

## Chapter 5

### **BUILDINGS, CONSTRUCTION AND HOUSING\***

- Art. I. In General, §§ 5-1—5-6
- Art. I½. Sign Code, §§ 5-7-5-20
- Art. II. Property Maintenance Code, §§ 5-21—5-35
- Art. III. Fences, §§ 5-36—5-64
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#### **ARTICLE I. IN GENERAL**

##### **Sec. 5-1. Building commissioner office created; duties.**

There is hereby created the office of building commissioner, who shall be referred to as the building commissioner or the building and code enforcement commissioner. Such official shall enforce the provisions of the building code of the city, the zoning ordinances of the city, the plumbing and drain layers code of the city, the housing code of the city, the sign ordinance of the city, and the weights and measures ordinance of the city. Such commissioner shall serve as superintendent of the building department of the city. Such commissioners shall also perform such other duties as may be prescribed from time to time.

**Cross references**—Appeals from decision of the building commission, § 5-66 et seq.; conditions of employment of building commissioner, § 2-271; duty of building commissioner to enforce zoning ordinance, App. A, Art. XVII, § 1.

##### **Sec. 5-2. Building Code.**

(a) **Building Code:** The provisions of the “2003 International Building Code” as modified, is hereby adopted as the City of Kirkwood Building Code. See separate publication and adopting modification ordinance on file in the office of the City Clerk.

(b) **Residential Building Code for One and Two Family Dwellings:** The provisions of the “2003 Residential Building Code for One and Two Family Dwellings ” including all Appendixes therein except Appendixes E, and J, as modified, is hereby adopted as the City of Kirkwood Residential Code for One and Two Family Dwellings. See separate publication and adopting modification ordinance on file in the office of the City Clerk.

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\***Cross references**—Fire prevention and protection, Ch. 8; construction materials on sidewalks, § 20-92; numbering of buildings, § 20-200 et seq.; utilities, Ch. 23; zoning, App. A; building permit, App. A, Art. XIV, § 1; certificate of occupancy, App. A, Art. XIV, § 2; industrial development authority, App. D.

**State law references**—Regulation and inspection of buildings, RSMo § 77.500; plumbers and plumbing, RSMo Ch. 341.

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(c) Underground Utility Service Lines: All electrical, telephone, cable television and other utility service lines from the utility distribution system to newly erected buildings shall be installed underground.

(Ord. No. 8492, §1, 3-7-96; Ord. No. 9025, §1, 5-3-01; Ord. No. 9502, §1, 7-21-05; Ord. No. 9507, §1, 7-21-05)

**Sec. 5-3a. Commercial Electrical Code.** (All buildings and structures except detached one and two family uses)

The St. Louis County Electrical Code except as it pertains to detached one and two family uses is hereby adopted as the Commercial Electrical Code of the City of Kirkwood which shall pertain to all electrical code work except for detached one and two family uses, a copy of which is attached hereto and incorporated herein by reference.

**Sec. 5-3b. Residential Electrical Code.** (detached one and two family uses)

The provisions of the "National Electrical Code, 1999", as modified, is hereby adopted as the City's residential electrical code. See separate publication and adopting modification ordinance on file in the office of the city clerk. (Ord. No. 8952, §1, 9-7-00)

**Sec. 5-4. Mechanical Code.**

The provisions of the "2003 International Mechanical Code" except Appendix B, as modified, is hereby adopted as the City's mechanical code. See separate publication and adopting modification ordinance on file in the office of the city clerk. (Ord. No. 9505, §1, 7-21-05)

**Sec. 5-4a. Amusement Devices Code**

The St. Louis County Mechanical Code as it applies to "Amusement Devices" is hereby adopted as the Amusement Device Code of the City of Kirkwood, a copy of which is attached hereto and incorporated herein by reference. (Ord. No. 8487, §2, 2-15-96)

**Sec. 5-5. Elevator Code.**

The St. Louis County Building Code as amended and the St. Louis County Mechanical Code as amended as they pertain to elevators is hereby adopted as the Elevator Code of the City of Kirkwood, a copy of which is attached hereto and incorporated herein by reference. (Ord. No. 8388, §2, 2-16-95; Ord. No. 8675, §2, 12-18-97)

**Sec. 5-6. Plumbing Code.**

The provisions of the "2003 International Plumbing Code" except Appendix A, as modified, is hereby adopted as the City of Kirkwood Plumbing Code. See separate publication and adopting modification ordinance on file in the office of the city clerk. (Ord. No. 9506, §1, 07-21-05)

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### Section 5-6a. Fuel Gas Code.

The provisions of the "2003 Fuel Gas Code" as modified, is hereby adopted as the City of Kirkwood Fuel Gas Code. See separate publication and adopting modification ordinance on file in the office of the City Clerk." (Ord. No. 9504, §1, 7-21-05)

### ARTICLE 1½ SIGN CODE\*

#### Sec. 5-7. Short title.

This article shall hereafter be known and cited "Sign Ordinance of the City of Kirkwood." (Ord. No. 5869, 10-2-75)

#### Sec. 5-8. Scope.

The provisions of this article shall govern the erection of all signs and outdoor display structures, together with their appurtenant and auxiliary devices, in respect to size, location, and structural and fire safety.

- (a) Signs shall not be located in any residential zoning district as established by the City of Kirkwood's Zoning Code, except for signs permitted by Section 5-10, Exemptions.
- (b) *Building code applicable:* In the absence from this article of specifications governing details of sign construction, the applicable standards listed in the building code of the City of Kirkwood shall apply.

#### Sec. 5-9. Definitions.

*Approved combustible plastic* means a plastic material more than one-twentieth inch thick which burns at a rate of not more than two and one-half (2.5) inches per minute when subjected to ASTM Standard Test for Flammability of plastics in sheets of six-one-hundredths inch thickness.

*Awning* means any structure entirely supported by the wall to which it is attached and which has a frame covered by a temporary material and/or which can be retracted against the wall by which it is supported.

*Billboard* (see standard outdoor advertising structure).

*Canopy* means any structure attached to the building at the inner end and supported on the outer end in conformance with the building code of the City of Kirkwood.

*City* means the City of Kirkwood, Missouri.

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\*Editor's note—Ord. No. 5869, adopted Oct. 2, 1975, amended the Code by adding Ch. 6, but, with the concurrence of the city, has been redesignated as Ch. 5, Art. I½, §§ 5-7—5-17. Former § 5-7, which saved from repeal Ord. No. 4654, adopted Oct. 27, 1960, the city's former sign code, has been deleted as being superseded by Ord. No. 5869.

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*Commissioner* means the building commissioner of the City of Kirkwood and his deputies and assistants, unless otherwise specified.

*Erect* means to build, attach, hang, rehang, place, affix, or relocate and includes the painting and repainting of wall and window signs.

*Floor area* means the gross floor area of a building or structure used or intended to be used for service to the public as customers, patrons, clients, patients, or tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise. For the purpose of this article "floor area" shall not include any area used for:

- (1) Storage accessory to the principal use of a building.
- (2) Show window, not to exceed ten (10) per cent of the total building area.
- (3) Mechanical equipment rooms.
- (4) Specialized automatic mechanical or electrical equipment or apparatus used in the permitted business operation, up to a maximum of eighty-five (85) per cent of the area covered by such equipment.

*Frontage* means the length of the lot along the street side. The front of a lot bordering more than one street is along the shortest street side.

*Licensed Sign Erector* means a person, his agents and employees, who has secured a sign erector's license as provided by the ordinances of the City of Kirkwood, as amended.

*Lot* means a parcel, tract, plot, or area of land accessible by means of a street or other permanently reserved principal means of access. It may be a single parcel separately described in a deed or plat which is recorded in the office of the county recorder of deeds, or it may include parts of or a combination of such parcels when adjacent to one another and used as one.

*Marquee* means any hood or awning of permanent construction and supported entirely by the building which projects from the wall of a building and over a sidewalk or pedestrian thoroughfare.

*Person* means any natural person, firm, partnership, association, corporation, company, or organization of any kind.

*Premises* means that portion of a lot or building occupied by a single occupant, exclusive of common area, if any, shared with adjacent occupants.

*Sign* means any surface displaying advertising or a message for public consumption and designed and placed so as to be seen from out of doors. Sign supports are not a part of the sign.

*Sign area* means the area of the sign face. The "sign area" of a multifaced sign is the sum of the sign areas of each face.

*Sign area, gross* is the total allowable sign area for a premises.

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*Sign area, total* means the sum of all sign areas for a particular type of sign.

*Sign face* means the entire area within a parallelogram which encloses the extreme limits of the sign lettering and/or graphic message.

*Sign structure* means the sign and all parts associated with its construction.

*Sign supports* means all structures by which a sign is held up, including, for example, poles, braces, guys, and anchors.

*Sign, awning and canopy* are signs attached to an awning or canopy.

*Sign, ground* means any detached sign which has its bottom portion erected upon or supported by the ground.

*Sign, hanging* means any sign hanging entirely beneath a canopy or marquee.

*Sign, illuminated* means any sign which is illuminated by light sources either mounted on the sign or at some other location.

*Sign, marquee* means any sign attached to a marquee.

*Sign, pole* also commonly known as a post or standard sign, means any detached sign supported by one or more stationary poles longer than five (5) feet above the mean grade line of the base or ground.

*Sign, projecting* means any sign which projects more than fifteen (15) inches beyond the plane of the wall on which the sign is erected.

*Sign, roof* means any sign erected on a roof.

*Sign, shopping center* means shopping center identification sign.

*Sign, temporary* means any sign intended for a limited or intermittent period of display.

*Sign, vehicle mounted*, means any sign installed, mounted, positioned, located, situated, displayed, or exhibited on a motor vehicle. This shall not include painting or decaling on a commercially-licensed vehicle or manufacturer's painting or decaling on a personal vehicle.

*Sign, wall* means any sign painted on or attached to and erected parallel to the face of, or erected and confined within the limits of, the outside wall of any occupied building and supported by such wall or building, and which displays only one advertising surface.

*Sign, window* means any sign that is permanently applied to either side of the glass of an exterior door or window. For the purposes of this ordinance a glass brick wall shall be deemed a window.

*Standard outdoor advertising structure* means any structure with a single sign face area of between three hundred (300) and seven hundred (700) square feet, located off site, and designed to accommodate replaceable advertising messages.

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*Structural trim* means the molding, battens, cappings, nailing strips, latticing, and platforms which are attached to the sign structure.

*Tenant* means a person or organization that occupies a designated space within a building which is open to the general public with employees on the site for at least four hours per day, five days a week, and 50 weeks a year, except holidays.

*Zoning ordinance* means the zoning ordinance of the city, as amended, and the current district map related thereto.

(Ord. No. 8780, §1, 12-17-98)

### **Sec. 5-10. Exemptions.**

Signs meeting the following conditions need not be covered by a sign permit and are exempt from the requirements of sections 5-14(b), (f) and 5-15.

