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# Report of Final Codification Changes Recodification Project

*PREPARED FOR:*

*City of Bolivar, MO*

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## **INTRODUCTION**

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### **Report**

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This report is based on the Editorial and Code Analysis completed by City Officials and returned to General Code in February 2020, as well as the City's responses to the Final Draft questions returned in June 2020. It has been updated with decisions by the City Officials, which are indicated with *italics* after **Decision** throughout this document.

### **Legal Advice**

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Please note that it is not the intent of General Code to give legal advice or opinions by way of the Editorial and Code Analysis, but rather to provide as much information as possible to enable City Officials to make necessary decisions. Any questions as to validity or legal sufficiency of legislation, or as to interpretation of cases and statutes, will properly remain the responsibility of your Municipal Attorney.

### **Last Legislation in Code**

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*The last legislation received for Final Publication of the Code was Ord. No. 3604, adopted May 26, 2020.*

### **Process/Next Steps**

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Deliverables under the terms of the contract are ten (10) Code volumes with an Index and Title tabs.

This Report of Final Codification Changes should be kept with the Code Adoption Ordinance supplied by General Code.

After adoption, the Code will be put on the web in eCode360<sup>®</sup> format.

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## GENERAL DECISIONS

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### Reserved Chapters and Renumbering

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The City's 2009 Revised Ordinances has two Chapters (610 and 611) that are "Reserved." Because the new Code will be adopted at the end of the project, these Reserved Chapters could be removed, and subsequent Chapters in Title VI renumbered as needed.

- The Derivation Table will account for removed and renumbered Chapters.
- Older versions of the Code can always be accessed via the **Archives** tab of eCode360, at <http://ecode360.com/archives/SM3433>.

We would note that renumbering chapters or sections can affect tickets and signs, so that should be considered. However, we have made suggestions for moving and renumbering Chapters throughout this Editorial and Code Analysis. For example, see "[Organization of Title I](#)" below.

In any case, the "Editor's Notes" attached to the Reserved Chapters will be removed, as they pertain to revisions in the 2009 Revised Ordinances, which will be repealed and replaced when the new Code is adopted.

**Decision:**

*Retain these Reserved Chapters in the new Code, but remove the Editor's Notes regarding provisions of the 2009 Revised Ordinances.*

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## TITLE I, GOVERNMENT CODE

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### Organization of Title I

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The City may wish to consider reorganizing this Title. Normally we try to keep Chapters in this Title in the order of importance as follows:

Ch. 100: General Provisions (*since this applies to the entire code*) – we are including a sample revised and enhanced Chapter and we would retain Articles I and IV of the current Code.

Ch. 105: Elections (*there is no Mayor or Board without an election*) – would use R.O. 2009 Ch. 115—we are also including a sample Chapter which could be used and combined with Chapter 115.

Ch. 110: Mayor and Board of Aldermen (*first elections are for the Mayor and Board*) – we would use sections from R.O. 2009 Ch. 105 and suggested portions of our sample Code Chapter, which is included.

Ch. 115: City Officials (*then the Mayor and/or Board appoints/elects certain officials*) – we would use sections from R.O. 2009 Ch. 105 and portions of our included sample Code Chapter.

Ch. 120 et seq.: *No proposed numbering changes to the rest of the Chapters in Title I*

If the City decides to reorganize some of the Chapters in this Title, we will provide the City with a Derivation Table to indicate where R.O. 2009 provisions are placed in the Code. This will assist the City in locating any material previously contained in the Code.

See the notes below regarding the samples suggested and included with this Analysis.

#### Decision:

*Reorganize the Chapters in Title I as set out above.*

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### Chapter 100, General Provisions

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See the **Samples** tab of the Codification Portfolio. We are including a sample “General Provisions” Chapter 100C which contains statutory and non-statutory provisions. If the City chooses to include this sample Chapter, we will retain Sections 100.020 and all of Article IV of the 2009 Revised Ordinances and place them appropriately in the newly proposed Code. This sample Chapter is similar but has some updates to this material.

#### Decision:

*Include the sample “General Provisions” Chapter 100C in the new Code to replace Articles I through III, except integrate Section 100.020 and all of Article IV from the 2009 Revised Ordinances in the new Chapter.*

### Article III, Penalty

Section 100.220 contains general penalty provisions which derive from Section 79.470, RSMo. Note that Senate Bills 5 and 572 adopted in 2015 and 2016 have set out different penalties in certain circumstances,



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which the City may want to review. The City's Attorney should assist the City in making a decision regarding these provisions and how to include them in the Code.

**479.350. DEFINITIONS.**

*For purposes of sections 479.350 to 479.372, the following terms mean:*

- (1) "Annual general operating revenue," revenue that can be used to pay any bill or obligation of a county, city, town, or village, including general sales tax; general use tax; general property tax; fees from licenses and permits; unrestricted user fees; fines, court costs, bond forfeitures, and penalties. Annual general operating revenue does not include designated sales or use taxes; restricted user fees; grant funds; funds expended by a political subdivision for technological assistance in collecting, storing, and disseminating criminal history record information and facilitating criminal identification activities for the purpose of sharing criminal justice-related information among political subdivisions; or other revenue designated for a specific purpose;*
- (2) "Court costs," costs, fees, or surcharges which are retained by a county, city, town, or village upon a finding of guilty or plea of guilty, and shall exclude any costs, fees, or surcharges disbursed to the state or other entities by a county, city, town, or village and any certified costs, not including fines added to the annual real estate tax bill or a special tax bill under section 67.398, 67.402, or 67.451;*
- (3) "Minor traffic violation," a municipal or county traffic ordinance violation prosecuted that does not involve an accident or injury, that does not involve the operation of a commercial motor vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one to four points to a person's driving record upon conviction. Minor traffic violation shall include amended charges for any minor traffic violation. Minor traffic violation shall exclude a violation for exceeding the speed limit by more than nineteen miles per hour or a violation occurring within a construction zone or school zone;*
- (4) "Municipal ordinance violation," a municipal or county ordinance violation prosecuted for which penalties are authorized by statute under sections 64.160, 64.200, 64.295, 64.487, 64.690, 64.895, 67.398, 71.285, 89.120, and 89.490. Municipal ordinance violation shall include amended charges for municipal ordinance violations.*

*479.353. CONDITIONS. — Notwithstanding any provisions to the contrary, the following conditions shall apply to minor traffic violations and municipal ordinance violations:*

- (1) The court shall not assess a fine, if combined with the amount of court costs, totaling in excess of:*
  - (a) Two hundred twenty-five dollars for minor traffic violations; and*
  - (b) For municipal ordinance violations committed within a twelve month period beginning with the first violation: two hundred dollars for the first municipal ordinance violation, two hundred seventy-five dollars for the second municipal ordinance violation, three hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars for the fourth and any subsequent municipal ordinance violations;*
- (2) The court shall not sentence a person to confinement, except the court may sentence a person to confinement for any violation involving alcohol or controlled substances, violations endangering the health or welfare of others, or eluding or giving false information to a law enforcement officer;*

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- (3) A person shall not be placed in confinement for failure to pay a fine unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court;*
- (4) Court costs that apply shall be assessed against the defendant unless the court finds that the defendant is indigent based on standards set forth in determining such by the presiding judge of the circuit. Such standards shall reflect model rules and requirements to be developed by the supreme court; and*
- (5) No court costs shall be assessed if the defendant is found to be indigent under subdivision (4) of this section or if the case is dismissed.*

**Decision:**

*Revise this Section as follows:*

- *Add new Subsections (A) and (B) as set out in the Code.*
- *Add “Subject to the provisions of Subsection (B) of this Section,” to the beginning of sample Subsection (A), make additional minor revisions as set out in the Code, and renumber as Subsection (C).*
- *Renumber sample Subsections (B) and (C) as Subsections (D) and (E).*

**Article IV, Miscellaneous Provisions**

We would retain this Article, subject to the following:

- A. The City may want to review Section 100.230 and confirm that it is still accurate. Additionally the City may want to change the reference to V.A.M.S. to read “RSMo.,” as is used in the last paragraph hereof.

