expansion of an existing building(s) in multi-family, commercial and industrial zoning districts be subject to site plan review and approval by the Planning and Zoning Commission before building permits can be issued. The site plan is a detailed depiction of the entire project and its relationship to adjoining property. Elements that must be included are detailed in the zoning regulations. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE III. PLANNING AND ZONING COMMISSION BYLAWS

SECTION 420.080: AREAS OF RESPONSIBILITY

It shall be the responsibility of the Planning and Zoning Commission to:

1. Cause the preparation, development and adoption of a Comprehensive Plan;

2. Formulate subdivision regulations;
3. Formulate zoning regulations;
4. Hold public hearings for proposed zoning changes and make a recommendation to the Governing Body;
5. Consider flood plain development controls;
6. Perform an annual review of the Comprehensive Plan; and
7. Adopt bylaws. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.090: COMPOSITION

- A. The Planning and Zoning Commission shall be composed of seven (7) voting members as provided for by the City of Mount Vernon, Missouri.
- B. The Chair, Vice Chair and Secretary shall be elected by Commission members.
- C. A Secretary Pro Tem, elected by the Commission members, shall chair the meeting in the absence of the elected officers. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.100: DUTIES OF OFFICERS

- A. *Chair.* The Chair shall preside at all meetings and public hearings of the Planning and Zoning Commission and shall:
 1. Decide all points of order and procedure;
 2. Certify plans and plats; and
 3. Transmit reports and recommendations of the Planning and Zoning Commission to the Governing Body.
- B. *Vice Chair.* The Vice Chair shall assume the duties of the Chair in his/her absence.
- C. *Secretary.* The Secretary shall be responsible for:
 1. Keep the minutes of the Planning and Zoning Commission meetings;
 2. Certify, along with the Chair, all plans and plats; and
 3. Perform other duties as the Planning and Zoning Commission may require. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.110: DUTIES OF THE ZONING ADMINISTRATOR OR DESIGNATE

The Zoning Administrator or designate shall perform the following duties:

1. Duties as set forth by the Governing Body and Planning and Zoning Commission;

2. Meet with applicants prior to application submittal and accept applications for Planning and Zoning Commission agenda items;
3. Draft or have staff reports drafted on agenda items and sent to Planning and Zoning Commission members prior to each Planning and Zoning Commission meeting;
4. Send or have agendas sent to members of the Planning and Zoning Commission;
5. Inform applicants of decisions;
6. Carry out written correspondence;
7. Maintain the records of the Planning and Zoning Commission;
8. Other duties as requested by the Planning and Zoning Commission. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.120: MEETINGS

- A. The Planning and Zoning Commission shall establish a regular monthly meeting date.
- B. A regular meeting of the Planning and Zoning Commission may be cancelled if:
 1. It is determined that a quorum will not be present;
 2. No subjects are scheduled for the agenda; or
 3. Other reasonable circumstances.
- C. The Planning and Zoning Commission may hold special meetings from time to time upon a majority vote of the full membership of the Commission. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.130: CONDUCT OF MEETINGS

- A. Robert's Rules of Order shall govern the conduct of meetings.
- B. There must be four (4) of the seven (7) voting members present before a vote can be taken, unless the allotted time will have expired prior to the next meeting or unless the petitioner requests a vote be taken.
- C. The motion shall be restated by the Chair before a vote is taken. The name of the maker and supporter of a motion shall be recorded.
- D. An affirmative vote of a majority of a quorum is required to take action on a motion; except that an affirmative vote of a majority of the full Planning and Zoning Commission is required for certain actions, such as approving subdivision plats, recommending adoption or amendment of the Comprehensive Plan and for recommending adoption of new zoning regulations.
- E. Where such a vote is not possible either for or against a particular proposal, the results of such action shall be submitted to the Governing Body with an explanation of the failure to establish an official vote on the subject in question. All members including the Chair shall have a vote and shall

vote when present except that any member shall automatically disqualify himself/herself from voting on any decision in which there might be a conflict of interest and should state the nature of that conflict for the minutes. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.140: AGENDA SUBJECTS

- A. Any interested party may request a place upon the agenda of a Planning and Zoning Commission meeting.
- B. A copy of the agenda shall ordinarily be mailed to the members of the Planning and Zoning Commission so that they may review them at least three (3) days prior to the meeting.
- C. Subjects not listed on an official agenda will ordinarily not be considered at a meeting; except that the Chair may allow consideration of non-agenda items but not public hearings.
- D. Agenda for regular meeting:
 - 1. Meeting opened by Chair.
 - 2. Meeting called to order by Chair;
 - 3. Roll call by name; and
 - 4. Motion to adopt minutes of previous meeting.
- E. Public hearings.
- F. Discussion items.
- G. Other business.
- H. Adjournment.
- I. *Attendance At Meetings.* In the event any member of the Commission shall fail to attend at least sixty-six percent (66%) of the meetings of the Commission over any nine (9) month period, such absences shall be the grounds for forfeiture of his/her office. If a member of the Commission is absent beyond the number of meetings allowable, it will be up to the Chair of the Commission to recommend dismissal to the Mayor. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.150: HEARINGS

- A. Before recommending adoption or amendment of all or any part of the Comprehensive Plan, City zoning regulations, City subdivision regulations or major street plan, the Planning and Zoning Commission shall hold a public hearing on the matter as required by law.
- B. The Zoning Administrator shall cause a notice of such public hearings to be published once in the official City newspaper and at least fifteen (15) days shall elapse between the date of such publication and the date set for the hearing. Such notice shall fix the time and place for such a hearing and shall describe the proposal in general terms.