- (a) Signs and bulletin boards for churches, charitable, public or religious institutions, as follows:
  - (1) Signs which:
    - (i) do not exceed 16 square feet per face,
    - (ii) do not exceed 32 square feet in total sign area,
    - (iii) are not over 5 feet above grade if ground sign,
    - (iv) there are not more than one sign per public street frontage,
    - (v) are not internally illuminated, and
    - (vi) are located on institution's premises.
  - (2) Bulletin boards which:
    - (i) Do not exceed thirty-two (32) square feet in gross sign area, and
    - (ii) Are placed by public, charitable, churches or religious institutions, and
    - (iii) Are located on the institutions' premises.
- (b) Directional signs, if:
  - (1) They aid customers in functioning on the premises, and
  - (2) They are not larger than three (3) square feet.
- (c) Memorial signs or tablets denoting the name of a building and date of erection, if:

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- (1) Cut into any masonry surface, or
  - (2) Constructed of bronze or other incombustible metallic materials.
- (d) Municipal signs, legal notices, railroad-crossing signs, and danger signs.
- (e) Occupational signs denoting the business name of an occupation legally conducted on the premises, provided that:
- (1) The sign is nonilluminated, and
  - (2) The sign area does not exceed one square foot.
- (f) Signs affixed to the inside of a window and advertising commercial situations related to goods or services sold on the premises, provided that the total of all signs (including permitted signs) in that window shall have a gross sign area no greater than one-third of the window's area.
- (g) Political signs meeting the following criteria:
- (1) *Residentially Zoned Districts* – On each property there shall only be allowed one double-faced sign or two single-faced signs per street frontage per candidate or ballot issue with a maximum of six square feet per face of sign.
  - (2) *Non-Residential Zoned Districts* – On each property there shall only be allowed one double-faced sign or two single-faced signs per street frontage per candidate or ballot issue with a maximum of 32 square feet per face of sign.
  - (3) *Location*
    - Signs shall be located on private property.
    - Signs installed which create an imminent danger to motorists or pedestrians will be removed by city personnel.
    - Signs shall not be placed on city-owned property except when such property is under contract for Election Day use by the St. Louis County Board of Election Commissioners.
    - Signs may not be placed on park property except in connection with a park facility use permit specifically providing approval for the placement of signs.
- (h) *Nonconforming Signs.* Any sign which is lawful and erected shall be permitted to remain or to be repaired or replaced with a sign of comparable size and configuration even though it fails to conform to the regulatory provisions of this chapter, provided that it does not become less conforming to any of the existing provisions of this chapter, and further provided that such signs located on the premises must be brought into compliance with all provisions of this Code when:

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- (1) there is a change in the type of materials used in the construction of the sign; provided, however, a change of facing, panels, message or advertising does not constitute a change of type of materials;
  - (2) there is a change in the size or area of the sign;
  - (3) there is a relocation of the sign to another location on the premises for reasons other than for public health and safety;
  - (4) there is an abandonment or a discontinuance of the sign. Whenever the sign, for a continuous period of 120 days or longer (a) no longer advertises services or products available on the site; or (b) does not contain an advertising message, the sign shall be considered abandoned and discontinued.
- (i) Professional nameplates, permanent, provided that:
- (1) The sign area does not exceed one square foot for each professional employed on the premises, and
  - (2) The total area of such signs does not exceed six (6) square feet, and
  - (3) The sign is not illuminated.
- (j) Real estate signs, which meet the following criteria:
- (1) For signs which advertise the availability for sale, rental, or lease of the individual premises on which the sign is located:
    - a. Signs must be nonilluminated, and
    - b. Not more than one sign per public street frontage.
    - c. Signs must not be placed within a public right of way, and
    - d. Total sign area of real estate signs must not exceed the following allowable gross sign areas for the zoning district in which it is located:
      - i. "R" districts: Eight (8) square feet
      - ii. "B" districts: Twenty-four (24) square feet
      - iii. "I" and "F" districts: Forty-eight (48) square feet, and
    - e. Signs must be removed within ten (10) days after the closing date of the sale, rental, or lease of the premises.
  - (2) For temporary signs which advertise the subdivision or multifamily development on which the sign is located:
    - a. Signs must not exceed forty-eight (48) square feet, and

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- b. Signs must not be placed within twenty-five (25) feet of any public right-of-way, and
  - c. Signs must be removed within ten (10) days after the sale, rental, or lease of the last dwelling unit or lot in the subdivision or development.
- (3) For temporary signs which advertise premises open for inspection and which are located either on the premises to be inspected or on other private property with that property owner's or tenant's permission:
- a. Signs must have a sign area not greater than four (4) square feet, and
  - b. Signs must be removed when the advertised premises are not in fact open for inspection, and
  - c. Signs must be outside of any public right-of-way and must not obstruct the view of traffic.
- (k) Special displays, used for holidays, public demonstrations, or the promotion of civic welfare or charitable purposes, if;
- (1) They are approved by the city council after submission of a written application, and
  - (2) They contain no noncharitable advertising.
- These displays need not be made of rigid, weatherproof materials unless the commissioner so requires.
- (l) Subdivision and apartment complex identity signs, provided that:
- (1) Only one sign is erected at each entry to the subdivision or apartment complex, and
  - (2) If there is more than one entrance, that the sign's separation along the perimeter is at least two hundred (200) feet, and
  - (3) The sign area of individual signs does not exceed twelve (12) square feet on both sides of a two-sided sign or eight (8) square feet on a one-sided sign, and
  - (4) The sign does not advertise the availability of units for sale or rent, and
  - (5) The sign is located at least fifteen (15) feet from the curblines of the street from which it is to be viewed,  
and
  - (6) The sign has a landscaped base, and

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- (7) The sign(s) are approved by the Architectural Review Board.
- (m) Temporary signs denoting the architect, engineer, or contractor of a building project, provided that:
  - (1) Signs must be placed with the lot where the construction is under progress, and
  - (2) Total sign area shall not exceed thirty-two (32) square feet, and
  - (3) Signs must be removed within ten (10) days after the completion of the construction.
- (n) Signs on legal commercial uses in residentially zoned districts, if:
  - (1) The signs meet section 5-14(b) and (f) and section 5-15 of chapter 5, Article 1½ "Sign Code" of this Code, and
  - (2) The sign(s) are approved by the architectural review board.
- (o) Signs identifying Bed and Breakfast establishments provided that the sign:
  - (1) Does not exceed 2 square feet,
  - (2) Is not internally illuminated, and
  - (3) Is approved by the Architectural Review Board.
- (p) Signs designating business hours of less than one square foot in total sign area.
- (q) Sidewalk signs and other free-standing temporary attention-getting devices, including but not limited to "A" frame signs, pedestal signs, barrels, boxes, stools, chairs, and any other items with advertising:
  - (1) Shall be permitted only during City, Chamber of Commerce, or Special Business District promotions or as otherwise approved by the Architectural Review Board;
  - (2) Shall maintain clear passage of 5 feet between any sign and the curb of the street;
  - (3) Maximum height shall not exceed 42 inches;
  - (4) Shall not be illuminated;
  - (5) Only one sign shall be allowed for each business;
- (r) Signs required by the American with Disabilities Act of 1990.
- (s) Banner or Flag Signs provided that:
  - (1) Shall not exceed 4\_ x 8\_;

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- (2) Shall be displayed only during business hours of the premises;
- (3) Only one sign shall be allowed for each business; and
- (4) Sign shall maintain clear height above any public sidewalk of 7 feet.
- (t) Historical signs provided that the sign shall be certified by Landmarks Commission.
- (u) Signs which comply with the provisions of a redevelopment agreement approved by the City Council.
- (v) Signs on an ATM machine and its accessory structure which identify the ATM machine within a private parking lot.

(Ord. No. 8674, §1, 12-18-97; Ord. No. 8780, §2, 12-17-98; Ord. No. 8977, §1, 11-30-00)

### **Sec. 5-11. Procedure for review and approval of signs.**

- (a) All sign permits shall be issued by the Building Commissioner. However, the Building Commissioner shall not issue sign permits for signs exceeding two square feet in area until such time as the Architectural Review Board has made an affirmative finding that the architectural scheme of the proposed sign is in harmony with the architectural scheme of the building, site, and surrounding area. In making its findings, the Architectural Review Board shall utilize the following criteria:
  - (1) Signs should be in proportion with the size of the building;
  - (2) Signs should be designed as an integral architectural element of the building and site to which it relates;
  - (3) The colors, materials, and lighting of signs should be harmonious with the building and site to which it relates;
  - (4) The number of graphic elements on a sign should be kept at a minimum needed for identification and should be composed in proportion to the area of the sign face; and
  - (5) Signs should be compatible with signs in the surrounding area.
- (b) Except as otherwise provided herein, the Architectural Review Board shall review and act upon sign permit applications within twenty-one (21) days of the date on which such application is filed with the Building Commissioner's Office unless the applicant and Architectural Review Board jointly agree to extend the time for review. In the event the Architectural Review Board fails to make a determination within the twenty-one (21) day review period or jointly-agreed period, the application shall be deemed to have received an affirmative finding.

### **Sec. 5-12. Sign permit required; application procedure; period of validity.**

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- (a) *Sign permit required.* Except as provided by section 5-10, a sign permit must be obtained from the commissioner before a sign may be erected. All illuminated signs shall, in addition, be subject to the permit requirements of the electrical code.
- (b) Fees shall be in accordance with Chapter 5, Article VI, of the Code of Ordinances. Illuminated signs shall not be exempt from the permit and fee requirements of the electrical code.
  - (1) A permit fee of twenty cents (\$0.20) per square foot of sign area applied for, or a minimum fee of five dollars (\$5.00) shall be paid to the city comptroller before a sign permit may be issued, and
  - (2) Illuminated signs shall not be exempted from the permit fees required by the electrical code.
- (c) *Processing.*
  - (1) Application for an erection permit shall be made upon forms provided by the commissioner and shall contain or be submitted with the following information:
    - a. Name, address and telephone number of the owner of the sign.
    - b. Name of person erecting the structure.
    - c. Written consent of the owner or of the tenant of the premises to which or on which the proposed sign is to be erected.
    - d. Location of premises upon which sign is to be erected.
    - e. Position of the sign in relation to nearby buildings or structures.
    - f. Two (2) copies of plans and specifications describing the dimensions of the sign, the materials and method by which it is to be constructed, and the details of how it is to be attached to the building or set into the ground.
    - g. Any electrical permit required.
    - h. Any other information which the commissioner might require to determine full compliance with the provisions of this article and any other relevant city ordinance.
  - (2) The commissioner shall process the sign permit application as follows:
    - a. He shall determine compliance with the terms of this article by examining the plans, specifications, other data submitted, and the premises upon which it is proposed to erect the sign, and shall request additional plans and information if necessary to determine compliance.