**Decision:**

*Include without revision, except change the V.A.M.S. reference to “RSMo.”*

- B. Sections 100.240 and 100.250 might be better placed in a separate Chapter, possibly Chapter 117, right after the City Officials.

**Decision:**

*Move these two Sections to a new Chapter 117 named “Conflicts of Interest and Nepotism.”*

- C. Section ~~100.260~~ 100.240 would possibly be better placed in Chapter 105 of the current Code (or Chapters 110 and 115 if the City chooses to utilize the sample Chapters provided with this Analysis). This way it would be more accessible with the other duties and authorities of the Mayor, Board of Aldermen and City Administrator.

**Decision:**

*Move Subsections (B) and (C) to Chapter 110, Art. I, and move Subsection (D) to Chapter 115, Art. V.*

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**~~Chapter 105, City Officers~~*****Chapter 110, Mayor And Board Of Aldermen; Chapter 115, City Officials***

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- A. See the **Samples** tab of the Codification Portfolio. We are including two sample Chapters: Chapter 110C, Mayor and Board of Aldermen, and Chapter 115C, City Officials, which the City may want to review for possible replacement of portions of this Chapter 105.
- All of the provisions of Article I of sample Chapter 110C are statutory so the City may want to include at least this Article and add material from Chapter 105 into this Chapter/Article.
  - See notes below for additional notes regarding retained Sections in this Chapter.

**Decision:**

*Include sample Chapters 110C and 115C in lieu of current Chapter 105. Any desired revisions (beyond those addressed below) are marked on the attached document.*

**Decision With Final Draft:**

*In Section 115.020, delete “Night Watchman,” and change “Street Commissioner” to “Public Works Director” in the first sentence and delete the portion of the last sentence reading “... and the person elected Marshal may be appointed to and hold the office of Street Commissioner.”*

**Additional Decision:**

*Revise sample Section 115C.060 to read as follows:*

***115C.060. Salaries Fixed By Annual Budget***

*All of the officers and employees of the City will receive such compensation and benefits as will be determined by the Board of Aldermen and set for budget as adopted by ordinance. Notwithstanding the foregoing provisions, the salary of an officer will not be changed during the time for which he or she was elected or appointed.*

- B. We would retain the City’s material from Sections 105.010 to 105.014 (these Sections would be retained and replace the non-statutory provisions in Article II of sample Chapter 110C).

**Decision:**

*Include R.O. 2009 Sections 105.010 to 105.014 in Article II of sample Chapter 110C.*

- C. Section 105.015 should be reviewed for current accuracy as to the Aldermen’s salaries. Note that the Mayor’s salary is also set out in Section 105.020. We generally suggest placing something of this nature in only one place so that there is no possibility of conflict when updating one Section and not the other going forward. Additionally note that Sample Section 115C.060 sets out the statutory language regarding salaries. The specific salaries are often not contained in the Code.

**Decision:**

*Include only the sample Chapter language; City wishes to delete specific salaries from the Code.*

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- D. Section 105.020 is for the most part addressed in sample Chapter 110C. Also note that the provisions in this Section set out requirements dating back to the 1999 election. Most of Subsection (A) is no longer needed since these provisions no longer appear to be current. This Section should be reviewed and the City should determine what is to be retained, if anything. Note if the sample Chapter 110C is used, see Sections 110C.040 and 110C.060. The salary as noted above is addressed in Section 105.015.

**Decision:**

*City will use the sample Chapter 110C without revision.*

**Additional Decision:**

*Delete R.O. 2009 Section 105.030.*

- E. If the sample Chapter 115C is retained, Section 105.035 would be moved to sample Chapter 115C as an added Article for City Administrator, along with Section 100.260(D) of the current Code.

**Decision:**

*City will use sample Chapter 115C and this should be added.*

- F. Section 105.040 is statutorily compliant, and if the City chooses to use sample Chapter 115C, we would replace the statutory provisions in Section 115C.090 with Sections 105.040 and 105.050.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Sections 105.040 and 105.050 as noted above.*

- G. Section 105.060 does not appear to conflict with statute, and if the City chooses to use the sample Chapter 115C, we would replace the provisions in Section 115C.110, 115C.120 and 115C.140 with Section 105.060. We would retain the statutory provisions of sample Section 115C.130 which appear to require an annual reporting by the Collector.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.060 as noted above.*

- H. Section 105.070 does not appear to conflict with statute, and if the City chooses to use the sample Chapter 115C, we would combine these provisions and those in the statutory provisions of sample Section 115C.100 which appear to set out certain duties for the Treasurer that are not contained herein.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.070 as noted above. Do not include R.O. 2009 Section 105.070(D), as that Subsection is covered by sample Section 115C.060.*

- I. If the City chooses to use sample Chapter 115C, Section 105.080 would be moved to sample Chapter 115C as an added Article for Public Works Director.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.080 as noted above.*

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- J. If the City chooses to use sample Chapter 115C, Section 105.085 would be moved to sample Chapter 115C as an added Article for Building Inspector.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.085 as noted above.*

- K. If the City chooses to use sample Chapter 115C, Sections 105.090 and 105.095 would replace sample Section 115C.150. Please note that the City may want to add the qualification that “No person shall be appointed to the office of City Attorney unless he/she be a licensed and practicing attorney at law in this State.”

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Sections 105.090 and 105.095 AND add the additional qualification sentence as noted above.*

**Additional Decision:**

*Include R.O. 2009 Section 105.097, Finance Director, as a new Article in sample Chapter 115C.*

- L. Section 105.100.

- (1) If the City chooses to use sample Chapter 115C, Section 105.100 would be moved to sample Chapter 115C as an added Article for Chief of Police.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.100 as noted above.*

- (2) It also appears that some of the language in Section 105.100 related to the change from an elected to appointed official could be deleted at this time, as indicated by strikethrough:

B. Appointment Of Chief Of Police. ~~The term of the Chief of Police holding office prior to the annual municipal election in 2013 will expire at the first (1st) regular meeting of the Board of Aldermen following the annual municipal election in 2013. Beginning as of the first (1st) regular meeting of the Board of Aldermen following the annual municipal election in 2013,~~ the Chief of Police will be appointed as follows: The Mayor of the City of Bolivar will nominate a person who will be at least twenty-one (21) years of age to be Chief of Police, which nomination will thereupon be submitted to the Board of Aldermen for its approval or disapproval. Confirmation of the nomination by the Board of Aldermen will be by the majority vote of the Board of Aldermen of the City of Bolivar present at such meeting. The Chief of Police will hold office until his or her death, resignation or removal from office.

D. Vacancy. ~~Any vacancy in the office of the Chief of Police occurring prior to the first (1st) regular meeting of the Board of Aldermen following the annual municipal election in 2013 will be filled consistent with the provisions of Section (B) above, to be effective for the remainder of the term ending at the first (1st) regular meeting of the Board of Aldermen following the annual municipal election in 2013. Any vacancy in the office of the Chief of Police occurring after the first (1st) regular meeting of the Board of Aldermen following the~~

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~~annual municipal election in 2013~~ will be filled consistent with the provisions of Subsection (B) above ~~without regards to a set "term"~~.

**Decision:**

*Revise as suggested.*

- M. If the City chooses to use sample Chapter 115C, Section 105.111 would be moved to sample Chapter 115C as an added Article for Fire Chief.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.111 as noted above.*

- N. If the City chooses to use sample Chapter 115C, Section 105.112 would be moved to sample Chapter 115C as an added Section to Article I, General Provisions.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.112 as noted above.*

- O. If the City chooses to use sample Chapter 115C, Section 105.115 would be moved to sample Chapter 115C as an added Section to Article I, General Provisions.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.115 as noted above.*

- P. If the City chooses to use sample Chapter 110C, Section 105.116 would be moved to sample Chapter 110C as an additional section in Article I, Mayor and Board of Aldermen — Generally.