- C. The following procedure for conducting public hearings shall be observed:
1. Staff presents the agenda item;
 2. The Planning and Zoning Commission may ask questions regarding the staff presentation and report;
 3. Proponents of the agenda item make presentation;
 4. Opponents of the agenda item make presentations;
 5. Applicant makes rebuttal;
 6. Staff presents the matters to be considered; and
 7. Planning and Zoning Commission asks any questions it may have of the proponents, opponents or staff and then acts upon a motion.
- D. Action by the Planning and Zoning Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.160: RECOMMENDATIONS

The Chair of the Planning and Zoning Commission, or a member of the Planning and Zoning Commission authorized by the Chair, shall appear before the Governing Body for the purpose of reporting recommendations of the Planning and Zoning Commission. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.170: COMMITTEES

- A. The Planning and Zoning Commission may establish such committees as it deems advisable and assign each committee specific duties or functions.
- B. The Chair shall designate the members of each committee and shall name the Chair of each committee. The Planning and Zoning Commission shall fill vacancies on committees as they are created. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.180: EXPENSES

- A. The Planning and Zoning Commission may accept funds and services budgeted by the Governing Body.
- B. The designated fiscal agent of the Planning and Zoning Commission shall be the Mayor or the Zoning Administrator of the City of Mount Vernon. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.190: RECORDS AND REPORTS

- A. The Planning and Zoning Commission shall keep a record of all proceedings, resolutions, transactions, findings and determinations.

- B. All records of the Planning and Zoning Commission shall be available for public review.
- C. The Planning and Zoning Commission shall annually review the Comprehensive Plan to determine if any portion has become obsolete and shall make a report to the Governing Body regarding same. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.200: AMENDMENTS

These bylaws may be amended by an affirmative vote of a majority of the full quorum of the Planning and Zoning Commission, provided such amendment has been submitted in writing to each member of the Commission at least three (3) days prior to the meeting at which action is to be taken. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.210: ETHICAL PRINCIPLES

Members of the Planning and Zoning Commission who shall legally have a conflict of interest or believe that they may have a substantial interest, as defined by Missouri State Statute, in any matter that is on the Commission's agenda shall voluntarily excuse themselves, vacate their seat and refrain from discussion and voting on said item as a Commission member. Conflict of interest includes:

1. Ownership of property or business in which the Commission is considering action;
2. Receipt of fees, salaries or gratuity from such business or businesses; or
3. A member of the Commission member's immediate family is employed by or stands to receive a financial gain from the Planning and Zoning Commission's action. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE IV. BOARD OF ZONING ADJUSTMENT BYLAWS

SECTION 420.220: AREAS OF RESPONSIBILITY

It shall be the responsibility of the Board of Zoning Adjustment to:

1. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator or other City Official in the enforcement of the zoning regulations.
2. To authorize in specific cases a variance from the specific terms of the zoning regulations.
3. Other matters referred to the Board. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.230: COMPOSITION

- A. The Board of Zoning Adjustment shall consist of three (3) voting members as provided by the City of Mount Vernon, Missouri.

- B. The Chair, Vice Chair and Secretary shall be elected by Board members. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.240: DUTIES OF OFFICERS

- A. *Chair.* The Chair shall preside at all meetings and public hearings of the Board of Zoning Adjustment and shall:
1. Decide all points of order and procedure;
 2. Inform petitioners of decisions.
- B. *Vice Chair.* The Vice Chair shall assume the duties of the Chair in his/her absence.
- C. *Recording Secretary.* The Recording Secretary shall be responsible for:
1. Keeping the minutes of the Board of Zoning Adjustment meetings;
 2. Perform other duties as the Board of Zoning Adjustment may require.
- D. *Duties Of The Zoning Administrator.* The Zoning Administrator shall perform the following duties:
1. Duties as set forth by the Board of Zoning Adjustment;
 2. Meet with applicants prior to application submittal and accept applications for Board of Zoning Adjustment agenda items;
 3. Draft or have staff reports drafted on agenda items and sent to the members of the Board of Zoning Adjustment prior to each Board of Zoning Adjustment meeting;
 4. Send or have agendas sent to members of the Board of Zoning Adjustment;
 5. Inform applicants of decisions;
 6. Carry out written correspondence; and
 7. Maintain the records of the Board of Zoning Adjustment. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.250: MEETINGS

- A. Robert's Rules of Order shall govern the conduct of meetings and the Chair shall serve as parliamentarian.
- B. A majority of the full Board of Zoning Adjustment shall constitute a quorum and must be present before a vote can be taken.
- C. The Board of Zoning Adjustment shall hold meetings at a time and place designated by the Board; except that the Chair may cancel a regular meeting with at least three (3) days' prior notice if it is determined that a quorum will not be present.

- D. The motion shall be restated by the Chair before a vote is taken. The name of the maker and supporter of a motion shall be recorded.
- E. An affirmative vote of the majority of the full Board of Zoning Adjustment membership is required to take action on a matter.
- F. When procedural and parliamentary rules adopted by the Board of Zoning Adjustment conflict, parliamentary procedure shall be according to the Robert's Rules of Order. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.260: AGENDA SUBJECTS

- A. Any interested party may request a place upon the agenda of a Board of Zoning Adjustment meeting.
- B. A copy of the agenda shall ordinarily be mailed to the members of the Board of Zoning Adjustment so that they may review them at least three (3) days prior to the meeting.
- C. Subjects not listed on an official agenda will ordinarily not be considered at a meeting; except that the Chair may allow consideration of non-agenda items.
- D. Agenda for regular meeting:
 - 1. Meeting opened by Chair.
 - a. Meeting called to order by Chair;
 - b. Roll call by name; and
 - c. Motion to adopt minutes of previous meeting.
 - 2. Public hearings.
 - 3. Other business.
 - 4. Adjournment.
- E. *Attendance At Meetings.* In the event any member of the Board shall fail to attend at least sixty-six percent (66%) of the meetings of the Board over any nine (9) month period, such absences shall be the grounds for forfeiture of his/her office. If a member of the Board is absent beyond the number of meetings allowable, it will be up to the Chair of the Board to recommend dismissal to the Mayor. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.270: ETHICAL PRINCIPLES

Members of the Board of Zoning Adjustment who shall legally have a conflict of interest or believe that they may have a substantial interest, as defined by Missouri State Statutes, in any matter that is on the Board's agenda shall voluntarily excuse themselves, vacate their seat and refrain from discussion and voting on said item as a Board member. Conflict of interest includes:

- 1. Ownership of property or business in which the Board is considering action;