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- b. If the proposed sign is found to be in compliance with all the requirements of this article and all other city ordinances applicable to the sign, the commissioner shall then issue the erection permit.

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(d) *Period of validity.*

- (1) If the work authorized under an erection permit has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

(Ord. No. 8592, §1, 3-20-97)

### **Sec. 5-13. Sign erection by licensed erector; exceptions.**

(a) *Signs to be erected by licensed sign erector.* Except as provided by this subsection, signs shall be erected by licensed sign erectors.

(b) *Exceptions.*

- (1) If a sign for which a permit is required and has been obtained does not exceed ten (10) square feet in sign area it may be hung without an erector's license.
- (2) The sign area of signs hung under this exception shall be included in the calculation of the premise's total sign area when determining compliance with gross sign area limitations.

### **Sec. 5-14. General technical requirements.**

The following general technical requirements apply to all signs covered by this article.

(a) *Design requirements.* Every sign shall be designed to conform to the requirements of this article and to the building code of the City of Kirkwood. The conformance shall be subject to approval by the commissioner. Where appropriate, the commissioner may require working drawings prepared by a qualified engineer registered in the State of Missouri.

(b) *Gross sign area limitation:*

- (1) Except as otherwise provided for herein, each commercial or industrial premises shall be allowed a maximum gross sign area equal to 3.5 percent of the floor area of such premises or 0.9 percent of the total lot area, whichever is larger. The gross sign area shall not exceed 500 square feet for a lot of 10 acres, except a lot containing a hotel or motel in the B-5 Zoning District, which shall be allowed a maximum of 1,000 square feet of gross sign area.
- (2) On premises or in buildings with multiple tenants, each tenant shall be allotted a gross sign area equal to 3.5 percent of the floor area occupied, except that a tenant shall be allowed a minimum of forty (40) square feet and shall not exceed five hundred (500) square feet. Common building areas shall not be included in this calculation.
- (3) Multiple tenants shall not be permitted individual signs along the street frontage of common premises.

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- (4) Exempted signs in Section 5-10 shall not be included in the gross sign area except for nonconforming signs, which shall be included in the gross sign area limitation.
- (c) *Illuminated signs.* All illuminated signs shall be subject to the following requirements.
- (1) Valid electrical permit—All illuminated signs and signs with electrical wiring must be covered by a valid electrical permit.
  - (2) Relettering—Relettering which requires a change of piping or sign wiring shall be subject to the approval of the electrical inspector.
  - (3) Voltage designation—The voltage of any electrical apparatus used in connection with the sign shall be conspicuously placed on that apparatus.
  - (4) Flashing and blinking lights prohibited—Illuminated signs shall not have any flashing or blinking lights or rotating beacons, nor shall any beam of light be projected through a mechanism which periodically changes the color of the light reaching the sign.
  - (5) Illumination not to glare—All illumination shall be oriented so as to prevent glare onto traffic or onto adjacent property or structures.
  - (6) Weather-resistant and shatterproof design—All electrical illumination devices shall be designed to be weather-resistant and shatterproof.
- (d) *Maintenance.* All signs and their supports shall be kept in repair in accordance with the following requirements and with the building code of the city.
- (1) [Rust treatment, etc.]—The owner of any sign shall keep the sign structure properly treated so as to prevent rust, peeling, flaking, or fading.
  - (2) Repair—Broken panels, missing letters, flaking or peeling paint, and other damage to a sign structure shall be repaired within thirty (30) days of its occurrence.
  - (3) Clean surroundings—The area surrounding all signs shall be maintained free of any nuisance as defined by Chapter 16 of this Code, as amended. Enforcement of this paragraph shall be by the health commissioner, as provided by Chapter 16, as amended, or by the building commissioner who shall follow the procedure established by Chapter 16 as amended.
- (e) *Materials.* Except as provided in section 5-15, every sign shall be constructed of rigid weatherproof materials, and provision shall be made for electric grounding of all major metallic parts.
- (f) *Message permitted:*
- (1) The identification, message, or graphic display contained on any sign or other advertising structure shall pertain only to the business, industry, or pursuit legally

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conducted on, or to the product sold on or within, the premises on which the sign is permitted.

- (2) Changeable copy signs are hereby permitted.
  - (3) Electronic changeable signs or electronic message devices are not permitted.
  - (4) Signs designating business hours are not permitted except as permitted in Section 5-10(p) of this Code.
  - (5) Multiple tenant signs or director signs are hereby permitted.
- (g) *Movable parts to be secured.* All movable parts of a sign shall be securely fastened to the sign so as to avoid any danger of the parts falling off. All items such as covers to service openings shall be secured by chains or hinges.
- (h) *No advertising to be placed on sign supports.* No advertising other than a permitted sign shall be placed on any sign support.
- (i) *Obstruction of adjacent premises prohibited.* No sign structure may be so located as to obstruct the view from a public thoroughfare of an existing sign, display window, or major entrance of an adjacent business.
- (j) *Obstructions to building openings prohibited.* No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window, or fire escape. Preexisting signs in violation of this provision must be removed within thirty (30) days after passage of this article.
- (k) *Property owner consent required.* No sign or advertising structure shall be placed on private or public property without the written consent of the property owner or tenant.
- (l) *Setbacks for signs.* Signs are not required to meet zoning district building line setbacks.
- (m) *Sign not to constitute traffic hazard.*
- (1) No sign shall be erected at any intersection in such a manner as to obstruct free and clear vision.
  - (2) No sign shall be erected so that by its position, shape, or color it might interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device.
  - (3) No sign shall make use of the words "Stop," "Look," "Drive In," "Danger," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.
- (n) *Signs on fire safety equipment.* No advertising sign of any kind may be attached to a standpipe or fire escape or to any other fire-safety related device.

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- (o) *Signs to be removed from premises.* Any sign structure which advertises a business no longer conducted or a product no longer sold on the premises or lot shall be removed within thirty (30) days after the business or product is no longer present by the owner, agent, or person having beneficial use of the premises or lot upon which the sign is erected.
- (p) *Sign structure to be free of hazardous protrusions.* Any sign structure erected at less than eight (8) feet above the mean grade line of the ground over which it is erected shall be free of sharp or pointed protrusions which might endanger the public's safety.
- (q) *Transparent sign face.* A transparent sign face may be constructed of glass or approved combustible plastic. If constructed of glass the sign face shall either be safety glass or plate glass at least one-quarter (1/4) inch thick. Provided, however, that if the area of a pane of glass exceeds three (3) square feet it shall be wired glass.
- (r) *Wind pressure and dead load requirements.* All signs shall be designed and constructed to meet the building code requirements for wind pressure, dead load, and foundation specifications.

(Ord. No. 8780, §3, 12-17-98; Ord. No. 8982, §1, 1-4-01; Ord. No. 9368, §1, 1-22-04)

### **Sec. 5-15. Specific technical requirements.**

All signs subject to this article shall comply with the following specific technical requirements. Where a sign is subject to more than one classification, the regulations governing the various applicable classifications shall all apply and, in case of conflict, the more stringent regulation shall govern.

- (a) *Awning and canopy signs.* All awning and canopy signs shall meet the following requirements.
  - (1) **Materials**—Signs may either be:
    - a. Made of rigid weatherproof materials, or
    - b. Made of the same material as the awning or canopy, or
    - c. Painted with weather-resistant paint directly on the awning or canopy material.
  - (2) **Location**—Signs may be affixed flush to the sides or front of an awning or may be hung beneath a canopy. No sign may project below the minimum clearance line required by the building code, nor above any portion of the face to which it is attached.
  - (3) **Vertical Dimension**—Maximum vertical dimension of the sign shall not exceed 18 inches.

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- (4) Method of attachment—All signs constructed of materials other than paint or the material with which the canopy or awning is covered shall be permanently attached to the frame of the awning or canopy.
  - (5) Illumination—Sign may be illuminated.
- (b) *Ground signs.* All ground signs shall meet the following requirements.
- (1) Location:
    - a. No sign shall be located closer to the street than the front property line.
    - b. Signs on a corner shall not be closer than fifteen (15) feet from the intersection of the intersection of right of way lines, so as not to obstruct a clear and free vision.
  - (2) Height limitation—No sign structure shall be higher than five (5) feet above the street level or above the mean level of the grade on which the sign is located, whichever is higher.
- (c) *Marquee signs.* All marquee signs shall meet the following requirements:
- (1) Location:
    - a. signs may be affixed to the sides or front of the marquee, or may be hung entirely beneath it.
    - b. No portion of any sign may project below the minimum clearance line required for marquees by the building code or above any portion of the face to which the sign is affixed.
  - (2) Height limitation—No sign shall exceed five (5) feet in height.
  - (3) *Method of attachment*—Except for hanging signs, all signs shall be attached flush with the face on which they are placed.
- (d) *Reserved.*
- (e) *Projecting signs.* All projecting signs shall meet the following requirements.
- (1) Location:
    - a. Signs shall hang at least eight (8) feet above any public sidewalk over which they are erected or fifteen (15) feet above any public drive, alley, or thoroughfare, and
    - b. The innermost point of the sign shall be no more than one foot from the plane of the wall, and

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- c. The sign structure shall not project more than three (3) feet from the plane of the wall nor be within four (4) feet of the curb line or edge of any public street or alley.
- (2) Construction limitations:
- a. V-shaped signs. V-shaped signs consisting of two (2) single-face signs erected without a roof or ceiling shall not be permitted.
  - b. Thickness limitation. The maximum distance between the principal faces of any projecting sign shall not exceed eighteen (18) inches.
  - c. Display faces. Every projecting sign shall contain two display faces.
- (f) *Roof signs.* All roof signs shall be subject to the following requirements:
- (1) Setback from roof edge. No sign shall be erected or maintained with the sign face or any part of the sign structure projecting beyond the plane of the outside walls.
  - (2) Obstruction of movement on roof. No sign shall be placed on the roof of any building so as to interfere with any openings in the roof or so as to prevent free passage from one part of the roof to another, or to an adjacent roof.
  - (3) Height limitation. No sign may exceed four (4) feet in height, nor may the sign structure's highest point exceed the highest point of the roof to which it is attached.
- (g) *Shopping center signs.*
- (1) Shopping centers may erect one identification sign. The sign will not be counted as part of the gross sign area for the premises, provided that the sign:
    - a. Does not exceed fifty (50) square feet per acre, with fractional acres rounded up if equal to or greater than one-half acre and rounded down if less than one-half acre, and
    - b. Does not exceed a maximum of five hundred (500) square feet, and
    - c. Is located on the middle fifty (50) per cent of the frontage, and
    - d. Contains only the name and logo of shopping center and the name and logo of tenants in the shopping center, and
    - e. Does not exceed five (5) feet in height.
  - (2) Individual merchants may erect wall signs subject to the restrictions on gross sign area contained in this article.