**Decision:**

*City will use sample Chapter 110C; include R.O. 2009 Section 105.116 as noted above.*

- Q. Note that Section 105.120(A) appears to be missing some wording from the similar statutory Section 79.240, RSMo., which was added in the 2013 Legislative Session, and which is set out below. If the City chooses to use sample Chapter 115C, we would include the new language and retain Subsections 105.120(B) through (F). Please note that these Subsections date back to 1896. The City may want to review these procedures and confirm they are still current.

***79.240. Removal of Officers.***

*A. The Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office, for cause shown, any elective officer of the City, such officer being first given opportunity, together with his/her witnesses, to be heard before the Board of Aldermen sitting as a Board of Impeachment. Any elective officer, including the Mayor, may in like manner, for cause shown, be removed from office by a two-thirds vote of all members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation. The Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office any appointive officer of the City at will, and any such appointive officer may be so removed by a two-thirds vote of all the members elected to the Board of Aldermen, independently of the Mayor's*

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*approval or recommendation. The Board of Aldermen may pass ordinances regulating the manner of impeachments and removals.*

*B. Nothing in this Section shall be construed to authorize the Mayor, with the consent of the majority of all the members elected to the Board of Aldermen, or the Board of Aldermen by a two-thirds vote of all its members, to remove or discharge any chief, as that term is defined in Section 106.273, RSMo. (RSMo. §79.240, 2013)*

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.120, with the new statutory language and revisions noted above.*

- R. If the City chooses to use sample Chapter 115C, Section 105.130 would be moved to sample Chapter 115C as an added Section to Article I, General Provisions.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.130 as noted above.*

- S. If the City chooses to use sample Chapter 115C, Section 105.140 would be moved to sample Chapter 115C as an added Section to Article I, General Provisions.

**Decision:**

*City will use sample Chapter 115C; include R.O. 2009 Section 105.140 as noted above.*

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**Chapter 115 105, Elections**

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**Article I, Generally**

- A. See the **Samples** tab of the Codification Portfolio. We are including a sample Chapter 105C, "Elections," which sets out the notice requirements and the elected officials terms and years of election. We would retain the Ward descriptions from this Chapter as an added Article II of the sample Chapter 105C and any additional Sections from this Chapter that the City wishes to retain. Please review and advise.

**Decision:**

*No revision desired; the City is not changing this Chapter 115 (now Chapter 105 as indicated previously in this Analysis), except as noted below.*

**Decision With Final Draft:**

*Add Section 105C.020 of sample Chapter 115C as a new section (Section 105.017).*

- B. Note additionally that Section ~~115~~ 105.020(B) references Section 115.342, RSMo., which was repealed in 2015. The City may want to review Section 105C.035 of the sample Chapter which derives from Section 115.306, RSMo., and within said Section references Section 115.349, RSMo.

**Decision:**

*Change "Section 115.342, RSMo" to read "Section 115.349, RSMo."; City is retaining this Chapter.*

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- C. Note that Section ~~445~~ 105.050 is contained in Chapter 110C of the sample Chapters provided. This Section derives from Section 79.070, RSMo., and in 2013 this statutory Section was revised to change the age requirement to 18 years of age. If Section ~~445~~ 105.050 is retained then City should change this age requirement to conform to State law.

**Decision:**

*Change 21 to 18 in Section 105.050; City is retaining this Chapter.*

**Chapter 120, Open Meetings and Records Policy**

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See the **Samples** tab of the Codification Portfolio. We are including an updated sample Chapter 120 on “Open Meetings and Records Policy,” which has been statutorily updated as recently as 2016. If this sample Chapter is used we will include Section 120.025 of the City’s current Chapter, since it is outside the scope of the sample Chapter.

**Decision:**

*Retain the sample Chapter 120 and add R.O. 2009 Section 120.025.*

**Chapter 125, Municipal Court**

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See the **Samples** tab of the Codification Portfolio. We have included a sample Chapter 125 “Municipal Court” for the City to review against the 2009 Revised Ordinances Chapter and any notes made below. If the sample is used we will adjust it to reflect any additional provisions the City has in its current Chapter.

**Decision:**

*Use the sample Chapter 125 and adjust it to reflect any additional provisions in the City’s current Chapter.*

**Article I, General Provisions**

- A. Chapter 125 of the City’s current Code does not contain the statutory provisions of Section 479.010, RSMo., set out below (and which are covered in the sample Chapter as well). The City may want to consider including this Section if the sample Chapter is not used.

***479.010. Violation of municipal ordinances, jurisdiction.***

*Violations of municipal ordinances shall be heard and determined only before divisions of the circuit court as hereinafter provided in this chapter. "Heard and determined," for purposes of this chapter, shall mean any process under which the court in question retains the final authority to make factual determinations pertaining to allegations of a municipal ordinance violation, including, but not limited to, the use of a system of administrative adjudication as provided in section 479.011, preliminary to a determination by appeal to the court in question. (L. 1978 H.B. 1634, A.L. 2007 H.B. 795 merged with S.B. 22)*



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**Decision:**

*N/A; City will use the sample Chapter.*

- B. As regards Section 125.040, the City may want to review the similar statutory provisions of Section 479.020.9, RSMo., which was amended in 2016 to include the following qualification:

*9. No municipal judge shall serve as a municipal judge in more than five municipalities at one time.*

**Decision:**

*N/A; City will use the sample Chapter.*

- C. As regards Section 125.160, note that the similar statutory provisions of Section 479.170, RSMo., were amended in 2010 to add provisions as set out below.

***479.170. Municipal judge without jurisdiction, when, procedure.***

*1. If, in the progress of any trial before a municipal judge, it shall appear to the judge that the accused ought to be put upon trial for an offense against the criminal laws of the state and not cognizable before him as municipal judge, he shall immediately stop all further proceedings before him as municipal judge and cause the complaint to be made before some associate circuit judge within the county.*

*2. For purposes of this section, any offense involving the operation of a motor vehicle in an intoxicated condition as defined in section 577.001 shall not be cognizable in municipal court, if the defendant has been convicted, found guilty, or pled guilty to two or more previous intoxication-related traffic offenses as defined in section 577.023, or has had two or more previous alcohol-related enforcement contacts as defined in section 302.525. (L. 1978 H.B. 1634, A.L. 2010 H.B. 1695, et al.)*

**Decision:**

*N/A; City will use the sample Chapter.*

- D. Note that Section 125.240 may need to be adjusted based on Senate Bills 5 and 572 which set out new requirements in Section 479.360, RSMo., enacted in 2015 and amended in 2016. We recommend that the City review said requirements below with the City's Attorney to determine how this should be revised. This revision will need to be made in the sample Chapter as well.