2. Receipt of fees, salaries or gratuity from such business or businesses; or
3. A member of the Board member's immediate family is employed by or stands to receive a financial gain from the Board of Zoning Appeal's action. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE V. CODE OF CONDUCT

SECTION 420.280: GENERALLY

In administering the zoning regulations, it is crucial that the decisions are made fairly and that they also have the appearance of fairness. The credibility of the Planning and Zoning Commission, the Board of Zoning Adjustment, the Governing Body and public support for zoning regulations in general will erode quickly if there is an appearance of unfairness or impropriety in members of these public bodies. For this reason, it is important that a code of conduct is established and followed as closely as possible. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.290: CONFLICTS OF INTEREST

- A. In making zoning decisions, members of the Planning and Zoning Commission, Board of Zoning Adjustment and the Governing Body should be acting in the best interest of the entire community. Whenever a member of any of these bodies is acting on an issue in which he/she also has a personal interest, an important element of fairness is lost. In general, a conflict of interest is any situation in which a member is in a position to act upon or influence a development request which includes the potential for direct or indirect gain, financial or otherwise. In order to clarify this general rule, the following guidelines are recommended.
- B. No member shall act on or influence any development request when:
 1. The member has a potential for direct or indirect profit or financial gain from the development;
 2. The member owns or is employed by any company which is an applicant, subdivider, developer or option holder;
 3. The applicant, subdivider, developer or option holder is an established and regular client of the member or the member's place of employment;
 4. One (1) or more of a member's immediate family (parent, sibling, spouse or child) has a direct financial interest in the development or is an owner or officer of any company which is an applicant, subdivider, developer or option holder; or
 5. The member has a potential for indirect financial gain or loss because of related property or business holdings.
- C. Other situations not covered by these guidelines should be left to the judgment of the member involved. Again, the appearance of fairness and impartiality is as important as actual fairness and impartiality.

- D. Ideally, citizens appointed to the Planning and Zoning Commission and Board of Zoning Adjustment should not include those who are likely to have repeated conflicts of interests. When a conflict of interest does occur, however, the following steps should be taken:
1. The member should declare and the record should show that a conflict of interest exists with respect to a particular issue and that the member will not participate in any discussion or action;
 2. The member should step down from his/her regular seat and should not speak with any other members during the discussion of the issue at hand; and
 3. The member should not represent or speak on behalf of the applicant but may speak on his/her own behalf as a private citizen during the hearing. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.300: ACKNOWLEDGMENT OF OUTSIDE INFORMATION

- A. During any public hearing, it is presumed that all sides will have the opportunity to hear the opposing side's information and arguments and to offer rebuttal. This right is lost when discussions are held or information is provided outside the public hearing. The possibility exists that a decision could be based on information that was never discussed publicly. To avoid this situation, Planning and Zoning Commission and Board of Zoning Adjustment members should not receive any information relating to a case or discuss a case with anyone who has an interest in the outcome. Where such a discussion or information is unavoidable, the member should declare during the hearing, and the record should show, the general nature and content of the discussion or information and the participants in the discussion or the source of the information.
- B. These guidelines also apply to any personal knowledge which is relevant to the issue. If a member has any personal knowledge which will affect his/her decision, such information should be made public during the hearing and should be subject to rebuttal. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.310: INFORMED PARTICIPATION

- A. All parties with an interest in a particular development issue have a right to a decision based on all of the available information. Any member who is not informed or aware of the available information should abstain from voting on that issue. This includes the following situations:
1. When a member has not reviewed the application or the information submitted with the application;
 2. When a member has missed all or part of a public hearing and has not been able to review a transcript of the hearing; or
 3. When a member has missed all or part of the discussion between members prior to the vote.
- B. As a corollary to this policy, it is the duty of each member to attend normally scheduled meetings as regularly as possible. Without regular attendance, informed decision-making and full participation in the regulatory process is unlikely. The bylaws of the Planning and Zoning Commission establish requirements and rules for attendance. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE VI. ETHICAL PRINCIPLES—PLANNING COMMISSION AND STAFF**SECTION 420.320: GENERALLY**

The Mount Vernon Planning and Zoning Commission has officially adopted the following principles to govern the conduct of its business. These principles should be considered as advisory rather than mandatory. Should any questions arise about the interpretation and application of any of these principles, the City Attorney should be consulted.

1. *Serve the public interest.* The primary obligation of Planning and Zoning Commission members and planning staff is to serve the public interest.
2. *Support citizen participation in planning.* Because the definition of the public interest is modified continuously, Planning and Zoning Commission members and planning staff must recognize the right of citizens to seek to influence planning decisions that affect their well-being. Members should encourage a forum for meaningful citizen participation and expression in the planning process and assist in clarifying community goals, objectives and policies.
3. *Recognize the comprehensive and long-range nature of planning decisions.* Planning and Zoning Commission members and planning staff should recognize and give special consideration to the comprehensive and long-range nature of planning decisions. Planning and Zoning Commission members and planning staff must seek to balance and integrate physical (including historical, cultural and natural), economic and social characteristics of the community or area affected by those decisions. Planning and Zoning Commission members and the planning staff must gather all relevant facts, consider responsible alternative approaches and evaluate the means of accomplishing them. Planning and Zoning Commission members and planning staff should expressly evaluate foreseeable consequences before making a recommendation or decision.
4. *Expand choice and opportunity for all persons.* Planning and Zoning Commission members and planning staff should strive to make decisions which increase choice and opportunity for all persons; recognize a special responsibility to plan for the needs of disadvantaged people; and urge that policies, institutions and decisions which restrict choices and opportunities be changed.
5. *Facilities coordination through the planning process.* Planning and Zoning Commission members and planning staff must encourage coordination of the planning process. The planning process should enable those concerned with an issue to learn what other participants are doing, thus permitting coordination of activities and efforts and accommodation of interests. Planning and Zoning Commission members and planning staff should strive to ensure that individuals and public and private agencies likely to be affected by a prospective planning decision receive adequate information far enough in advance of the decision to allow their meaningful participation.
6. *Avoid conflict of interest.* To avoid conflict of interest and the appearance of impropriety, Planning and Zoning Commission members who may receive some private benefit from a public planning decision must not participate in that decision. The private benefit may be direct or indirect, create a material or personal gain or provide an advantage to an immediate relation.
7. *Render thorough and diligent planning service.* Planning and Zoning Commission members and planning staff must render thorough and diligent planning service. Should a Planning and Zoning Commission member or members of staff believe he/she can no longer render such

service in a thorough and diligent manner, he/she should resign from the position. If a member has not sufficiently reviewed relevant facts and advice affecting a public planning decision, the member must not participate in that decision.