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- (h) Reserved.
- (i) *Street clocks.* All street clocks shall meet the following requirements:
  - (1) Clocks may be erected on a sidewalk with permission from the City Council.
  - (2) Only one street clock may be erected on any one place of business.
  - (3) Only the name of the owner, manager, or of the place of business erecting the sign and the nature of the business conducted at the place of business may be advertised on the clock.
  - (4) Street clocks shall have a face between 30 and 50 inches in its largest lineal dimension.
  - (5) Clocks must keep accurate time.
- (j) *Standard Outdoor Advertising Structures (billboards)*
  - (1) Prior to issuance of a city permit for erection of a standard outdoor advertising structure, the applicant shall obtain a special use permit. The special use permit application shall include a site plan of the property depicting the landscaping, lighting, and fencing around the proposed standard outdoor advertising structure to ensure that the structure will be aesthetically compatible with its surroundings and the aesthetic standards of the community and neighboring property. The plan shall be reviewed and approved by the Planning and Zoning Commission as part of the special use permit review procedure and shall comply with all standards in this subsection. ***Standard outdoor advertising structures shall be exempt from review by the Architectural Review Board.***
  - (2) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information.
  - (3) External lighting, such as floodlights, think line, and goose neck reflectors, are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the interstate or primary highway and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle, and such lights shall be effectively shielded so as to prevent beams or rays of light from being directed onto adjacent residential property no such externally lit sign shall be located within 800 feet of any residential property..
  - (4) No standard outdoor advertising structure shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal.

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- (5) The maximum height of a standard outdoor advertising structure shall not exceed thirty (30) feet from the highest point on the sign structure to the grade of the highway from which the sign is intended to be read or exceed fifty (50) feet above the natural grade where the sign is installed.
- (6) Separation requirements. No standard outdoor advertising structure shall be erected:
  - (a) Within ninety (90) feet of the property line of the lot on which the standard outdoor advertising structure is located;
  - (b) Within four hundred (400) feet of any residentially-zoned property;
  - (c) Within fifty (50) feet of any existing building or on premises advertising signs;
  - (d) Within four hundred (400) feet of any park, playground, school, library, hospital, church, or landmark;
  - (e) Within five hundred (500) feet of any major highway interchange or an existing standard outdoor advertising structure on the same side of the highway.
- (7) The sign face area of the structure shall not exceed 700 square feet.
- (8) The structure shall be located within 100 feet of a state right-of-way designated as part of the National Highway System.
- (9) No sign shall be located in such a manner as to obstruct or physically interfere with the effectiveness of an essential traffic sign signal or device to obstruct or physically interfere with a motor vehicles operator's view approaching merging intersections path."
- (10) No sign shall be located on the roof of a building or a non-sign structure.
- (k) *Wall signs.* All wall signs shall meet the following requirements:
  - (1) Location — Signs shall not:
    - a. Extend above the top of the wall,
    - b. Extend beyond the ends of the wall,
    - c. Project more than twelve (12) inches beyond the plane of the wall on which it is erected.
  - (2) Area Limitations — Signs shall not cover more than twenty-five percent (25%) of the wall to which they are attached.

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- (3) Materials — Signs may be painted on the wall with appropriate permanent paint.
- (4) Limitations for multi-story buildings in the B-4 and B-5 Zoning Districts:

In the B-4 and B-5 Zoning Districts, wall signs shall be permitted only for tenants occupying a grade level which also has direct access to the street or public parking; and such wall sign shall be located on the occupied grade level space or directly above the occupied grade level space except for one wall sign on each face of the building which identifies the name of the building or a single tenant.

- (1) *Window signs.* All window signs shall meet the following requirements:
  - (1) Area Limitation — The sign area of any one (1) sign shall not cover more than one-third percent (1/3%) of the window or glass door upon which it is applied. All signs, including exempt signs, in one (1) window shall be deemed to be one (1) sign for the purposes of this paragraph.
  - (2) Materials -- All permanent window signs shall be painted, metal leafed, or in some other manner applied to either side of the glass of an exterior building window or door.

(Ord. No. 8566, §1, 11-21-96; Ord. No. 8904, §1, 3-16-00; Ord. No. 9261, §1, 6-19-03)

### **Sec. 5-16. Enforcement; penalties; violations; removal of signs.**

The commissioner may, at any time he deems necessary, inspect any sign structure regulated by this article.

- (a) *Violation.* It shall be a violation of this Code for any owner, tenant of premises, or sign erector to:
  - (1) Erect or permit a person to erect a sign without filing an application with the building commissioner and obtaining the required permit, or
  - (2) Erect or permit a person to erect a sign or permit a sign on the premises which does not conform to Chapter 5, Article 1½, "Sign Code."
- (b) *Penalty.* Any person who shall violate a provision of the sign code or fail to comply with a notice issued under the provisions of the sign code, shall be guilty of a misdemeanor, punishable by a fine as prescribed in section 1-8 of this Code. Each day's violation of, or refusal or neglect to comply with any provision of this Code shall constitute a separate and distinct offense.
- (c) *Dangerous signs may be removed by commissioner without notice.* Any sign which is an immediate threat to the safety of persons or property may be removed immediately and without notice to the sign owner or premises owner.

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- (d) *Costs to sign owner, premises owner, or sign erector.* The cost of sign repair or removal shall be charged:
  - (1) To the sign owner, or
  - (2) If the sign owner cannot be located by the commissioner within thirty (30) days, to the premises owner, or
  - (3) If the sign erection was not complete at the time notice of violation was given, to the sign erector and shall be collected from his bonding agent if the erector is bonded.
- (e) *Expenses incurred to be assessed as lien on property.* In the event of failure by any party to reimburse the city within sixty (60) days for costs incurred for repair or removal ordered by the commissioner, the chief administrative officer shall certify the charges for repair or removal as a special assessment represented by a special tax bill against the real property on which the sign had been erected. The tax bill shall be a lien upon the property and shall be enforced to the same extent and in the same manner as all other special tax bills. The assessment shall bear interest at the rate of eight (8) per cent per annum until paid.
- (f) *Persons owing costs of sign repair or removal not to be issued further sign permits.* The commissioner shall not issue any further sign permits to persons refusing to pay costs assessed under subsections (b) and (c), nor to agents or representatives of such persons.
- (g) *Removal by city; charges.* Any sign which is placed, installed or erected on public right-of-way without proper authorization may be removed by the city without notice. The owner of the sign or premise owner or sign erector shall be charged for removal costs in accordance with subsections (d) and (e) above.

### **Sec. 5-17. Appeals and variances.**

The architectural review board is empowered to review or modify the building commissioner's order or determination with respect to signs covered by this article. In addition the architectural review board may grant variances from this article as provided by this section.

- (a) *Guidelines for overturning or modifying commissioner's decision.* The architectural review board shall, in considering appeals from the commissioner's order or determination, establish that the sign or application in question complies with all of the requirements of this article. If it is determined that the building commissioner's interpretation or application of this article to the appellant's sign or request for a permit is erroneous, then the architectural review board may overturn or modify the building commissioner's decision.
- (b) *Grounds for granting variances.* The architectural review board may grant variances from this article where it is found that, because of (a) the limitations on character, size, or dimensions of a sign, or (b) the regulations controlling the erection or installation of a sign, the permittee would be subject to undue hardship. Undue hardship is not a mere loss of a possible advantage or convenience to the applicant. If it is determined that the

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applicant for a variance is subject to an undue hardship, then the architectural review board shall also determine that the proposed sign:

- (1) Will not be inappropriate to the type of activity to which it pertains; to the scale of the building to which it is related; or to the aesthetic environment of the surrounding structures and land use.
  - (2) Will not adversely affect the visual character of the neighborhood.
  - (3) Will not adversely affect the general safety and welfare of the neighborhood.
  - (4) Will not significantly and unreasonably impair visibility of adjacent permitted signs and property.
- (c) *Procedure for requesting and hearing appeals and variances; fee.* Application for review or variances shall be completed within thirty-five (35) days of the determination of the building commissioner. The application for review or variances shall be accompanied by a payment of a non-refundable fee in accordance with Chapter 5, Article VI, "Fee Schedule."

The architectural review board shall fix a reasonable period of time for hearing the appeal or variance. It shall give due notice to the parties in interest. The chairman, or in the absence of the chairman the acting chairman, may administer oaths and compel attendance of witnesses. All hearings shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. All testimony, objections thereto, and rulings thereon shall be taken down by a court reporter employed by the board for the purpose. All ordinances of the city, zoning enactments of the city, and the district maps which may have been or may hereafter be in force shall automatically be part of each hearing to the extent applicable without being specifically introduced at a hearing. The board shall make findings together with the decision within a reasonable period of time. The applicant shall be provided a written copy of the finding and decision.

- (d) *Decisions subject to review; procedure.* Any person or persons jointly or severally aggrieved by any decision of the architectural review board shall have the right to appeal said decision pursuant to the Administrative Procedure Act.

**Cross reference**—Architectural review board, § 2-531 et seq.

(Ord. No. 9611, §1 - 2 , 8-3-06)

### **Sec. 5-18. Prohibited signs.**

- (a) All signs not specifically identified in Section 5-10, Exemptions, and Section 5-15, Specific Technical Requirements, are prohibited.

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(b) The building commissioner shall be responsible for the enforcement of this provision and the procedures set forth in the Code of Ordinances with respect to enforcement of the sign code shall apply to this section.

### **Sec. 5-19. Pennants, banners, streamers, and inflatable advertising devices prohibited.**

(a) The installation and use of pennants, banners, streamers, and other similar displays which are designed to move by atmospheric, mechanical, electrical, or other means, whether containing words or numerals or containing no message, are hereby prohibited except as provided by Section 5-10(s).

(b) Inflatable advertising devices are hereby prohibited.

(c) The Building Commissioner shall be responsible for the enforcement of this provision, and the procedures set forth in the Code of Ordinances with respect to enforcement of the Sign Ordinance of the City shall apply to this section.

### **Sec. 5-20. Reserved.**

## **ARTICLE II. PROPERTY MAINTENANCE CODE**

### **Sec. 5-21. Property Maintenance Code.**

The provisions of the “2003 International Property Maintenance Code” as modified, is hereby adopted as the City’s Property Maintenance Code. See separate publication and adopting modification ordinance on file in the office of the City Clerk”.  
file in the office of the City Clerk.

(Ord. No. 9503, §1, 7-21-05)

### **Secs. 5-22—5-35. Reserved.**

## **ARTICLE III. FENCES\***

### **Sec. 5-36. Fence Permit required.**

No fence shall be constructed or reconstructed without filing an application with the building commissioner and obtaining the required permit. The permit application shall include the height, type, construction materials of the fence, and a site plan. The site plan shall show the location of the fence with relation to the property lines and street/curb/sidewalk and/or house, but this provision shall not be interpreted to require a site plan by a licensed surveyor. Fees shall be in accordance with Chapter 5, Article VI, of the Code of Ordinances.