***479.360. Certification of substantial compliance, filed with state auditor--procedures adopted and certified.***

*1. Every county, city, town, and village shall file with the state auditor, together with its report due under section 105.145, its certification of its substantial compliance signed by its municipal judge with the municipal court procedures set forth in this subsection during the preceding fiscal year. The procedures to be adopted and certified include the following:*

*(1) Defendants in custody pursuant to an initial arrest warrant issued by a municipal court have an opportunity to be heard by a judge in person, by telephone, or video conferencing as soon as practicable and not later than forty-eight hours on minor traffic violations and not later than seventy-two hours on other violations and, if not given that opportunity, are released;*

*(2) Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest;*

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(3) *Defendants are not detained in order to coerce payment of fines and costs unless found to be in contempt after strict compliance by the court with the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor Rule;*

(4) *The municipal court has established procedures to allow indigent defendants to present evidence of their financial condition and takes such evidence into account if determining fines and costs and establishing related payment requirements;*

(5) *The municipal court only assesses fines and costs as authorized by law;*

(6) *No additional charge shall be issued for the failure to appear for a minor traffic violation;*

(7) *The municipal court conducts proceedings in a courtroom that is open to the public and large enough to reasonably accommodate the public, parties, and attorneys;*

(8) *The municipal court makes use of alternative payment plan;*

(9) *The municipal court makes use of community service alternatives for which no associated costs are charged to the defendant; and*

(10) *The municipal court has adopted an electronic payment system or payment by mail for the payment of minor traffic violations.*

2. *On or before December 31, 2015, the state auditor shall set forth by rule a procedure for including the addendum information required by this section. The rule shall also allow reasonable opportunity for demonstration of compliance. (L. 2015 S.B. 5; A.L. 2016 S.B. 572)*

**Decision:**

*City will use the sample Chapter; add a new Subsection (C) to Section 125.260 which reads “No additional charge shall be issued for the failure to appear for a minor traffic violation.”*

**Article III, Fines and Court Costs**

- A. If the City retains its Chapter 125, you may want to combine Sections 125.300 and 125.310. Note there is duplication of the “court automation fee” which is scheduled to expire in September of 2018. Also note the “domestic violence surcharge” has changed to read “up to \$4.00” instead of the \$2.00 prior surcharge.

**Decision:**

*The City will use the sample Chapter (see next question).*

- B. If the City chooses to use the updated sample Chapter, please review all the court costs in Section 125.320 and note any that should be excluded, as well as any additional fees or costs that should be retained from the current Code.

**Decision:**

*The City will use the sample Chapter; however, Ord. No. 3600, adopted April 28, 2020, replaces the provisions in Section 125.320,*

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- C. As regards current Code Section 125.320, Ordinance Violation Surcharge, last amended in 1996, it appears this Section is longer necessary based on the costs set out in the prior Sections. It appears this Section would be superseded by those more current court costs.

**Decision:**

*N/A; see above.*

**Chapter 130, Finance and Taxation**

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**Article I, Fiscal Year****Decision With Final Draft:**

*In the new section added by the decision in Article III, A, the fiscal year is filled in to read "January 1 and end December 31."*

**~~Article I, Generally~~ Article III, General Provisions**

- A. See the **Samples** tab of the Codification Portfolio. We have included a sample Chapter 130C, "Taxation and Finance." The City may want to review the provisions of Article I and II of the sample Chapter, which include Fiscal Year and Budget requirements based for the most part on statutes. We would retain the City's current Chapter with any changes noted by the City below as subsequent Articles.

**Decision:**

*Include Articles I and II of the sample Chapter, and retain the City's current Chapter with changes noted below.*

- B. Section 130.030 of the current Code originally derived from Section 94.210, RSMo., which was repealed in 2010 with no replacement provisions. This Section may not be necessary as it appears to simply restate, at least in part, the language in Sections 130.010 and 130.020. Review and advise if this Section should be retained since its statutory counterpart was repealed.

**Decision:**

*Delete this Section.*

- C. Section 130.060 derives from Sections 94.300 and 140.100, RSMo., set out below. We note that Section 140.100, RSMo., was amended in 2010 to simplify its language. The City may want to review and revise this Section in line with said amendments. Section 94.300, RSMo. contains only the first phrase of this Section. The rest is based on Section 140.100, RSMo.

***140.100. Penalty against delinquent lands.***

*1. Each tract of land in the back tax book, in addition to the amount of tax delinquent, shall be charged with a penalty of eighteen percent of each year's delinquency except that the penalty on lands redeemed prior to sale shall not exceed two percent per month or fractional part thereof.*

...

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*(R.S.1939, §§ 11117, 11124. Amended by L.1945, p. 1910; 1949, S.B. No. 1024; L.1982, H.B.Nos. 1351, 1464 & 1507, p. 316, § 1; L.1999, S.B. No. 76, § A; L.2010, H.B. No. 1316, § A; L.2017, S.B. No. 62, § A, eff. Jan. 1, 2018.)*

**City of Bolivar, Missouri****94.300. Taxes delinquent January first.**

*Upon the first day of January of each year all unpaid city taxes shall become delinquent, and the taxes upon real property are hereby made a lien thereon.*

*(RSMo 1939 § 7145) Prior revisions: 1929 § 6995; 1919 § 8446; 1909 § 9348*

**Decision:**

*Retain the first phrase as Subsection (A) and insert Section 140.100.1, RSMo., as Subsection (B).*

**Article II IV, City Sales Taxes**

Have all the taxes been included as set forth in Sections ~~130.070~~ 130.120 through ~~130.110~~ 130.170, and are they all current?

**Decision:**

*No revision desired.*

**Article III V, Enhanced Enterprise Zone**

Section ~~130.120~~ 130.180 indicates that the Enhanced Enterprise Zone application is on file in the City office. Note that if the City would like this document to be available to the public more easily, it would be possible to place it online with eCode360<sup>®</sup> by placing it in the Public Documents area and then attaching a link within the Code. This would involve a change to the premium level of eCode. If the City is interested in knowing more about this we can contact the City and demonstrate how this can be done. This would not incur any additional page charges but would raise the annual eCode price slightly.

**Decision:**

*City does not need the Enhanced Enterprise Zone application to be online.*

**Chapter 135, Depository for City Funds**

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Due to the age of the provisions in this Chapter, the City may want to review this for current policy.

**Decision:**

*No revision desired.*

**Chapter 140, Airport**

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Due to the age of the provisions in this Chapter, the City may want to review this for current policy.

**Decision:**

*No revision desired.*

## Chapter 145, Bidding and Purchasing Procedures

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This Chapter has been amended as recently as 2013.

**Decision:**

*Revise Section 145.010(A)(1) as follows:*

*...When a purchase order is ~~used~~ required, the Mayor, City Administrator or Mayor ~~their designee shall sign and the City Clerk's office~~ shall attest that the appropriate amount of money has been budgeted... All purchases of goods and/or services... or such other persons as the City Administrator or Mayor may authorize ~~in writing~~. ...such person must first verify with the ~~City Clerk~~ City Administrator or their designee that the appropriate amount of money has been budgeted...*

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## TITLE II, PUBLIC HEALTH, SAFETY AND WELFARE

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### Chapter 200, Law Enforcement and Fire Mutual Aid

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See Section 200.010. Note that the similar statutory provisions of Section 70.820, RSMo., appear to set out some additional provisions which the City may want to review and possibly include.

***70.820. Authority of peace officers to respond to emergencies outside jurisdiction--definitions--authority of certain peace officers--authority of federal law enforcement officers.***

1. Any law enforcement officer as defined by section 556.061, full-time peace officer as defined by section 590.100, of a county or a full-time peace officer of any political subdivision who is certified pursuant to chapter 590, or a chief executive officer as defined by section 590.100, of a county or any political subdivision, certified pursuant to chapter 590 shall have the authority to respond to an emergency situation outside the boundaries of the political subdivision from which such peace officer's authority is derived. This section does not apply to any peace officer certified pursuant to subsection 6 of section 590.105.

2. Before a peace officer shall have the authority to respond to an emergency situation outside the boundaries of the political subdivision from which the officer's authority is derived pursuant to subsection 1 of this section, the authority shall be first authorized by ordinance, order, or other ruling by the governing body of the political subdivision from which the officer derives such officer's authority and by the governing body of the political subdivision in which the emergency situation is alleged to be occurring and by the board of police established by section 84.020 or by the board of police commissioners established by section 84.350 if the officer derives his authority from either board or if the emergency situation is alleged to be occurring within the jurisdiction of either board.

3. As used in this section, "emergency situation" means any situation in which the law enforcement officer has a reasonable belief that a crime is about to be committed, is being committed, or has been committed involving injury or threat of injury to any person, property, or governmental interest and such officer's response is reasonably necessary to prevent or end such emergency situation or mitigate the likelihood of injury involved in such emergency situation. The determination of the existence of any emergency situation shall be in the discretion of the officer making the response or in the discretion of an officer or governmental officer of the political subdivision in which the emergency situation is alleged to be occurring.