8. *Do not seek or offer favors.* Planning and Zoning Commission members and members of staff must seek no favor. Planning and Zoning Commission members and planning staff must not directly or indirectly solicit any gift or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, promises or in some other form) under circumstances in which it could be reasonably inferred that the gift was intended or could reasonably be expected to be intended to influence them in the performance of their duties or that it was intended or could reasonably be construed to be intended as a reward for any recommendation or decision on their part. Individuals must not offer any gifts or favors intended to influence the recommendation or decision of Planning and Zoning Commission members or planning staff.
9. *Do not disclose or improperly use confidential information for financial gain.* Planning and Zoning Commission members and planning staff must not disclose or use confidential information obtained in the course of their planning duties for financial or other gain. A Planning and Zoning Commission member or staff must not disclose to others confidential information acquired in the course of their duties or use it to further a personal interest. Exceptions to this requirement of non-disclosure may be made only when:
 - a. Required by process of law,
 - b. Required to prevent a clear violation of law, or
 - c. Required to prevent substantial injury to the public.

Disclosure pursuant to (b) and (c) must not be made until after the Planning and Zoning Commission member or member of staff has made reasonable efforts to verify the facts and issues involved, obtain reconsideration of the matter and obtain separate opinions on the issue from other planners or officials.

10. *Ensure access to public planning reports and studies on an equal basis.* Planning and Zoning Commission members and planning staff must ensure that reports and records of the public planning body are open equally to all members of the public. All non-confidential information available to a member or planning staff must be made available in the same form to the public in a timely manner at reasonable or no cost.
11. *Ensure full disclosure at public hearings.* Planning and Zoning Commission members and staff members must ensure that the presentation of information on behalf of any party to a planning question occurs only at the scheduled public hearing on the question, not in private, unofficially or with other interested parties absent. The official must make partisan information regarding the question (received in the mail, by telephone or other communication) part of the public record.
12. *Maintain public confidence.* A Planning and Zoning Commission member or member of staff must conduct himself/herself publicly so as to maintain public confidence in the public planning body, the City of Mount Vernon and the official's performance of the public trust. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE VII. PROCEDURAL SUMMARY**SECTION 420.330: GENERALLY**

- A. The final section of this manual is a step-by-step explanation of each type of development request. Also included are checklists to assist in the review of each request.
- B. It is important to note that the official procedural requirements are contained in the City of Mount Vernon zoning and subdivision regulations themselves. This manual is a summary document intended to present the zoning and subdivision process in an easily understood format and applications needed for each zoning and subdivision process. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE VIII. ZONING AND SUBDIVISION TEXT AMENDMENT PROCEDURE**SECTION 420.340: GENERALLY**

A proposal for an amendment of the text of the zoning or subdivision regulations is initiated by either the Planning and Zoning Commission or the Governing Body of the City of Mount Vernon. A citizen may also begin the amendment process by submitting the proposed change to the Zoning Administrator, with a request for consideration by either the Planning and Zoning Commission or Governing Body, on the next regular meeting agenda.

1. If the text amendment is initiated by either the Planning and Zoning Commission or the Governing Body:
 - a. A public hearing may be scheduled immediately.
 - b. The office of the Zoning Administrator shall be responsible for having an official notice of the public hearing published in a newspaper of general circulation at least fifteen (15) days prior to the hearing and for following the administrative procedures for a text amendment as prescribed in the adopted zoning or subdivision regulations.
 - c. The notice shall fix the time and place of the hearing and describe in general terms the proposed change.
 - d. At the public hearing, citizens and parties of interest shall have an opportunity to be heard.
2. If the change is initiated by a private citizen and taken before the Planning and Zoning Commission:
 - a. The individual shall be allowed to present the proposed amendment at a regular meeting.
 - b. The Planning and Zoning Commission, based on the information presented, shall determine whether the proposal should be considered as an amendment.
 - c. If it is determined that the proposal has merit, the Planning and Zoning Commission may set a date for the public hearing and authorize the publication of the necessary public notice.

3. The public hearing may be adjourned from time to time and upon its conclusion the Planning and Zoning Commission shall prepare and adopt its recommendation to the Governing Body. The recommendation shall be submitted along with an accurate record of the public hearing.
4. The Governing Body shall consider the Planning and Zoning Commission's recommendation and may either approve the recommendation; override the Planning and Zoning Commission's recommendation by a two-thirds ($\frac{2}{3}$) majority vote of the membership of the Governing Body; or return the proposed amendment to the Planning and Zoning Commission for reconsideration, as prescribed in the adopted zoning or subdivision regulations. If received for reconsideration, the Planning and Zoning Commission shall consider the Governing Body's reasons for failure to approve or disapprove and may resubmit its original recommendation or a revised recommendation. Upon receipt of the recommendation, the Governing Body may approve or disapprove the proposed zoning or subdivision text amendment.
5. If the Governing Body approves the requested change, it shall adopt an ordinance to that effect. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE IX. ZONING DISTRICT AMENDMENT (REZONING) PROCEDURE

SECTION 420.350: GENERALLY

A proposal for a change in district classification (rezoning) may be initiated by either the Governing Body, the Planning and Zoning Commission or by application of the owner of property affected.

1. The applicant shall first obtain the proper application form from the office of Zoning Administrator.
2. The rezoning application form shall be completely filled out and returned to the office of Zoning Administration with the appropriate filing fee, deposit and required information. An application shall not be scheduled for public hearing until the application form has been fully completed, the filing fee and deposit paid and all required information submitted. The deposit shall be used to cover expenses incurred by the City in the processing notification and review of the application. If the City's processing notification and review costs exceed the amount of the initial deposit, the applicant shall be required to pay the additional amount.
3. The office of the Zoning Administrator shall be responsible for having an official notice of the public hearing published in a newspaper of general circulation at least fifteen (15) days prior to the hearing. The office of the Zoning Administrator shall be responsible for following the administrative procedures for a zoning district amendment as prescribed in the adopted zoning regulations. The notice shall fix the time and place of the hearing and shall describe generally the change requested.