### **Sec. 5-37. Definition.**

For purposes of this article, a "fence" shall be defined as a structure serving as an enclosure, wall, or barrier constructed of posts, supports, boards, wires, stakes, rails, masonry, or stone.

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\*Cross references—Electrical code adopted, § 5-3; zoning, App. A; subdivisions, App. B.

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### Sec. 5-38. General Provisions.

(a) *Prohibited materials and construction:*

- (1) Fences shall not be constructed or erected, in whole or in part, with paper, cloth, canvas, bamboo, chicken coop wire, or other like material.
- (2) Fences in the front of the front building line of any residentially zoned or residentially occupied lot shall not be constructed or erected, in whole or part, with chain link, wire, wire mesh, plastic mesh, wooden slats tied together with wire or other like material or construction. This restriction shall apply to all street frontages on corner, through, or any multiple-frontage lots.
- (3) Fences shall be constructed in such a configuration that all framing members and support posts face towards the interior of the property of the person who erects, constructs, or causes the fence to be constructed.

(b) *Barbed wire:*

- (1) Fences on any residentially zoned or residentially occupied lot shall not be constructed in whole or part with barbed wire or any similar material.
- (2) Fences in nonresidential zoned areas may have barbed wire six (6) feet above grade, except barbed wire or any similar material shall not be on any fence adjacent to the right-of-way or easement line of any public street, alley, sidewalk, or park.

(c) *Electric fences:*

- (1) No fence, as defined in section 5-37, above, shall have an electric current running through it.
- (2) No wire except electric, phone, cable television, or other utility shall have an electric current passing through it except as permitted below.
  - a. The wire is installed in strict accordance with National Electric Code, as adopted by the city.
  - b. The wire is located inside an area enclosed and secure from the public.
  - c. The wire is set back a minimum of eighteen (18) inches from the enclosure required in subsection (b) above.
  - d. The wire is set back a minimum of eighteen (18) inches from any property line.
- (3) Underground wire installed within the provisions of the city building code and National Electric Code shall be Exempt from the regulations of subsection (d).

(d) *Wire Fences:*

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No fence shall be constructed solely of a single wire or of two (2) wires between posts or supports.

(e) *Swimming Pool Fences:*

Swimming pools shall be enclosed by a barrier in accordance with the City's Property Maintenance Code.

(Ord. No. 9442, §1, 1-6-05)

### **Sec. 5-39. Height Requirements.**

- (a) Fence height shall be measured from the topmost point of the fencing material vertically to the ground.
- (b) Fences shall not exceed six (6) feet in height, except as provided otherwise within this article. Posts may be up to six (6) inches taller than the fencing material.
- (c) Fences located in front of the front building line of any residentially zoned or residentially occupied lot shall not exceed forty-eight (48) inches in height except as provided otherwise within this article. On corner, through, or on any other multiple-frontage lots, this height restriction shall apply only to the frontage upon which the house is addressed.
- (d) Fences built around tennis courts shall be of open mesh construction and shall not exceed fifteen (15) feet in height.
- (e) Fences enclosing an institution, a public park, a public playground, an elementary, middle school or high school site, or a commercial or industrial occupancy shall not exceed ten (10) feet in height.

### **Sec. 5-40. Openness Requirements.**

- (a) Fences located in the front of the front building line of any residentially-zoned or residentially-occupied lot shall be at least one-third open, except as provided otherwise in this article. On corner, through, or any other multiple-frontage lots, this openness restriction shall apply only to the street frontage upon which the house is addressed.
- (b) Fences constructed of stone or brick which do not exceed thirty-six inches in height are exempt from the openness requirements.
- (c) Fences enclosing an institution; a public park; a public playground; an elementary, middle, or high school site; or a commercial or industrial occupancy or use are exempt from the openness requirements.

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### **Sec. 5-41. Fence Location.**

- (a) Fences shall not be located within public right-of-way.
- (b) Fence shall not be located within twelve (12) feet of the curb line of a public street.
- (c) Fences shall not be located within twenty-five (25) feet of the point of intersection of the curb or edge of two intersecting streets.
- (d) Fence shall not be located within one foot of a public right-of-way, a public walkway, or a public sidewalk.
- (e) Fences may be located on property lines, if not otherwise prohibited by the above subsections or any other provision in this code.

### **Sec. 5-42. General Exemptions.**

- (a) *Public Safety Fences.* Fences enclosing utility substations; utility installations; bridge; bridge walkways; bridge abutments; retaining walls along roadways; culvert openings; open drainage areas; fences installed by the City, State, County, or public utility; and temporary construction fences are exempt from this article.
- (b) *Fences Approved by Special Procedure.* Fences specified and approved by the Planning and Zoning Commission and/or City Council as part of a Site Plan Review, Special Use Permit or other procedure are exempt from this article.

### **Sec. 5-43. Maintenance.**

- (a) Fences shall be in good repair and structurally sound.
- (b) Fences shall not have any loose fencing, panels, or other material which moves or vibrates under normal wind conditions.

### **Sec. 5-44. Non-conforming Fences.**

- (a) Fences legally installed prior to adoption of this article and not in conformity to this article may remain. However, such legal, non-conforming fences shall be in good repair and shall not be structurally unsound and shall not deteriorate to an unsightly condition.
- (b) Non-conforming fences which require 50% or more replacement or repair in a one-year period shall become in conformity with this article. Any replacement of 50% or more of any fence shall require the fence to become in conformity with this article.

### **Sec. 5-45. Appeals and variances.**

Any person aggrieved by an order, requirement, decision or determination of the building commissioner with respect to fences covered by this article shall be entitled to appeal to the board of Adjustment for the purpose of review or modification of the building commissioner's order, decision or

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determination. In addition, the Board of Adjustment may grant variances from this article. The guidelines, grounds and procedures enumerated herein shall govern with respect to fences covered by the article, and in the event the provisions of Appendix A, Zoning, Article XVI, are inconsistent with these provisions, then the provisions herein shall control.

- (a) *Guidelines for overturning or modifying commissioner's decision.* The Board of Adjustment shall, in considering appeals from the commissioner's order, decision or determination, establish that the fence or application in question complies with all of the requirements of this article. If it is determined that the building commissioner's interpretation or application of this article to the appellant's fence or request for a permit is erroneous, then the Board of Adjustment may overturn or modify the building commissioner's decision.
  
- (b) *Grounds for granting variances.* The Board of Adjustment may grant variances from this article where it is found that the applicant would be subject to an undue hardship because of: (a) the limitations on character, size, or dimensions of a fence, or (b) the regulations controlling the erection or installation of a fence, or (c) the fence is a historic restoration of the property, or (d) due to the nature, shape, size or area of the lot such as through lots or three frontage lots, no unreasonable area is available for the use and privacy of the resident, the permittee would be subject to undue hardship. Undue hardship is not a mere loss of a possible advantage of convenience to the applicant. If it is determined that the applicant for a variance is subject to an undue hardship, then the Board of Adjustment shall also determine that the proposed fence:
  - (1) Will not be inappropriate to the scale of the building to which it relates or to the aesthetic environment of the surrounding structures and land use;
  - (2) Will not impair an adequate supply of light and air to the adjacent property;
  - (3) Will not adversely affect the character of the neighborhood; and
  - (4) Will not adversely affect the general health, safety and welfare of the community.

The board's decision on an appeal shall be incorporated on the fence permit by reference to the decision number and date of decision.

- (c) *Procedure for requesting and hearing appeals and variances.* Application for appeal or variances shall be completed within thirty (30) days of the determination of the building Commissioner. The application for appeal or variances shall specify the grounds for such appeal or variance and shall be accompanied by a fee of two hundred dollars (\$200.00).

The Board of Adjustment shall fix a reasonable period of time for hearing the appeal or variance. It shall give due notice to the parties in interest. The Board of Adjustment shall also give notice by first class mail to all property owners as shown by the tax records of the city within one hundred (100) feet of the boundaries of the tract of land for which the application is filed. All hearings shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. All ordinances of the city, zoning enactments of the city and

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the district maps which may have been or may hereafter be in force shall automatically be part of each hearing to the extent applicable without being specifically introduced at a hearing. The board shall make findings together with the decision within a reasonable period of time. The applicant shall be provided a written copy of the finding and decision.

- (d) *Decision subject to review; procedure.* Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment shall have the right to appeal said decision pursuant to the administrative procedure act.

**Secs. 5-46 - 5-64. Reserved.**

### ARTICLE IV. APPEALS\*

#### **Sec. 5-65. Board of building appeals.**

A Board of Building Appeals is hereby created and established. The Board of Adjustment shall serve as the Board of Building Appeals. Provisions concerning procedures of the Board of Building Appeals shall be as set forth in the Building Code adopted by the City of Kirkwood.  
(Ord. No. 8723, §1, 5798)

#### **Sec. 5-66. Manner of filing appeals; building commissioner to transmit records; fees.**

Appeals shall be taken by filing with the building commissioner a notice of appeal, specifying the grounds thereof, and the building commissioner shall immediately transmit to the board of building appeals such notice and all papers constituting the record upon which the action appealed from is taken. The notice of appeal shall be accompanied by the payment of a non-refundable fee in accordance with Chapter 5, Article VI, "Fee Schedule."  
(Ord. No. 9611, §1-2, 8306)

#### **Sec. 5-67. Appeals to stay proceedings; exceptions.**

Appeals shall stay all proceedings in furtherance of the action appealed from unless the building commissioner certifies to the board of building appeals after the notice of appeal shall have been filed with him that by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the board of building appeals on application and on notice to the building commissioner or by court of competent jurisdiction.

#### **Sec. 5-68. Appeals from decision of board of building appeals.**

Any person or persons jointly or severally aggrieved by the decision of the board of building appeals or any officer, department, board or office of the City of Kirkwood shall be entitled to a judicial review of the decision rendered by the board of building appeals, as provided in the Administration

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\***Editor's note**—Former Art. III, §§ 5-36—5-60, pertaining to housing, derived from Ord. No. 6097, § 2, adopted March 24, 1977, and Ord No. 6160, § 2, adopted July 21, 1977, was repealed by Ord. No. 7312, § 1, adopted Feb. 21, 1985.

## BUILDINGS, CONSTRUCTION AND HOUSING

Procedure and Review Act of the State of Missouri, being Sections 536.100 to 536.140, Revised Statutes of Missouri.

### ARTICLE V. FLOODWAY/FLOODPLAIN MANAGEMENT

#### Sec. 5-69. Findings of Fact and Purposes.

##### A. FINDINGS OF FACT

###### 1. *Flood Losses Resulting from Periodic Inundation*

The flood hazard areas of Kirkwood, Missouri are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

###### 2. *General Causes of the Flood Losses*

These flood losses are caused by; (1) The cumulative effect of obstructions in floodways causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

###### 3. *Methods Used to Analyze Flood Hazards*

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- a. Selection of regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The regulatory flood selected for this ordinance is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one (1) percent chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated April 3, 1987 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.