4. As used in this section, "response" shall mean to take any and all action which the officer may lawfully take as if exercising his powers within his own jurisdiction.

5. In addition to the emergency response powers prescribed in subsection 1 of this section, any peace officer of a county of the first classification with a charter form of government, or any peace officer of any political subdivision within any county of the first classification with a charter form of government, or any peace officer of any city not within a county, who has completed the basic peace training program pursuant to chapter 590 may arrest persons who violate any provision of state law within the boundaries of any county of the first classification or of any city not within a county.

6. In addition to the powers prescribed in subsections 1 and 5 of this section, section 544.216, and any other arrest powers, a law enforcement officer or federal law enforcement officer as defined in subsection 8 of this section, may arrest on view, and without a warrant, at any place within this state, any person the officer sees asserting physical force or using forcible compulsion for the purpose of

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*causing or creating a substantial risk of death or serious physical injury to any person or any person the officer sees committing a dangerous felony as defined in section 556.061. Any such action shall be deemed to be within the scope of the officer's employment.*

7. *To provide assistance to law enforcement officers, a federal law enforcement officer shall have the same authority as a law enforcement officer where:*

*(1) The federal law enforcement officer is rendering assistance at the request of any law enforcement officer of this state; or*

*(2) The federal law enforcement officer is effecting an arrest or providing assistance as part of a bona fide task force or joint investigation in which law enforcement officers of this state are participating.*

8. *A federal law enforcement officer is a person employed by the United States government who is empowered to effect an arrest with or without a warrant for violation of the United States Code and who is authorized to carry a firearm in the performance of the person's official duties as a federal law enforcement officer and includes a law enforcement officer as defined in section 556.061.(L. 1986 S.B. 450 § 19, A.L. 1987 S.B. 372, A.L. 1994 S.B. 475, A.L. 1997 H.B. 69 & 179 & H.B. 669)*

**Decision:**

*Include the underlined provisions in Subsection 3 above as new Subsection (E).*

**Chapter 210, Emergency Management**

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See Section 210.060. Note that the similar statutory Section 44.090, RSMo., was amended in 2009 to authorize a Public Safety Agency as well as the Mayor to enter into an arrangement or agreement. The City may want to revise this provision.

***44.090 Mutual Aid Agreements.***

*The executive officer of any political subdivision or Public Safety Agency may enter into mutual aid arrangements or agreements with other public and private agencies within and without the State for reciprocal emergency aid as authorized in Section 44.090, RSMo. (RSMo. §44.090, 2005, 2009)*

**Decision:**

*Change the first phrase to read “The Mayor or Public Safety Agency may enter into mutual aid arrangements or agreements .....”*

**Chapter 215, Animal Regulations**

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- A. In Section 215.010, definition of OWNER, note that in the last sentence, the wording is a bit awkward. Should it read “If an animal is ~~in~~ kept at a household...”? Please confirm deletion of the word “in.”

**Decision:**

*Revise as suggested.*



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- B. The City may wish to review the provisions of Section 578.025, RSMo., to determine if any changes are needed herein. Section 215.031(A)(5) pertains to any animal owned or trained for fighting.

***578.025. Beginning January 1, 2017--Dogfighting--penalty.***

*1. A person commits the offense of dogfighting if he or she:*

*(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog;*

*(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other; or*

*(3) Permits any act as described in subdivision (1) or (2) of this subsection to be done on any premises under his or her charge or control, or aids or abets any such act.*

*2. The offense of dogfighting is a class E felony.(L. 1984 H.B. 1210 § 1, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Add a new Section 215.033 based on the statutory provisions set out above; and revise Section 215.031(A)(5) to read “Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting, which activity is further regulated in Section 215.033 of this Chapter.”*

- C. See Section 215.035(B). The City may wish to review the provisions of this Section against Section 578.016.1, RSMo., which provides as follows:

*“Any duly authorized public health official, law enforcement official, or animal control officer may impound any animal found outside of the owned or rented property of the owner or custodian of such animal when such animal shows evidence of neglect or abuse. Any animal impounded pursuant to this section shall be: (1) If the owner can be ascertained and the animal is not diseased or disabled beyond recovery for any useful purpose, held for recovery by the owner. The owner shall be notified within five business days of impoundment by phone or by mail of the animal's location and recovery procedures. The animal shall be held for ten business days. An animal unclaimed after ten business days may be put up for adoption or humanely killed; (2) Placed in the care or custody of a veterinarian, the appropriate animal control authority or animal shelter. The animal shall not be disposed of, unless diseased or disabled beyond recovery for any useful purpose, until after expiration of a minimum of five business days, during which time the public shall have clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. After five business days, the animal may be put up for adoption or humanely killed; or (3) If diseased or disabled beyond recovery for any useful purpose as determined by a public health official, law enforcement official, veterinarian or animal control officer, humanely killed.”*

**Decision:**

*No revision desired.*

- D. See Section 215.035(E)(1). It appears that this should read “...proof of ownership”.

**Decision:**

*Revise as suggested.*

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- E. See Sections 215.040 and 215.043. Note that the statutory provisions which deal with “abuse, abandonment and neglect” have all been amended recently. Review the statutory provisions below and determine if any revisions are needed.

***578.009. Beginning January 1, 2017--Animal neglect--penalties.***

1. *A person commits the offense of animal neglect if he or she:*
    - (1) *Has custody or ownership of an animal and fails to provide adequate care; or*
    - (2) *Knowingly abandons an animal in any place without making provisions for its adequate care.*
  2. *The offense of animal neglect is a class C misdemeanor unless the person has previously been found guilty of an offense under this section, or an offense in another jurisdiction which would constitute an offense under this section, in which case it is a class B misdemeanor.*
  3. *All fines and penalties for a first finding of guilt under this section may be waived by the court if the person found guilty of animal neglect shows that adequate, permanent remedies for the neglect have been made. Reasonable costs incurred for the care and maintenance of neglected animals may not be waived. This section shall not apply to the provisions of section 578.007 or chapter 272.*
  4. *In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect to pay all reasonable costs and expenses necessary for:*
    - (1) *The care and maintenance of neglected animals within the person's custody or ownership;*
    - (2) *The disposal of any dead or diseased animals within the person's custody or ownership;*
    - (3) *The reduction of resulting organic debris affecting the immediate area of the neglect; and*
    - (4) *The avoidance or minimization of any public health risks created by the neglect of the animals.*
- (L. 1983 S.B. 211 § 3, A.L. 1994 S.B. 545, A.L. 1998 S.B. 596, A.L. 2013 S.B. 9, A.L. 2014 S.B. 491)*  
*Effective 1-01-17*

***578.011. Animal trespass, penalty.***

1. *A person is guilty of animal trespass if a person having ownership or custody of an animal knowingly fails to provide adequate control for a period equal to or exceeding twelve hours.*
2. *Animal trespass is an infraction upon first conviction and for each offense punishable by a fine not to exceed two hundred dollars, and a class C misdemeanor punishable by imprisonment or a fine not to exceed five hundred dollars, or both, upon the second and all subsequent convictions. All fines for a first conviction of animal trespass may be waived by the court provided that the person found guilty of animal trespass shows that adequate, permanent remedies for trespass have been made. Reasonable costs incurred for the care and maintenance of trespassing animals may not be waived. This section shall not apply to the provisions of section 578.007 or sections 272.010 to 272.370.(L. 2013 S.B. 9)\*Effective 10-11-13, see § 21.250. S.B. 9 was vetoed July 2, 2013. The veto was overridden on September 11, 2013*

***578.012. Beginning January 1, 2017--Animal abuse--penalties.***

1. *A person commits the offense of animal abuse if he or she:*
  - (1) *Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030;*
  - (2) *Purposely or intentionally causes injury or suffering to an animal; or*

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*(3) Having ownership or custody of an animal knowingly fails to provide adequate care which results in substantial harm to the animal.*

*2. Animal abuse is a class A misdemeanor, unless the defendant has previously been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation consciously inflicted while the animal was alive, in which case it is a class E felony.(L. 1983 S.B. 211 § 4, A.L. 1994 S.B. 545, A.L. 1996 S.B. 491, A.L. 2001 S.B. 462, A.L. 2013 S.B. 9, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Insert the three Sections above to replace Sections 215.040 and 215.043.*

- F. See Section 215.045. The similar statutory provisions of Section 578.023, RSMo., set out different requirements for this offense which the City may want to review for possible inclusion.