The applicant shall be responsible for submitting a list of surrounding property owners to the office of Zoning Administration. The office shall send a written notice to notify surrounding property owners of the public hearing and of their right to file protest petitions and shall explain the protest procedure. The written notice shall be sent to all owners of real property within one hundred eighty-five (185) feet of the property if the property proposed to be rezoned is located in the City's municipal boundaries.

This notice shall be mailed, return receipt requested. Said notice shall be sent at least fifteen (15) days before the hearing at which said rezoning application is scheduled to be considered. The notice shall state the intent of the request, fix the time and place for the hearing as determined by the Zoning Administrator and shall contain the following:

4. A statement regarding the proposed zoning classification;
 - a. A legal description or general description that is sufficient to identify the property under consideration;
 - b. Proof of ownership in the form of a warranty deed, quit claim deed, other deed of conveyance, or other proof of ownership, and
 - c. A statement that a complete legal description is available for public inspection in the City of Mount Vernon Zoning Administration office.
5. The Planning and Zoning Commission shall hold a public hearing at which time citizens and parties of interest shall have an opportunity to be heard.
6. The public hearing may be adjourned from time to time and, upon its conclusion, the Planning and Zoning Commission shall prepare and adopt its recommendation to the Governing Body. This recommendation shall be submitted along with an accurate record of the public hearing.
7. The Governing Body shall consider the Planning and Zoning Commission's recommendation and may either approve the recommendation; override the Planning and Zoning Commission's recommendation by a two-thirds ($\frac{2}{3}$) majority vote of the membership of the Governing Body; or return the proposed amendment to the Planning and Zoning Commission for reconsideration, as prescribed in the adopted zoning or subdivision regulations. If received for reconsideration, the Planning and Zoning Commission shall consider the Governing Body's reasons for failure to approve or disapprove and may resubmit its original recommendation or a revised recommendation. Upon receipt of the recommendation, the Governing Body may approve or disapprove the proposed zoning.
8. If the Governing Body approves the requested change, it shall adopt an ordinance to that effect. (Ord. No. 2.56 §4, 1-9-01; Ord. No. 2.109 §1, 9-13-05)

ARTICLE X. PLANNED DEVELOPMENT PROCEDURE

SECTION 420.360: GENERALLY

The intent of the Planned Development District (PD) is to:

1. Encourage innovation in residential, commercial and industrial development by greater variety in type, design and layout of buildings;
2. Encourage a more efficient use of land reflecting changes in the technology of land development;
3. Encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of land; and
4. Provide a procedure which relates the type, design and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the

preservation of property values within established neighborhoods.

Although the specific conditions within the PD District shall be predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met.

- a. The applicant shall first obtain the proper application form from the office of the Zoning Administrator.
- b. The Planned Development (PD) application form shall be completely filled out and returned to the office of the Zoning Administrator with the appropriate application fee, deposit and required information. An application shall not be scheduled for public hearing until the application form has been fully completed, the fee and deposit paid and all required information submitted. The deposit shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial deposit, the applicant shall be required to pay the additional amount.
- c. An application for a Planned Development shall be handled in the same manner prescribed for amending the zoning ordinance. The office of the Zoning Administrator shall be responsible for having an official notice of the public hearing published in a newspaper of general circulation at least fifteen (15) days prior to the hearing. The office of the Zoning Administrator shall be responsible for following the administrative procedures for a zoning district amendment as prescribed in the adopted zoning regulations. The notice shall fix the time and place of the hearing and shall describe generally the change requested. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE XI. SPECIAL USES

SECTION 420.370: GENERALLY

Certain uses or exceptions are permitted in some zoning districts only when a special use permit has been obtained from the Governing Body. Such uses require special study with respect to specific location and design considerations to assure that they will have minimal negative impact on surrounding properties.

1. The applicant shall first obtain the proper application form from the office of the Zoning Administrator.
2. The special use permit application form shall be completely filled out and returned to the office of the Zoning Administrator with the appropriate filing fee and required information. An application shall not be scheduled for public hearing until the application form has been fully completed, the fee paid and all required information submitted.
3. The office of the Zoning Administrator shall be responsible for having an official notice of the public hearing published in a newspaper of general circulation at least fifteen (15) days prior to the hearing. The office of the Zoning Administrator shall be responsible for following the administrative procedures for a special use permit as prescribed in the adopted zoning regulations. The notice shall fix the time and place of the hearing and shall describe generally the special use permit requested.

4. The Planning and Zoning Commission shall hold a public hearing at which time citizens and parties of interest shall have an opportunity to be heard.
5. The public hearing may be adjourned from time to time and, upon its conclusion, the Planning and Zoning Commission shall prepare and adopt its recommendation to the Governing Body. This recommendation shall be submitted along with an accurate record of the public hearing. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE XII. SITE PLAN REVIEW

SECTION 420.380: GENERALLY

- A. The Zoning Administrator shall require that all applications for building permits for new buildings or expansion of any existing buildings in multi-family, commercial and industrial zoning districts be subject to site plan review in accordance with these regulations. Developments shall implement the applicable regulations and requirements specified in the zoning regulations, shall be encouraged to implement the objectives of the City's Comprehensive Plan and to foster compatibility among land uses in the City of Mount Vernon.

The provisions specified for site plan applications within this manual are only intended to be a summary of the requirements specified in the adopted zoning regulations for the City of Mount Vernon. Developers should consult the applicable zoning regulations for a complete list of submittal requirements for site plan applications.