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- e. Delineation of flood fringe, (i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the regulatory flood.)

### B. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in Section 5-69 A.1 by applying the provisions of this ordinance to:

- a. restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- b. require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction;
- c. protect individuals from buying lands which are unsuited for intended purposes because of flood hazard;
- d. assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

### **Sec. 5-70. General Provisions.**

#### A. LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Kirkwood of St. Louis County, identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones (including AE, AO and AH Zones). In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City of Kirkwood or its duly designated representative under such safeguards and restrictions as the City of Kirkwood or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 5-72 and 5-73.

#### B. LOCAL FLOODPLAIN ADMINISTRATOR

The Building Commissioner is hereby designated as the community's duly designated Floodplain Administrator under this ordinance.

#### C. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

The boundaries of the floodway and flood fringe districts shall be determined by scaling distances on the official Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Local Floodplain Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Appeal Board, as defined in Section 5-73, will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence, if he so desires.

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### D. COMPLIANCE

No development located within known flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### E. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### F. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

### G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of the City of Kirkwood, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### H. SEVERABILITY

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

### I. APPEAL

Where a request for a floodplain development permit to develop or a variance is denied by the Building Commissioner the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Section 5-73.

### **Sec. 5-71. Administration.**

#### A. FLOODPLAIN DEVELOPMENT PERMIT (REQUIRED)

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No person, firm or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for development as defined in Section 5-70.

### B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Building Commissioner is hereby appointed to administer and implement the provisions of this ordinance.

### C. DUTIES AND RESPONSIBILITIES OF LOCAL ADMINISTRATOR

Duties of the Building Commissioner shall include, but not be limited to:

1. review all floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. review floodplain development permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required;
3. notify adjacent communities and the State of Missouri prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency;
4. assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished;
5. verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
6. verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed;
7. when floodproofing is utilized for a particular structure the Building Commissioner shall be presented certification from a registered professional engineer or architect.

### D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

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

1. identify and describe the work to be covered by the floodplain development permit;
2. describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
3. indicate the use or occupancy for which the proposed work is intended;

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4. be accompanied by plans and specifications for proposed construction;
5. be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority;
6. give such other information as reasonably may be required by the Building Commissioner, (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in case of nonresidential floodproofing when a minus one foot, (-1 ft.) penalty is assessed at the time of rating the structure for the policy premium).

### **Sec. 5-72. Provisions for Flood Hazard Reduction.**

#### A. GENERAL STANDARDS

1. No permit for development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH Zones) unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100 year flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
3. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - a. design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination;
  - c. construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - d. all utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation;
  - e. that until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30 and AE on the community's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other

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- existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1) foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference Section 5-69 A.3.
- f. Storage and Material and Equipment
    - (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
    - (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
  - g. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
    - (1) all such proposals are consistent with the need to minimize flood damage;
    - (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage;
    - (3) adequate drainage is provided so as to reduce exposure to flood hazards;
    - (4) proposals for development, (including proposals for manufactured home parks and subdivisions), of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory flood elevation.

### B. SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 5-69 A.3, the following provisions are required:

#### 1. *Residential Construction.*

New construction or substantial improvement of any residential building or manufactured home shall have the lowest floor, including basement, elevated to 1 foot above base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 5-72 B.3.

#### 2. *Non-Residential Construction.*

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to 1 foot above the base flood elevation. Buildings located in all A-zones may be floodproofed in lieu of being elevated provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural component

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having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5-71 C.7.

3. Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot enclosed area subject to flooding;
    2. The bottom of all openings shall be no higher than one foot above grade; and,
    3. Openings may be equipped with screens, louver, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairways or elevator); and
  - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

### C. AH ZONES

Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

### D. MANUFACTURED HOMES

1. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - a. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured home less than fifty (50) feet long requiring one (1) additional tie per side;
  - b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;

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- c. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - d. Any additions to the manufactured home be similarly anchored.
2. Require that all manufactured homes to be placed within Zones A1-30, AH, and AE on the community's FIRM on sites:
  - a. outside of a manufactured home park or subdivision,
  - b. in a new manufactured home park or subdivision,
  - c. in an expansion to an existing manufactured home park or subdivision, or
  - d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is 1 foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5-72 D.1.
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of Section 5-72 D.1. be elevated so that either:
  - a. the lowest floor of the manufactured home is one foot above the base flood elevation, or
  - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5-72 D.2.

### E. RECREATIONAL VEHICLES

1. Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either:
  - a. be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use, \*or
  - b. meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

\*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.

### F. AO ZONES

Located within the areas of special flood hazard established in Section 5-70 A. are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3)

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feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones;

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
2. All new construction and substantial improvements of nonresidential structures shall:
  - a. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
  - b. together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantial impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 5-71 C.7.
3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

### G. FLOODWAYS

1. *Permitted Uses*
  - a. Only uses having a flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of Sec. 5-72. The following are recommended uses for the Floodway District:
    - (1) Agricultural uses such as general farming, pasture, nurseries, forestry.
    - (2) Residential uses such as lawns, gardens, parking and play areas.
    - (3) Nonresidential areas such as loading areas, parking and airport landing strips.
    - (4) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
2. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Section 5-72 A.3-G.4 of this ordinance, in meeting the standards of this section.

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3. Denial of a floodplain development permit for development which results in an increase in flood heights is not appealable. The remedy for floodway encroachment would be for the applicant to provide sufficient data, through the permit issuing office to support a floodway revision to existing maps. Any such floodway revision can be granted only by the Federal Emergency Management Agency (FEMA), in accordance with Part 65.7 of 44 CFR. If appropriate, and in the best interest of the health, safety and welfare of citizens of the community, the map revision request will be forwarded to the FEMA Region VII for their review and action.

### **Sec. 5-73. Variance Procedures.**

#### **A. ESTABLISHMENT OF APPEAL BOARD**

The Board of Adjustment as established by the City of Kirkwood shall hear and decide appeals and requests for variances from the requirements of this ordinance.

#### **B. RESPONSIBILITY OF APPEAL BOARD**

The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Commissioner in the enforcement or administration of this ordinance.

#### **C. FURTHER APPEALS**

Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the Circuit Court as provided in Missouri State Statutes.

#### **D. VARIANCE CRITERIA**

In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:

1. the danger that materials may be swept onto other lands to the injury of others;
2. the danger to life and property due to flooding or erosion damage;
3. the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the necessity to the facility of a waterfront location, where applicable;
6. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. the compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;

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8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
10. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

### E. CONDITIONS FOR VARIANCES

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2 through 6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (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.
6. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

### **Sec. 5-74. Penalties for Violation.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Kirkwood or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

### **Sec. 5-75. Amendments.**

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

### **Sec. 5-76. Definitions.**

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

**"100-year flood"** see "base flood."

**"Accessory Structure"** means the same as Appurtenant Structure.

**"Actuarial or Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the Act and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

**"Administrator"** means the Federal Insurance Administrator.

**"Agency"** means the Federal Emergency Management Agency.

**"Agricultural commodities"** means agricultural commodities and livestock.

**"Agricultural structure"** means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities.

**"Appeal"** means a request for a review of the local administrator's interpretation of any provision of this ordinance or a request for a variance.

**"Appurtenant structure"** means a structure which is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

**"Area of Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

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**"Base Flood"** means the flood having one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.

**"Building"** *see "structure."*

**"Chief Executive Officer or Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

**"Eligible community or participating community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

**"Existing Construction"** means (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 FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood or Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood elevation study"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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**"Flood elevation determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

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

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special hazards have been designated as zones A.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Flood Insurance Study has delineated both the Special Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

**"Flood Insurance Study"** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

**"Floodplain or flood-prone area"** means any land area susceptible to being inundated by water from any source (*see "flooding"*).

**"Floodplain management"** means the operation of an overlay program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**"Floodplain management regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**"Floodway or Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Floodway encroachment lines"** means the lines marking the limits of floodways on Federal, State, and local floodplain maps.

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

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

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is: (a) 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; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

**"Levee"** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**"Levee System"** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which constructed and operated in accordance with sound engineering practices.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, which 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** "recreational vehicle".

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

**"Mean Sea level"** means, for purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**"New Construction"** means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31,

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1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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

**"Participating community"** *see "eligible community."*

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State and local governments and agencies.

**"Principally above ground"** means that at least 51 percent of the actual cash value of the structure, less land value is above ground.

**"Overlay District"** is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

**"Recreational Vehicle"** means a vehicle which is, (a) built on a single chassis (b) 400 square feet or less when measured at the largest horizontal projections (c) designed to be self-propelled or permanently towable by a light duty truck (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**"Regulatory Flood"** *see "base flood."*

**"Regulatory Floodway"** *see "floodway."*

**"Remedy a violation"** means to bring the structure or other development into compliance with State or local floodplain management regulations.

**"Sheet flow area"** *see "area of shallow flooding."*

**"Special flood hazard area"** *see "area of special flood hazard."*

**"Special hazard area"** means an area having special flood hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

**"Start of Construction"** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of

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streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**"State coordinating agency"** means the agency of the state, or other office designated by the Governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that state.

**"Structure"** means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Variance"** is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

**"Water surface elevation"** means the height in relation to the National Geodetic Vertical Datum of 1929, or other datum, where specified of floods of various magnitudes and frequencies in the floodplains of riverine area.

### **Sec. 5-77. Additional Standards Recommended by FEMA Region VII.**

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

#### **A. NONCONFORMING USE**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

## BUILDINGS, CONSTRUCTION AND HOUSING

- a. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Enforcement Official in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- c. A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed 50 percent of the structure's current market value. If the cumulative value of the improvement does exceed 50 percent of the structure's current market value, the structure must be brought into compliance with Section 5-72 B. which requires elevation of residential structures to or above the base flood elevation or the elevation/floodproofing of non-residential structures to or above the base flood elevation.

### B. CRITICAL FACILITIES

1. All new or substantially improved critical nonresidential facilities including, but not limited, to governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communications centers, water and sewer pumping stations, water and sewer treatment facilities, community centers, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the elevation of the 500 year flood or together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 5-71 B.2.
2. All critical facilities shall have access routes which are above the elevation of the 500 year flood.
3. No critical facilities shall be constructed in the floodway.

### C. HAZARDOUS MATERIALS

All hazardous material storage and handling sites shall be located out of the Special Flood Hazard Area.

### D. FREEBOARD RECOMMENDATION

1. *Residential*

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Section 5-72 B.1. contains elevation requirement for residential development. The minimum requirement, except where State law has a more stringent requirement, is for elevation to the base flood elevation. It is recommended that communities require at least an additional one (1) foot of elevation. This will reduce the flood insurance premiums for residents and provide an additional measure of safety.