***578.023. Beginning January 1, 2017--Keeping a dangerous wild animal--penalty.***

*1. A person commits the offense of keeping a dangerous wild animal if he or she keeps any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, bear, nonhuman primate, coyote, any deadly, dangerous, or poisonous reptile, or any deadly or dangerous reptile over eight feet long, in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless he or she has registered such animals with the local law enforcement agency in the county in which the animal is kept.*

*2. The offense of keeping a dangerous wild animal is a class C misdemeanor.(L. 1983 S.B. 211 § 9, A.L. 2001 S.B. 462, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Replace Section 215.045 with the statutory provisions set out above.*

**Chapter 220, Refuse**

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- A. Due to the age of the enabling ordinances, the City may wish to review this Chapter in its entirety to make certain it is still current.

**Decision:**

*No revision desired, except as noted below.*

**Additional Decision:**

*In Section 220.020(F), change the reference to "Section 225.373" to "Section 225.1095."*

- B. The City may want to review the fee of \$15.00 in Section 220.030(E) to make certain the fee is still correct.

**Decision:**

*Delete Subsection (E).*

## Chapter 225, Offenses Code

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### General Notes To Chapter 225

Chapter 225 of the 2009 Revised Ordinances was repealed and replaced by Ord. No. 3221 on December 13, 2016. This new ordinance was based on SB 491, adopted in 2014 and effective as of January 1, 2017, which made substantial revisions to the State Crimes Codes.

Since preparation of the Offenses Chapter submitted to the City and adopted by Ord. No. 3221, we have made a few revisions to our Model Offenses Code.

- We added Section 225.420, based on Section 575.145, RSMo., to the end of Article III. Said Section is set out below. Does the City want this included?

***Section 225.420. Signal or Direction of Law Enforcement Officer or Firefighter, Duty To Stop, Motor Vehicle Operators and Riders of Animals — Violation, Penalty.***

*A. It shall be the duty of the operator or driver of any vehicle or any other conveyance regardless of means of propulsion, or the rider of any animal traveling on the highways of this {MuniType} to stop on signal of any Law Enforcement Officer or Firefighter and to obey any other reasonable signal or direction of such Law Enforcement Officer or Firefighter given in directing the movement of traffic on the highways or enforcing any offense or infraction.*

*B. The offense of willfully failing or refusing to obey such signals or directions or willfully resisting or opposing a Law Enforcement Officer or a Firefighter in the proper discharge of his or her duties is an ordinance violation. (RSMo. §575.145, 2002, 2014 effective 1-1-2017)*

**Decision:**

*Include the above Section.*

- We replaced the wording of Section 205.840 to comply with revisions by SB 656 of 2016, which had been vetoed but was overridden in September of 2016. See additional notes below under Article VI to assist the City in making any decisions required in this Section.

**NO DECISION REQUIRED HERE; see note at Article VI**

### Article II, Offenses Against The Person

See Section 225.200 of Ord. No. 3221. Note that the similar statutory provisions of Section 455.085, RSMo., has some additional language which the City may want to include herein.

***455.085. Beginning January 1, 2017--Arrest for violation of order--penalties--good faith immunity for law enforcement officials.***

*1. When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to domestic violence, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member,*

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*shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.*

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest, the officer is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party the officer believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims from continuing domestic violence;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved.

No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether the officer should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to domestic violence, stalking, sexual assault, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

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8. A violation of the terms and conditions, with regard to domestic violence, stalking, sexual assault, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of domestic violence, stalking, sexual assault, or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.(L. 1980 S.B. 524 § 16, A.L. 1986 S.B. 450, A.L. 1989 S.B. 420, A.L. 1993 H.B. 476 & 194, A.L. 2000 H.B. 1677, et al., A.L. 2011 S.B. 320, A.L. 2013 H.B. 215, A.L. 2014 S.B. 491, A.L. 2015 S.B. 321 merged with S.B. 341)Effective 1-01-17

**Decision:**

Add the underlined language as appropriate in Subsection (A).

**Article III, Offenses Concerning Administration of Justice**

- A. See Section 225.415 of Ord. No. 3221. There are some minor differences between this Section and the similar statutory provisions of Section 575.040, RSMo., as set out below. Also note that this offense appears to be a felony.

***575.040. Beginning January 1, 2017--Perjury--penalties.***

1. A person commits the offense of perjury if, with the purpose to deceive, he or she knowingly testifies falsely to any material fact upon oath or affirmation legally administered, in any official proceeding before any court, public body, notary public or other officer authorized to administer oaths.

2. A fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect, or did substantially affect, the course or outcome of the cause, matter or proceeding.

3. Knowledge of the materiality of the statement is not an element of this crime, and it is no defense that:

(1) The person mistakenly believed the fact to be immaterial; or

(2) The person was not competent, for reasons other than mental disability or immaturity, to make the statement.

4. It is a defense to a prosecution under subsection 1 of this section that the person retracted the false statement in the course of the official proceeding in which it was made provided he or she did so

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*before the falsity of the statement was exposed. Statements made in separate hearings at separate stages of the same proceeding, including but not limited to statements made before a grand jury, at a preliminary hearing, at a deposition or at previous trial, are made in the course of the same proceeding.*

*5. The defendant shall have the burden of injecting the issue of retraction under subsection 4 of this section.*

*6. The offense of perjury committed in any proceeding not involving a felony charge is a class E felony.*

*7. The offense of perjury committed in any proceeding involving a felony charge is a class D felony unless:*

*(1) It is committed during a criminal trial for the purpose of securing the conviction of an accused for any felony except murder, in which case it is a class B felony; or*

*(2) It is committed during a criminal trial for the purpose of securing the conviction of an accused for murder, in which case it is a class A felony. (L. 1977 S.B. 60, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Change the above underlined words.*

- B. See Section 225.420 of Ord. No. 3221. Note that the reference to Subdivisions (1) and (2) of Subsection (C) of Section 225.410 therein doesn't appear to follow the language in the similar statutory Section 575.050, RSMo. The reference would appear to be Subsections (B) and (C) of Section 225.415. Also see the minor change in Section 575.050.3, RSMo., below.

***575.050. Beginning January 1, 2017--False affidavit--penalties.***

*1. A person commits the offense of making a false affidavit if, with purpose to mislead any person, he or she, in any affidavit, swears falsely to a fact which is material to the purpose for which said affidavit is made.*

*2. The provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under subsection 1 of this section.*

*3. It is a defense to a prosecution under subsection 1 of this section that the person retracted the false statement by affidavit or testimony but this defense shall not apply if the retraction was made after:*

*(1) The falsity of the statement was exposed; or*

*(2) Any person took substantial action in reliance on the statement.*

*4. The defendant shall have the burden of injecting the issue of retraction under subsection 3 of this section.*

*5. The offense of making a false affidavit is a class C misdemeanor, unless done for the purpose of misleading a public servant in the performance of his or her duty, in which case it is a class A misdemeanor.*

*(L. 1977 S.B. 60, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Make the two changes noted above.*

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- C. See Section 225.425 of Ord. No. 3221. Note that there are recent minor changes to the statute. The City may want to bring this Section into compliance as noted below.