- B. An application fee and deposit shall be paid at the time the site plan application is submitted. The deposit shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial deposit, the applicant shall be required to pay the additional amount.
- C. In order to request approval of a site plan application:
 1. The applicant shall first meet with the Zoning Administrator, the Director of Streets, the Director of Utilities, the City's planning consultant, and all other applicable City staff members to receive a complete explanation of the zoning requirement in question, the site plan application procedure and the application form and to discuss all relevant issues relating to the site plan application.
 2. The applicant shall submit a completed site plan application form along with ten (10) copies of the proposed site plan and payment of the appropriate application fee and deposit. The site plan shall include data, details and supporting plans which are found relevant to the proposal as specified in Section 405.710 of the City of Mount Vernon zoning regulations. The number of pages submitted will depend on the proposal's size and complexity. The applicant shall make notations explaining the reasons for any omissions. An application shall not be processed unless it has been fully completed, the site plan submitted and the application fee and deposit paid.
 3. Site plans shall be prepared by a registered professional engineer, architect, land surveyor or landscape architect or the owner, at a scale of one (1) inch equals twenty (20) feet, on standard twenty-four (24) by thirty-six (36) inch sheets. In addition, the site plan is required to comply with all other applicable provisions of the zoning regulations. The additional provisions include, but are not limited to, design standards specified in Section 405.730 of the City of

Mount Vernon zoning regulations and the landscape and buffer requirements specified in Section 405.730 of the City of Mount Vernon zoning regulations.

4. Review of the site plan shall be performed by the Zoning Administrator or the City's planning consultant and submitted to the Planning and Zoning Commission for approval. The Planning and Zoning Commission shall perform their review of the site plan and staff findings at the next regularly scheduled meeting of the Planning and Zoning Commission for which the item may be scheduled and shall adjourn and reconvene as is determined necessary. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE XIII. HOME OCCUPATION PERMIT PROCEDURE

SECTION 420.390: GENERALLY

- A. Home occupations shall be permitted in specific zoning districts. The provisions specified for home occupations within this manual are intended to be only a summary of the requirements specified in the adopted zoning regulations for the City of Mount Vernon. If there are any questions regarding the following provisions, the applicable zoning regulations should be consulted.
- B. In order to request a home occupation permit:
 1. The applicant shall first meet with the Zoning Administrator to receive a complete explanation of the home occupation definitions and zoning requirements and to discuss the restrictions and limitations relating to the home occupations.
 2. The applicant shall submit a completed home occupation permit application form and pay the appropriate application fee as established by the Board of Aldermen.
 3. The Zoning Administrator shall review the submitted application with respect to the restrictions and limitations specified for home occupations in the zoning regulations in order to determine if the proposed home occupation will comply with said restrictions and limitations.
 4. If the Zoning Administrator determines that the home occupation will comply with the restrictions and limitations specified by the zoning regulations, a home occupation permit shall be issued. Issuance of a home occupation permit shall be subject to continued compliance with the restrictions and limitations for home occupations specified in the zoning regulations. Non-compliance with any restriction and limitation shall cause the home occupation permit to automatically become null and void.
 5. *Standard of review.* Approval or denial of a home occupation permit shall be based on the adopted standards in the City of Mount Vernon, Missouri, zoning regulation. (Ord. No. 2.56 §4, 1-9-01)

Cross Reference—The home occupation permit application has been amended by ord. no. 2.112 and is on file in the city offices.

ARTICLE XIV. VARIANCE PROCEDURE

SECTION 420.400: GENERALLY

- A. When an applicant feels that the strict application of the requirements of the zoning regulations

would create an undue hardship, he/she may request a variance from the Board of Zoning Adjustment. The Board of Zoning Adjustment must base its decision, to as great a degree as possible, on factual evidence and not the personal opinion of the applicant, neighbors or others. The request for a variance should be based on a conflict between the restrictions on the development of the property due to the zoning regulations and the restrictions on the development of the property due to its physical characteristics. A variance should be issued only to the specific restrictions on physical construction and not to the list of permissible land uses within a given zone.

B. In order to request a variance from the Board of Zoning Adjustment:

1. The applicant shall first meet with the Zoning Administrator and all applicable City staff members and City consultants to receive a complete explanation of the zoning requirement in question, the variance procedure and an application form.
2. The applicant shall submit a completed application form and pay the appropriate application fee and deposit. As a part of the application, a sketch map shall be submitted showing the lot dimensions proposed and existing structures and uses on the property for which the variance is being requested and on immediately adjacent properties.

The deposit shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial deposit, the applicant shall be required to pay the additional amount. An application shall not be processed unless it has been fully completed, the application fee and deposit paid and all required information submitted.

3. Upon submittal of a completed application form and attachments and payment of the appropriate application fee and deposit, the Zoning Administrator shall schedule a regular meeting of the Board of Zoning Adjustment. Fifteen (15) days prior to the Board of Zoning Adjustment meeting, an official notice to the public shall be published in a newspaper of general circulation in the City explaining the variance request and the time and place of the scheduled hearing.

In addition, a copy of the public hearing notice shall be mailed by the applicant, return receipt requested, to each party of interest, owners of all property located within one hundred eighty-five (185) feet of the boundaries of the property included in the application and to each Planning and Zoning Commission member at least fifteen (15) days prior to the date of the public hearing. The applicant shall submit the post office receipts and returned notices to the Zoning Administrator at least two (2) working days prior to the public hearing.

4. At the scheduled meeting, the Board of Zoning Adjustment shall hear all facts and testimony from all parties wishing to be heard concerning the requested variance. In each case, the Board of Zoning Adjustment shall not grant a variance unless it finds, based on the evidence presented, facts which conclusively support all of the following findings:
 - a. *Uniqueness.* The variance requested arises from conditions which are unique to the property in question, which are not ordinarily found in the same zoning district and which are not caused by actions of the property owners or applicant. Such conditions include the peculiar physical surroundings, shape or topographical condition of the specific property involved which would result in a practical difficulty or unnecessary hardship for the applicant, as distinguished from a mere inconvenience, if the requested variance was not granted.
 - b. *Adjacent property.* The granting of the variance will not be materially detrimental or

adversely affect the rights of adjacent property owners or residents.