### 2. *Non-Residential*

Section 5-72 B.2. contains elevation requirement for non-residential development. The minimum requirement, except where State law has a more stringent requirement, is for elevation or floodproofing to the base flood elevation. It is recommended that communities require at least an additional one (1) foot of elevation. This will reduce the flood insurance premiums for residents and provide an additional measure of safety. This is especially true when a nonresidential structure is floodproofed. Unless the floodproofed structure is floodproofed to one foot above the base flood elevation, the flood insurance is rated at below base flood elevation.

### **Sec. 5-78-5-99. Reserved.**

## **ARTICLE VI. FEE SCHEDULE\***

### **Sec. 5-100. Schedules.**

This article shall hereafter be known as the fee schedule for the City of Kirkwood.

### **Sec. 5-101. Payment of fees.**

The total estimated fee for the activity shall be paid in advance.

### **Sec. 5-102. Construction cost estimates.**

The building official is authorized to estimate the total cost of construction of a structure, building or project, by multiplying the total floor area of the structure in square feet by an appropriate square foot cost rate. Structures or projects for which it is impractical to estimate the total construction cost by such square foot cost method shall be estimated by applying current, commonly accepted unit cost figures to the various components in a commonly accepted manner. In lieu of determining the total cost of construction as outlined above, the building official may accept a bona fide contract or any affidavit of the owner of the building structure or project, in which the total cost of construction, including site improvements related to the permit, is verified by applicant and the owner.

### **Sec. 5-103. Construction permit fees.**

(a) *Table.* The fee for a building permit and inspection shall be determined by applying the below table of fees rated to the total estimated cost of construction, as determined in the above section.

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\***Editor's note**—Section 1(A) of Ord. No. 7881, from which this article derives, provided that the fees in Ord. No. 7881 shall be effective for all applications made on or after May 1, 1989.

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(b) *Minimum fee.* The minimum total permit fee shall be seventy-two dollars (\$72.00) where plan review is required.

(c) *Additional inspection fees.* A forty-eight dollar (\$48.00) fee shall apply for each additional inspection required.

(d) *Permit processing fee.* A non-refundable processing fee of twenty-five dollars (\$25.00) shall be charged for each permit application filed with the City.

BUILDINGS, CONSTRUCTION AND HOUSING

**BUILDING PERMIT FEE TABLE**

<i>Valuation Thousands of Dollars</i>	<i>Permit Fee</i>	<i>Valuation Thousands of Dollars</i>	<i>Permit Fee</i>
Up to 1	\$ 72	Up to 80	\$ 612
Up to 2	99.00	Up to 82	634
Up to 3	118.00	Up to 84	636
Up to 4	137	Up to 86	647
Up to 5	173	Up to 88	661
Up to 6	199	Up to 90	685
Up to 7	209	Up to 92	696
Up to 8	233	Up to 94	710
Up to 9	245	Up to 96	720
Up to 15	248	Up to 98	734
Up to 16	249	Up to 100	744
Up to 18	258	Up to 105	846
Up to 23	272	Up to 110	887
Up to 25	282	Up to 115	912
Up to 27	297	Up to 120	954
Up to 30	307	Up to 125	979
Up to 33	320	Up to 130	1,022
Up to 35	331	Up to 135	1,048
Up to 36	343	Up to 140	1,087
Up to 37	344	Up to 145	1,113
Up to 38	356	Up to 150	1,119
Up to 39	357	Up to 155	1,181
Up to 40	369	Up to 160	1,189
Up to 42	380	Up to 165	1,246
Up to 44	393	Up to 170	1,274
Up to 46	403	Up to 175	1,317
Up to 48	418	Up to 180	1,343
Up to 50	428	Up to 185	1,371
Up to 52	442	Up to 190	1,408
Up to 54	465	Up to 195	1,436
Up to 56	467	Up to 200	1,462
Up to 58	477	Up to 210	1,600
Up to 60	491	Up to 220	1,668
Up to 62	501	Up to 230	1,734
Up to 64	516	Up to 240	1,795
Up to 66	526	Up to 250	1,863
Up to 68	540	Up to 260	1,919
Up to 70	550	Up to 270	1,992
Up to 72	563	Up to 280	2,047
Up to 74	575	Up to 290	2,116
Up to 76	588	Up to 300	2,171
Up to 78	599	Up to 310	2,297

BUILDINGS, CONSTRUCTION AND HOUSING

**BUILDING PERMIT FEE TABLE**

(Cont.)

<i>Valuation Thousands of Dollars</i>		<i>Permit Fee</i>	<i>Valuation Millions of Dollars</i>		<i>Permit Fee</i>
Up to	320	\$ 2,400	Up to	1.0	\$ 6,413
Up to	330	2,455	Up to	1.1	6,962
Up to	340	2,528	Up to	1.2	7,508
Up to	350	2,587	Up to	1.3	8,056
Up to	360	2,659	Up to	1.4	8,574
Up to	370	2,720	Up to	1.5	9,100
Up to	380	2,777	Up to	1.6	9,625
Up to	390	2,850	Up to	1.7	10,138
Up to	400	2,989	Up to	1.8	10,648
Up to	420	3,025	Up to	1.9	11,160
Up to	440	3,157	Up to	2.0	11,669
Up to	460	3,276	Up to	2.1	12,166
Up to	480	3,404	Up to	2.2	12,662
Up to	500	3,522	Up to	2.3	13,159
Up to	520	3,640	Up to	2.4	13,655
Up to	540	3,773	Up to	2.5	14,153
Up to	560	3,888	Up to	2.6	14,636
Up to	580	4,006	Up to	2.7	15,115
Up to	600	4,120	Up to	2.8	15,596
Up to	620	4,238	Up to	2.9	16,079
Up to	640	4,356	Up to	3.0	16,562
Up to	660	4,472	Up to	3.1	17,044
Up to	680	4,590	Up to	3.2	17,510
Up to	700	4,708	Up to	3.3	17,978
Up to	720	4,823	Up to	3.4	18,462
Up to	740	4,940	Up to	3.5	18,929
Up to	760	5,056	Up to	3.6	19,386
Up to	780	5,173	Up to	3.7	19,846
Up to	800	5,291	Up to	3.8	20,315
Up to	820	5,408	Up to	3.9	20,768
Up to	840	5,507	Up to	4.0	21,235
Up to	860	5,624	Up to	4.2	22,141
Up to	880	5,741	Up to	4.4	23,058
Up to	900	5,858	Up to	4.6	23,952
Up to	920	5,962	Up to	4.8	24,857
Up to	940	6,077	Up to	5.0	25,746
Up to	960	6,198	Up to	5.2	26,639
Up to	980	6,296	Up to	5.4	27,515

BUILDINGS, CONSTRUCTION AND HOUSING

**BUILDING PERMIT FEE TABLE**

(Cont.)

<i>Valuation Millions of Dollars</i>	<i>Permit Fee</i>
Up to 5.6	28,391
Up to 5.8	29,267
Up to 6.0	30,126
Up to 6.2	31,002
Up to 6.4	31,866
Up to 6.6	32,694
Up to 6.8	33,571
Up to 7.0	34,418
Up to 7.2	35,266
Up to 7.4	36,112
Up to 7.6	36,960
Up to 7.8	37,932
Up to 8.0	38,624
Up to 8.2	39,458
Up to 8.4	40,289
Up to 8.6	41,123
Up to 8.8	41,940
Up to 9.0	42,757
Up to 9.2	43,577
Up to 9.4	44,394
Up to 9.6	45,211
Up to 9.8	46,028
Up to 10.0	46,830
Up to 10.5	48,845
Up to 11.0	50,848
Up to 11.5	52,834
Up to 12.0	54,820
Up to 12.5	56,776
Up to 13.0	58,733
Up to 13.5	60,672
Up to 14.0	62,616
Up to 14.5	64,544
Up to 15.0	66,456
Each .5M over 15.0M (Ord. No. 9606, §1, 6-15-06)	1,800.00

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**Sec. 5-104. Miscellaneous Permits Fees**

PERMIT TYPE	FEE	REMARKS
Demolition, single-family and accessory structures	\$120	Each building or structure
Demolition, all others	240	Each building or structure
Driveway apron	48	Includes two inspections
Excavation Deposit (public right-of-way)	25	Per Square Foot of Paved Area (\$750 minimum and \$5,000 maximum)
	5	Per Square Foot of Grass Parkway (\$250 minimum and \$5,000 maximum)
Excavation Permit (public right-of-way)	100	Includes inspections
Fence Permit	48	Includes inspection
Foundation or Footing Permit or Letter	100	Value of foundation to be included in building permit calculation
Grading permit	150	Includes two inspections
Moving of building permit (building type permit)	500	Or \$0.50/foot of route along public right-of-way from property line to property line, whichever is greater plus regular building permit
Parking Lot Permit	100	Includes one inspection
Sign Permit (per Square Foot)	1.00	Per S.F. of sign face; \$60 Minimum each sign plus \$24 A.R.B. review fee
Sprinkler (fire) permit (building type permit)	Valuation of total cost	Valuation of system cost under Building Permit Fees plus Fire Department fees for processing, review, and inspections.
Tap Destroy (plumbing type permit)	50	Each
Underground tank removal (demolition type permit)	120	Each tank

**Secs. 5-105—5-108. Reserved.**

BUILDINGS, CONSTRUCTION AND HOUSING

**Sec. 5-109. Administrative Fees.**

Fees for administrative and inspection activities necessary for the enforcement of various codes are listed in the following tables:

**TABLE I - ADMINISTRATIVE FEES**

ITEM	FEE	REMARKS
Amending permits	\$30	Plus difference for added work. No refund.
Architectural Review Board Review	\$200	Building applications in B-2 & B-5 zoning districts, multi-family reviews
	\$100	Sign permit (see Sign Permits)
	\$240	Sign variance request
Board of Building Appeals hearing	\$240	
Board of Adjustment hearing	\$240	For one variance for additions and alterations to existing single-family and accessory structures to existing single-family residences such as sheds, garages, and swimming pools
Board of Adjustment hearing	\$500	For one variance for all others not listed above
Board of Adjustment Additional variance at same hearing	\$50	Each additional variance at a Board hearing on same petition and same project
Building escrow for a temporary occupancy permit	\$75	
Inspections, extra inspections, and re-inspections	\$48	Each
Property maintenance (re-occupancy) inspections for single family and two family	\$75	Includes initial inspection and two follow-up inspections
Property maintenance (re-occupancy) inspections for apartments, condominiums, or other three or more family dwelling units	\$40	Includes initial inspection and one follow-up inspection
Property maintenance (re-occupancy) inspections for non-residential properties (commercial, business, industrial, institutional, etc)	\$100	Includes initial inspection and two follow-up inspections
Service charge for refund	\$24	Maximum refund 50% of total permit fee
Subcontractor transfer	\$54	

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**TABLE 2 - APPLICATION FEES**