**575.060. Beginning January 1, 2017--False declarations--penalty.**

1. A person commits the offense of making a false declaration if, with the purpose to mislead a public servant in the performance of his or her duty, such person:

(1) Submits any written false statement, which he or she does not believe to be true:

(a) In an application for any pecuniary benefit or other consideration; or

(b) On a form bearing notice, authorized by law, that false statements made therein are punishable; or

(2) Submits or invites reliance on:

(a) Any writing which he or she knows to be forged, altered or otherwise lacking in authenticity; or

(b) Any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

2. The falsity of the statement or the item under subsection 1 of this section must be as to a fact which is material to the purposes for which the statement is made or the item submitted; and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under subsection 1 of this section.

3. It is a defense to a prosecution under subsection 1 of this section that the person retracted the false statement or item but this defense shall not apply if the retraction was made after:

(1) The falsity of the statement or item was exposed; or

(2) The public servant took substantial action in reliance on the statement or item.

4. The defendant shall have the burden of injecting the issue of retraction under subsection 3 of this section.

5. For the purpose of this section, "written" shall include filings submitted in an electronic or other format or medium approved or prescribed by the secretary of state.

6. The offense of making a false declaration is a class B misdemeanor. (L. 1977 S.B. 60, A.L. 2002 S.B. 895, A.L. 2014 S.B. 491) Effective 1-01-17

**Decision:**

Make the two changes noted above.

- D. See Section 225.430 of Ord. No. 3221. Note that the last sentence of the similar statutory provisions of Section 575.070, RSMo. is worded differently than this Section.

**575.070. Beginning January 1, 2017--Proof of falsity of statements.**

No person shall be convicted of a violation of section\* 575.040, 575.050 or 575.060 based upon the making of a false statement except upon proof of the falsity of the statement by:

(1) The direct evidence of two witnesses; or

(2) The direct evidence of one witness together with strongly corroborating circumstances; or

(3) Demonstrative evidence which conclusively proves the falsity of the statement; or

(4) A directly contradictory statement by the defendant under oath together with:

(a) The direct evidence of one witness; or

(b) Strongly corroborating circumstances; or



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*(5) A judicial admission by the defendant that he or she made the statement knowing it was false. An admission, which is not a judicial admission, by the defendant that he or she made the statement knowing it was false may constitute strongly corroborating circumstances.*(L. 1977 S.B. 60, A.L. 2014 S.B. 491) Effective 1-01-17\*Word "sections" appears in original rolls.

**Decision:**

*Insert the underlined language above to replace the last sentence of Section 225.430(A)(5).*

- E. See Section 225.445 of Ord. No. 3221. Note that the similar statutory provisions of newly revised Section 575.170, RSMo., is worded differently than this Section.

***575.170. Beginning January 1, 2017--Refusing to make an employee available for service of process--penalty.***

- 1. An employer, or agent who is in charge of a business establishment, commits the offense of refusing to make an employee available for service of process if he or she knowingly refuses to assist any officer authorized by law to serve process who calls at such business establishment during the working hours of an employee for the purpose of serving process on such employee, by failing or refusing to make such employee available for service of process.*
- 2. The offense of refusing to make an employee available for service of process is a class C misdemeanor. (L. 1977 S.B. 60, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Make the change noted above.*

- F. See Section 225.450 of Ord. No. 3221. Note that Section 575.320, RSMo., contains additional elements of this offense. The City may want to review and determine if any revisions are desired.

***575.320. Beginning January 1, 2017--Misconduct in administration of justice--penalty.***

- 1. A public servant, in his or her public capacity or under color of his or her office or employment, commits the offense of misconduct in administration of justice if he or she:*
  - (1) Is charged with the custody of any person accused or convicted of any offense or municipal ordinance violation and he or she coerces, threatens, abuses or strikes such person for the purpose of securing a confession from him or her;*
  - (2) Knowingly seizes or levies upon any property or dispossesses anyone of any lands or tenements without due and legal process, or other lawful authority;*
  - (3) Is a judge and knowingly accepts a plea of guilty from any person charged with a violation of a statute or ordinance at any place other than at the place provided by law for holding court by such judge;*
  - (4) Is a jailer or keeper of a county jail and knowingly refuses to receive, in the jail under his or her charge, any person lawfully committed to such jail on any criminal charge or criminal conviction by any court of this state, or on any warrant and commitment or capias on any criminal charge issued by any court of this state;*
  - (5) Is a law enforcement officer and violates the provisions of section 544.170 by knowingly:*
    - (a) Refusing to release any person in custody who is entitled to such release; or*
    - (b) Refusing to permit a person in custody to see and consult with counsel or other persons; or*

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(c) *Transferring any person in custody to the custody or control of another, or to another place, for the purpose of avoiding the provisions of that section; or*

(d) *Proffering against any person in custody a false charge for the purpose of avoiding the provisions of that section; or*

(6) *Orders or suggests to an employee of a county of the first class having a charter form of government with a population over nine hundred thousand and not containing any part of a city of three hundred fifty thousand or more inhabitants that such employee shall issue a certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly or other quota basis, except when such employee is assigned exclusively to traffic control and has no other responsibilities or duties.*

2. *The offense of misconduct in the administration of justice is a class A misdemeanor.(L. 1977 S.B. 60, A.L. 1993 S.B. 180, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Make all the changes noted above.*

- G. See Section 225.455 of Ord. No. 3221. Note that Section 479.360, RSMo., appears to prohibit this charge when a minor traffic violation is being charged.

***479.360. Certification of substantial compliance, filed with state auditor--procedures adopted and certified.***

1. *Every county, city, town, and village shall file with the state auditor, together with its report due under section 105.145, its certification of its substantial compliance signed by its municipal judge with the municipal court procedures set forth in this subsection during the preceding fiscal year. The procedures to be adopted and certified include the following:*

(1) *Defendants in custody pursuant to an initial arrest warrant issued by a municipal court have an opportunity to be heard by a judge in person, by telephone, or video conferencing as soon as practicable and not later than forty-eight hours on minor traffic violations and not later than seventy-two hours on other violations and, if not given that opportunity, are released;*

(2) *Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest;*

(3) *Defendants are not detained in order to coerce payment of fines and costs unless found to be in contempt after strict compliance by the court with the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor Rule;*

(4) *The municipal court has established procedures to allow indigent defendants to present evidence of their financial condition and takes such evidence into account if determining fines and costs and establishing related payment requirements;*

(5) *The municipal court only assesses fines and costs as authorized by law;*

(6) *No additional charge shall be issued for the failure to appear for a minor traffic violation;*

(7) *The municipal court conducts proceedings in a courtroom that is open to the public and large enough to reasonably accommodate the public, parties, and attorneys;*

(8) *The municipal court makes use of alternative payment plan;*

(9) *The municipal court makes use of community service alternatives for which no associated costs are charged to the defendant; and*

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(10) *The municipal court has adopted an electronic payment system or payment by mail for the payment of minor traffic violations.*

2. *On or before December 31, 2015, the state auditor shall set forth by rule a procedure for including the addendum information required by this section. The rule shall also allow reasonable opportunity for demonstration of compliance. (L. 2015 S.B. 5; A.L. 2016 S.B. 572)*

**Decision:**

*Insert a new Subsection (D) which reads "No additional charge shall be issued for the failure to appear for a minor traffic violation."*

**Article IV, Offenses Concerning Public Safety**

- A. See Section 225.570 of Ord. No. 3221. Note that the definitions in Subsection (A) of this Section have been revised in statutory Section 320.106, RSMo., since the City's last amendment to this Section. See the definition of CONSUMER FIREWORKS, in which the last phrase was deleted and the underlined language below was added. The definition of FIREWORKS has been amended to remove the last phrase included in the City's Code Section.