- c. *Hardship.* The strict application of the provisions of the zoning regulations from which a variance is requested will constitute an unnecessary hardship upon the applicant. Although the desire to increase the profitability of the property may be an indication of hardship, it shall not be a sufficient reason by itself to justify the variance.
 - d. *Public interest.* The variance desired will not adversely affect the public health, safety, morals, order, convenience or general welfare of the community. The proposed variance shall not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.
 - e. *Spirit and intent.* Granting the requested variance will not be opposed to the general spirit and intent of the zoning regulations.
 - f. *Minimum variance.* The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.
5. Minutes of the public meeting, including evidence presented during the proceedings and the findings of the Board of Zoning Adjustment, shall be kept. The Board of Zoning Adjustment may either grant, grant conditionally or deny the application for a variance. The written determination of the Board of Zoning Adjustment shall be sent to all affected parties, including the Planning and Zoning Commission. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE XV. APPEAL OF ADMINISTRATIVE DECISION

SECTION 420.410: APPEAL PROCEDURE

- A. Where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning regulations or of any ordinance adopted pursuant thereto, that interpretation may be appealed to the Board of Zoning Adjustment. In its deliberations, the Board of Zoning Adjustment must only consider whether or not the interpretation in question conformed to what was actually written in the regulations. The Board of Zoning Adjustment may not declare the zoning regulations unfair or attempt to act contrary to their purpose. The Board of Zoning Adjustment can clarify ambiguities or resolve conflict between opposing Sections. Since the Board of Zoning Appeal's decisions will affect future applications of the regulation in question, the specific hardships of the applicant should not be considered when reaching a determination.
- B. The applicant shall first meet with the office of the Zoning Administrator to receive a full explanation of the zoning requirement in question as currently interpreted. If an appeal is to be made, an application shall be obtained. An application for an appeal shall be filed within thirty (30) days after a ruling has been made by the Zoning Administrator. A clear and accurate written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the appellant's position must be submitted with the application. Where necessary a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.
- C. After having met with the Zoning Administrator, the applicant shall file a completed application with

the office of the Zoning Administrator and pay the appropriate fee and deposit. An application shall not be scheduled for public hearing until the application form has been fully completed, the filing fee and deposit paid and all required information submitted. The deposit shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial deposit, the applicant shall be required to pay the additional amount.

- D. When an application has been fully completed, the fee paid and all required information submitted, the Zoning Administrator shall then schedule a regular meeting of the Board of Zoning Adjustment and send copies of the application to members of the Board of Zoning Adjustment.
- E. At its scheduled meeting, the Board shall hear all facts and testimony from all parties wishing to be heard concerning the appeal. The appeal must be heard by the Board within a reasonable period of time from the date that the completed application, application fee and deposit are submitted and a written decision must be rendered without unreasonable delay.
- F. The Board of Zoning Adjustment may either affirm, reverse or modify the order, requirement or interpretation at issue. The determination, in written form, shall be sent to all affected parties including the Planning and Zoning Commission and the office of the City Clerk. A recorder shall keep minutes of the public meeting including evidence presented during the proceedings and the findings of the Board.
- G. Any person, official or governmental agency dissatisfied with any order or determination of the Board may bring an action in the District Court to determine the reasonableness of any such order or determination. Such appeals must be filed in the District Court within thirty (30) days after the date that the decision of the Board has been filed in the office of the City Clerk. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE XVI. LOT SPLIT

SECTION 420.420: GENERALLY

The intent of this Section is to provide for the issuance of building permits on lots divided into not more than two (2) tracts without having to replat or resubdivide said lot, provided that the resulting lots shall not again be divided without resubdividing.

1. The applicant shall first meet with the Zoning Administrator and all applicable City staff members and City consultants to receive an explanation of the lot split procedure, including its requirements and limitations, and an application form.
2. The lot split application shall be completely filled out and returned to the office of the Zoning Administrator with the appropriate fee.
3. An application fee and deposit shall be paid at the time the site plan application is submitted. The fee shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial fee, the applicant shall be required to pay the additional amount. An application for a lot split shall not be processed until it has been fully completed, the appropriate application fee and all requested information submitted.

4. As a part of the application, four (4) copies of a scale drawing (plat of survey) shall be submitted which shall show the following:
 - a. Boundaries of the existing parcel;
 - b. Location of all structures and proposed disposition of them;
 - c. Legal description of the lots to be formed; and
 - d. Name, signature and seal of the licensed engineer or the registered land surveyor who prepared the drawing.
5. Upon submission of a completed application and payment of the application fee and deposit, the Zoning Administrator shall schedule a meeting with the Public Works Director and City Engineer to review the application.
6. No lot split shall be approved if:
 - a. A new street or alley is needed or proposed.
 - b. Vacation of streets, alleys, setback lines, access control or easements is required or proposed.
 - c. If the lot split will result in significant increases in service requirements (e.g., utilities, schools, traffic control, streets, etc.) or will interfere with maintaining existing service levels (e.g., additional curb cuts, repaving, etc.).
 - d. All easement requirements have not been satisfied.
 - e. The split will result in a tract without direct access to a street.
 - f. A substandard-sized lot or parcel will be created.
 - g. The lot has been previously split in accordance with this Article.
7. Upon review of a lot split application in relation to the above specified criteria, the Zoning Administrator, Public Works Director and City Engineer may require such additional information as deemed necessary to carry out the intent and purpose of the existing land development regulations and City policy. Requirements may include, but not be limited to, installation of public facilities, dedication of rights-of-way and easements, access control and submission of covenants for the protection of other landowners in the original subdivision.
8. The Zoning Administrator, Public Works Director and City Engineer shall, in writing, either approve, with or without conditions, or disapprove the lot split within thirty (30) working days of application. If approved, the Zoning Administrator and Public Works Director shall sign and furnish a certificate of approval to be affixed to the lot split survey and a certified copy thereof shall be filed with the Recorder of Deeds. Copies of the approved lot split shall also be provided to the Zoning Administrator and the applicant.
9. No building permit shall be issued for any site which contains a division of a platted lot of record, unless such division has been ratified in the manner provided in the subdivision regulations.