ITEM	FEE
Zoning Change	\$1,000
Zoning Code Amendment	\$1,000
Special Use Permit	\$1,000
Special Use Permit Amendment	\$1,000
Site Plan Review	\$700
Site Plan Review Amendment	\$500
Site Plan Review Extension	\$500
Performance Guarantee for Site Plan Review	10% of first \$10,000 of performance guarantee plus 2% exceeding \$10,000
Preliminary Site Plan Review, Mixed Use in B2, More than 5 acres (Includes site plan review)	\$1,000 + \$25/acre or portion over one acre
Final Site Plan Review, Mixed Use in B2, More than 5 acres	\$500
Amend Final Site Plan of a Mixed Use development plan in B2, More than 5 acres (when a public hearing is not required)	\$300
Preliminary B4 Development Plan (Includes site plan review fee)	\$1,000 + \$100/acre or portion over one acre
Final B4 Development Plan	\$1,000
Amend Final Site Plan of an approved B4 Development Plan (when a public hearing is not required)	\$1,000
Preliminary B5 Development Plan (Includes site plan review fee)	\$1,000 + \$100/acre or portion over one acre
Final B5 Development Plan	\$1,000
Amend Final Site Plan of an approved B5 Development Plan (when a public hearing is not required)	\$500
Preliminary Community Unit Plan (Includes site plan review fee)	\$1,000 + \$20/dwelling unit
Final Community Unit Plan (Type A, single- or multi-family)	\$100/Lot + 1.25% of public improvement guarantee + \$30/foot sidewalk waiver fee
Amend Site Plan of an approved Community Unit Plan Type A	\$500
Final Community Unit Plan (Type C, multi-family)	\$500 + 1.25% of public improvement guarantee
Amend Site Plan of an approved Community Unit Plan Type C	\$500
Preliminary Subdivision Plat	\$500/Lot
Final Subdivision Plat	\$100/Lot + 1.25% of public improvement guarantee + \$30/foot sidewalk waiver fee
Amend Final Development Plan of approved subdivision plat	\$200

**BUILDINGS, CONSTRUCTION AND HOUSING**

<b>ITEM</b>	<b>FEE</b>
Consolidation Plat or Boundary Adjustment Plat	\$100 + \$500 Deposit for copy of recorded plat to City
Condominium Plat	\$100 + \$500 Deposit for copy of recorded plat to City
New Single-Family Residential Site Plan Review	\$500 with submittal of performance guarantee
Vacation of Easement	\$75
Vacation of Dedicated Public Right-of-Way	\$100
Letter of Credit (performance guarantee) Extension	\$100

(Ord. No. 9255, §1, 6-5-03; Ord. No. 9463, §1, 3-3-05; Ord. No. 9611, §1, 8-3-06; Ord. No. 9702, §1, 9-20-07)

**MECHANICAL**

**Sec. 5-110. Mechanical equipment permit fees.**

A processing fee of twenty-five dollars (\$25) shall be charged for each permit processed. At the option of the city the mechanical permit fee may be calculated by either the cost of construction method as outlined in section 5-103 or by use of the following schedule of unit prices except that all integrated permits shall be priced as provided in section 5-103.

- (1) Forty-eight dollars (\$48) for each of the first five (5) of the following units and six dollars (\$6) for each additional unit:

Duct furnace	Blower
Duct heater	Fan
Forced air furnace	Broiler
Gravity air furnace	Fryer, fat
Radiant heating system	Griddle
Space heater	Grill
Unit heater	Kettle (gas-fires)
Conveyor (power-operated)	Oven (baking or roasting)
Range (commercial size)	Dry cleaning unit
Refuse chute	Infrared heater
Crematory	Water heaters over 20 gallons
Fireplace	Storage tanks
Incinerator	Unfired pressure vessel
Kiln	Tanks over 500 gallons
Fire damper	Cooling towers
Smoke damper	Emergency generators
Clothes dryer	Makeup air heater

- (2) For each unit of the following categories of mechanical equipment, on commercial and industrial work, inspection and review fee shall be as follows:

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*Air conditioning and air handling ventilating units: Fee*

Up to 10,000 cfm system.....	\$ 48
10,001 to 15,000 cfm system.....	60
Over 15,000 cfm system.....	72

(3) *Boilers:*

Low pressure heating boilers (steam fifteen (15) psig or less, hot water one hundred sixty (160) psig or less, and less than two hundred fifty (250) degrees Fahrenheit):

*Unit Input Capacity Fee*

Less than 500 MBH.....	\$ 48
501 to 1,000 MBH.....	60
Over 1,000 MBH.....	72

High pressure boilers (steam over fifteen (15) psig, hot water over one hundred sixty (160) psig and over two hundred fifty (250) degrees Fahrenheit):

*Unit Heating Surface Capacity Fee*

Less than 200 sq. feet .....	\$ 48
201 to 2,000 sq. feet .....	60
Over 2,000 sq. feet .....	72

*Note:* 33,475 Btu = 1 hp (boiler horsepower) 240 Btu — 1 edr (equivalent direct radiations)

*Elevators, escalators, and Moving walks: (BY ST. LOUIS COUNTY)*

*Exhaust systems:*

*Unit Description Fee*

Commercial hood exhaust .....	\$ 48
Smoke removal exhaust.....	48
Dust and/or vapor exhaust.....	48

*Refrigerator systems:*

*Unit Description Fee*

Up to 100 tons .....	\$ 48
Up to 300 tons .....	60
301 to 1,000 tons .....	72
Over 1,000 tons .....	84

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- (4) The minimum total permit fee shall be fifty dollars (\$50) where no plan review is required, and seventy-two (\$72) where plan review is required.

Sec. 5-111. Self-contained prefabricated fireplace permit fees.

Permit processing, plan review and inspection charges for the installation, modification, or replacement of self-contained, prefabricated fireplaces, in projects not subject to integrated permit, shall be covered by a permit fee of sixty-two (\$62) which shall include one (1) inspection. A forty-eight dollar (\$48) fee shall be charged for each additional inspection required.

Sec. 5-112. Replacement of heating and air conditioning equipment permit fees.

Permit processing and inspection charges for replacement of heating and air conditioning equipment shall be sixty-two (\$62) per unit which shall include one (1) inspection. A forty-eight dollar (\$48) fee shall be charged for each additional inspection required.

Sec. 5-113. Mechanical periodic inspection fees.

Inspection and processing charge for mechanical periodic inspections at the frequency required by the Mechanical Code shall be covered by inspection fees as follows:

Table with 2 columns: Type of Equipment or Devices and Inspection Per Unit. Lists various mechanical equipment and their corresponding inspection fees, such as Air handlers (\$72), Boilers (72), and Refrigeration units (60-90).

BUILDINGS, CONSTRUCTION AND HOUSING

PLUMBING

Sec. 5-114. Plumbing inspection and permit fees.

(a) Calculation of fee. At the option of the city the plumbing or sewer permit fee may be calculated by either the cost-of-construction method as outlined in section 5-103 or by use of the following schedule of unit prices except that all integrated permits shall be priced as provided above in section 5-103.

(b) Processing fee; minimum fees. All permits, except domestic water heater replacements, shall be subject to a twenty-five dollar (\$25) permit processing fee. The minimum total permit fee shall be thirty dollars (\$30.00) where no plan review is required, and seventy-two dollars (\$72) where plan review is required.

(c) General inspection fees. General inspection fees for each inspection performed shall be forty-eight dollars (\$48).

- (1) All domestic water heater replacements (total fee) ..... \$ 24
- (2) The building sewer from the building to the septic tank shall be inspected before any part of the sewer pipe is covered. All filter trenches, absorption trenches and filter beds shall be inspected as the work progresses and in accordance with the schedule outlined below:
  - Inspection fees for each inspection of a sewage disposal system.....48
  - Extra fee or additional inspection fee .....48
  - Inspection of pipes for sewer mains, trunks, laterals and appurtenances per lineal foot: In addition to general inspection fee of \$48, \$0.36 per foot with a minimum charge of \$50.
  - Inspection of manholes, lampholes or catch basins: In addition to general inspection fee of \$48, \$6 per manhole, lamphole, or catch basin with a minimum charge of \$18.
  - Plumbing fixtures .....5
  - Openings for future fixtures .....5
  - Advising or investigation inspections .....48
  - Any additional inspections or reinspections of any work listed on the above schedule .....48

ELECTRIC

Sec. 5-115. Electric fee schedule.

**BUILDINGS, CONSTRUCTION AND HOUSING**

(a) *Calculation of fee.* At the option of the applicant, permit and inspection fees for all electrical work shall be calculated by the cost of construction method as outlined in section 5-103 or by use of the following schedule of unit prices, except that integrated permits shall be priced as provided in section 5-103. General inspection fees for each inspection performed shall be forty-eight dollars (\$48).

(b) A permit processing fee of \$25 shall be charged for each permit processed.

**ELECTRICAL PERMIT FEES**

<i>Item</i>	<i>First Unit</i>	<i>Each Additional Unit</i>
Electrical outlets (see note 1) .....	\$ 6.00	\$ 0.40
Elevators: a. Per floor.....	5.00	0.40
b. Per car.....	5.00	0.40
Service equipment (see note 2)		
a. Applied to service up to and including 200 ampere .....	8.00	4.00
b. Service over 200 ampere and up to and including 400 ampere .....	15.60	7.00
c. Service over 400 ampere .....	39.60	13.00
Motors: a. Less than 5 h.p. ....	6.00	0.40
b. 5 h.p. or greater .....	6.00	3.00
Panel board switches/switchboard sections.....	6.00	3.00
Transformers .....	8.00	3.00
X-rays .....	8.00	7.00
Carnivals, per each new location.....	<i>(Under St. Louis County Permit for amusement rides)</i>	
Residential new construction	Integrated permit	
Residential rewire:		
a. Service installed.....	\$ 24.00	\$16.00
b. Service not installed .....	24.00	10.00
Reinspections:		
a. Union electric .....	15.60	
b. Disconnected service.....	24.00	
c. Old installations.....	24.00	
Communication systems:		
a. Amplifiers.....	8.00	1.00
b. Telephones .....	8.00	1.00
c. Television antenna.....	8.00	1.00
d. Burglar alarm.....	8.00	N/A
Cable television:		
a. Head-end station, per street mile .....	3.60	
b. Power booster.....	31.20	31.00
Electric heat, per 10 kw .....	4.80	1.00

(b) ..... *Notes.*

(1) *Electrical outlets.* Each and every point on the electrical system where power or light is derived for any purpose whatsoever. In computing outlets for fluorescent fixtures, each fixture shall be counted as an electrical outlet.

## BUILDINGS, CONSTRUCTION AND HOUSING

- (2) *Service equipment.* Each and every point on the electrical system where power is derived from the public utility system or a private generating plant.

(Ord. No. 8592, §1, 3-20-97; Ord. No. 8593, §1, 3-20-97; Ord. No. 8594, §1, 3-20-97; Ord. No. 8756, §1, 9-17-98; Ord. No. 9244, §1, 4-3-03)