10. *Appeal.* If disapproved by the Zoning Administrator, Public Works Director and City Engineer, applicants can appeal the decision to the Board of Adjustment. (Ord. No. 2.56 §4, 1-9-01; Ord. No. 2.78 §1, 2-25-03)

ARTICLE XVII. PLAT APPROVAL

SECTION 420.430: PLAT APPROVAL PROCESS

Any subdivision of land within the jurisdiction of the City of Mount Vernon must, with certain exceptions, follow the procedures outlined below. The simple division of one (1) lot into two (2) lots may qualify for a lot split, as explained in Article XVI of this Procedures Manual and in the applicable subdivision regulations. The subdivision process involves submittal of a preliminary plat, engineering plans for any public improvements and a final plat. The following provides a more detailed overview of the subdivision process. (Ord. No. 2.56 §4, 1-9-01; Ord. No. 2.77 §2, 2-11-03)

SECTION 420.440: PRELIMINARY PLAT PROCESS

- A. The applicant shall first meet with the Zoning Administrator, the City's planning consultant, the City Engineer and all other applicable City or County staff members to discuss the following:
 1. Procedure for filing plats.
 2. Availability of City sewer, water, gas and other applicable public services.
 3. Comprehensive Plan requirements for major streets, land use, parks, schools and public open spaces.
 4. Zoning requirements for the property in question and adjacent properties.
 5. Special setback requirements for arterial, collector and local streets.
 6. Any other issues that may be applicable to the development.
- B. The preliminary plat application form shall be completely filled out and returned to the office of the Zoning Administrator with the appropriate application fee, deposit and required information. As a part of the application, four (4) copies of a preliminary plat conforming to the requirements of the subdivision regulations and a vicinity map showing the location of the proposed subdivision shall be submitted.

An application shall not be scheduled for public hearing until the application form has been fully completed, the fee and deposit paid and all required information submitted. The deposit shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial deposit, the applicant shall be required to pay the additional amount.

- C. The Planning and Zoning Commission, based on the standards set out in the Mount Vernon subdivision regulations, may approve, approve conditionally or disapprove the preliminary plat within sixty (60) days of receiving the plat at a regularly scheduled meeting. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.450: ENGINEERING PLAN REVIEW PROCESS

- A. Upon the approval of the preliminary plat by the Planning and Zoning Commission, the subdivider shall have prepared by a licensed professional engineer engineering drawings for all proposed and required improvements containing the data and information specified in the applicable subdivision regulations. The engineering drawings shall be submitted to the Zoning Administrator for review and approval by the City. If the proposed subdivision is to be developed in phases, engineering drawings need only be for the applicable phase of the development to which the subsequent final plat will apply unless otherwise specified by the Zoning Administrator, City Engineer or Planning and Zoning Commission.
- B. The City Engineer shall review the submitted engineering drawings in order to determine their compliance with City design standards. After having reviewed the submitted engineering drawings, the City Engineer shall notify the subdivider and the Zoning Administrator as to their compliance. In the event that the drawings do not so conform or comply, the City Engineer shall specify the manner in which such drawings do not so comply. The subdivider shall then have corrections made of the defective drawings and resubmit the corrected drawings.
- C. The Planning and Zoning Commission shall approve a final plat only after consideration of the City Engineer's opinion that the drawings are consistent with the approved preliminary plat and comply with their design standards. (Ord. No. 2.56 §4, 1-9-01)

SECTION 420.460: FINAL PLAT PROCESS

- A. The subdivider shall submit the final plat application form, along with the appropriate fee, deposit and any required supplemental information. Included as part of the application shall be the original and four (4) copies of the final plat prepared in accordance with the subdivision regulations.

A final plat application shall not be scheduled for public hearing until the application form has been fully completed, the fee and deposit paid and all required information submitted. The deposit shall be used to cover expenses incurred by the City in the processing and review of the application. If the City's processing and review costs exceed the amount of the initial deposit, the applicant shall be required to pay the additional amount.

- B. The Planning and Zoning Commission shall review the final plat and, based on the approved preliminary plat and standards set out in the subdivision and zoning regulations, approve or deny the final plat.
- C. The final plat shall then come before the Governing Body for their consideration of any dedications from the subdivider of street rights-of-way, drainage easements, park lands or other property to be used for public purposes. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE XVIII. PROTEST PETITIONS**SECTION 420.470: GENERALLY**

A protest petition may be used to protest a recommendation of the Planning and Zoning Commission on a zoning district amendment (rezoning) or special use permit within fourteen (14) days after the Planning and Zoning Commission makes their recommendation, duly signed and acknowledged by

the owners of thirty percent (30%) or more of any real property to which the case applies or by the owners of thirty percent (30%) of the total area, excepting public streets and ways, located within one hundred eight-five (185) feet if located in the City of Mount Vernon municipal boundary. Any person wishing to file a protest petition shall file it with the office of the City Clerk. (Ord. No. 2.56 §4, 1-9-01)

ARTICLE XIX. ZONING VIOLATIONS

SECTION 420.480: GENERALLY

- A. The owner or agent of a building or premises in or upon which a violation of any provision of the zoning regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which violation has been committed or shall exist shall be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense. Each and every day that such violation continues shall constitute a separate offense.
- B. In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land is used in violation of the zoning regulations, the appropriate authorities, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance of use or to correct or abate such violation or to prevent the occupancy of said building, structure or land.
- C. An initial notification letter is to be sent upon initial discovery of the violation. If the action which is to be taken to resolve the violation is not completed within thirty (30) days of the date of the initial notification letter, then a stop order shall be served. Further action shall be taken as described in the zoning regulations if the action which is to be taken to resolve the violation is still unresolved within ten (10) days of the service of the stop order. Following are samples of the Initial Notification of Violation and the Zoning Violation Stop Order letters.
- D. In the case of violations that are of a short-term or transient nature, such as temporary land uses or temporary uses of structures, that are prohibited or for which a permit has not been issued for such uses, notice shall be given in written form to immediately abate the violation. This also applies to violations that create situations of immediate hazard or imminent danger to life or property. Should the violation be maintained after notice to abate has been given, the responsible party shall be subject to the terms of Subsection (A) of this Section. (Ord. No. 2.56 §4, 1-9-01; Ord. No. 2.129 §1, 4-24-07)