***320.106. Definitions.***

*As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the following terms mean:*

(1) *"American Pyrotechnics Association (APA), Standard 87-1", or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;*

(2) *"Chemical composition", all pyrotechnic and explosive composition contained in fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;*

(3) *"Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, within 49 CFR Part 172;*

(4) *"Discharge site", the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;*

(5) *"Dispenser", a device designed for the measurement and delivery of liquids as fuel;*

(6) *"Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0333 or UN0334 or UN0335, within 49 CFR Part 172;*

(7) *"Display site", the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;*

(8) *"Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;*

(9) *"Fireworks", any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer,*

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proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United States Department of Transportation hazardous materials regulations;

(10) "Fireworks season", the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;

(11) "Jobber", any person engaged in the business of making sales of consumer fireworks at wholesale or retail within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;

(12) "Licensed operator", any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

(13) "Manufacturer", any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;

(14) "NFPA", National Fire Protection Association, an international codes and standards organization;

(15) "Permanent structure", buildings and structures with permanent foundations other than tents, mobile homes, and trailers;

(16) "Permit", the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

(17) "Person", any corporation, association, partnership or individual or group thereof;

(18) "Proximate fireworks", a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as classified within 49 CFR Part 172 as UN0431 or UN0432;

(19) "Pyrotechnic operator" or "special effects operator", an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

(20) "Sale", an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;

(21) "Seasonal retailer", any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subdivision (10) of this section;

(22) "Wholesaler", any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri. (L. 1985 S.B. 76 § 1, A.L. 1987 H.B. 416, A.L. 1999 H.B. 343, A.L. 2004 S.B. 1196, A.L. 2007 S.B. 22, A.L. 2012 H.B. 1647 merged with S.B. 835) Effective 6-11-12 (S.B. 835) 7-10-12 (H.B. 1647)

**Decision:**

Make the changes noted above.

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- B. See Section 225.570(D)(2) of Ord. No. 3221. The last sentence appears to be missing some language. Should this read “*Each application shall be accompanied by a permit fee equal to one-half (½) the amount charged from time to time by the State of Missouri for the sale of consumer fireworks during the fireworks season.*”

**Decision:**

*Revise as suggested.*

**Article V, Offenses Concerning Public Peace**

Due to the age of the enabling ordinance in Section 225.750, included in Ord. No. 3221, and the fact that it is not based on a statutory Section, the City may want to review and determine if any revisions are needed.

**Decision:**

*Retain this Section without revision.*

**Article VI, Offenses Concerning Weapons And Firearms**

- A. Section 225.840 of Ord. No. 3221 derives from Section 571.030, RSMo., which is authorized and affected by Section 21.750, RSMo. Note that Section 571.030, RSMo., was further updated in 2016 after the City adopted the new Offenses Chapter. Due to the complexity of these provisions and the varying approaches to compliance with these statutory provisions, we are suggesting further review as set out below.

See the **Samples** tab of the Codification Portfolio. We have included the revised MODEL Section 210.840 (based on the entirety of amended Section 571.030, RSMo.) for comparison with Section 225.840 of Ord. No. 3321. We are suggesting the City review the revised wording and the notes below to confirm what version the City prefers and what revisions may be necessary.

We have set out Section 21.750, RSMo., below, as the City may want to FURTHER revise Section 225.840 of the Code – either the current wording OR the new Model wording – based on some of the authority allowed therein. We have underlined the additional authorities for any political subdivisions in this State, which appear to include regulations concerning open carrying of firearms readily capable of lethal use or discharge of firearms within a jurisdiction. The City should review all of this information with its Attorney and determine if any additional revisions are desired to Section 225.840.

***21.750. Firearms legislation preemption by general assembly, exceptions--limitation on civil recovery against firearms or ammunitions manufacturers, when, exception.***

*1. The general assembly hereby occupies and preempts the entire field of legislation touching in any way firearms, components, ammunition and supplies to the complete exclusion of any order, ordinance or regulation by any political subdivision of this state. Any existing or future orders, ordinances or regulations in this field are hereby and shall be null and void except as provided in subsection 3 of this Section.*

*2. No county, city, town, village, municipality, or other political subdivision of this state shall adopt any order, ordinance or regulation concerning in any way the sale, purchase,*

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*purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permit, registration, taxation other than sales and compensating use taxes or other controls on firearms, components, ammunition, and supplies except as provided in subsection 3 of this Section.*

*3. (1) Except as provided in subdivision (2) of this subsection, nothing contained in this Section shall prohibit any ordinance of any political subdivision which conforms exactly with any of the provisions of sections 571.010 to 571.070, with appropriate penalty provisions, or which regulates the open carrying of firearms readily capable of lethal use or the discharge of firearms within a jurisdiction, provided such ordinance complies with the provisions of section 252.243. No ordinance shall be construed to preclude the use of a firearm in the defense of person or property, subject to the provisions of chapter 563.*

*(2) In any jurisdiction in which the open carrying of firearms is prohibited by ordinance, the open carrying of firearms shall not be prohibited in accordance with the following:*

*(a) Any person with a valid concealed carry endorsement or permit who is open carrying a firearm shall be required to have a valid concealed carry endorsement or permit from this state, or a permit from another state that is recognized by this state, in his or her possession at all times;*

*(b) Any person open carrying a firearm in such jurisdiction shall display his or her concealed carry endorsement or permit upon demand of a law enforcement officer;*

*(c) In the absence of any reasonable and articulable suspicion of criminal activity, no person carrying a concealed or unconcealed firearm shall be disarmed or physically restrained by a law enforcement officer unless under arrest; and*

*(d) Any person who violates this subdivision shall be subject to the penalty provided in section 571.121.*

*4. The lawful design, marketing, manufacture, distribution, or sale of firearms or ammunition to the public is not an abnormally dangerous activity and does not constitute a public or private nuisance.*

*5. No county, city, town, village or any other political subdivision nor the state shall bring suit or have any right to recover against any firearms or ammunition manufacturer, trade association or dealer for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, distribution, or sale of firearms or ammunition to the public. This subsection shall apply to any suit pending as of October 12, 2003, as well as any suit which may be brought in the future. Provided, however, that nothing in this Section shall restrict the rights of individual citizens to recover for injury or death caused by the negligent or defective design or manufacture of firearms or ammunition.*

*6. Nothing in this Section shall prevent the state, a county, city, town, village or any other political subdivision from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the state or such political subdivision.(L. 1984 H.B. 928 § 1, A.L. 2003 S.B. 13, A.L. 2007 S.B. 225, A.L. 2014 S.B. 656)\*Effective 10-10-14, see § 21.250. S.B. 656 was vetoed July 14, 2014. The veto was overridden on September 10, 2014.*

**Decision:**

*Replace Section 225.840 of Ord. No. 3221 with the revised provisions of Model Section 210.840 from the **Samples** tab.*

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- B. Section 225.930 of Ord. No. 3221 is not based on statutory Sections. The City should review this Section and determine if it should be retained.

**Decision:**

*Exclude this Section.*

- C. Section 225.940 of Ord. No. 3221 should be reviewed against the similar statutory provisions of Section 571.070, RSMo., which appears to prohibit any firearm, not just “concealable” firearms under certain circumstances.

***571.070. Possession of firearm unlawful for certain persons--penalty--exception.***

*1. A person commits the crime of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and:*

*(1) Such person has been convicted of a felony under the laws of this state, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a felony; or*

*(2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.*

*2. Unlawful possession of a firearm is a class C felony.*

*3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the possession of an antique firearm. (L. 1981 H.B. 296, A.L. 1982 H.B. 1201, A.L. 2008 H.B. 2034, A.L. 2010 H.B. 1692, et al.) (2013) Section prohibiting persons convicted of certain felonies from possessing firearms is not an ex post facto law because it does not apply to conduct completed before its enactment. State v. Harris, 414 S.W.3d 447 (Mo.banc).*

**Decision:**

*Replace this Section with the statutory provisions set out above.*

**Article VII, Offenses Concerning Property**

- A. See Section 225.1095 of Ord. No. 3221. Is this Section possibly superseded by more recently enacted Section 225.580 “open burning” of Ord. No. 3221?

**Decision:**

*No revision desired.*

- A. See Section 225.1250 of Ord. No. 3221. The City may wish to review this Section to make certain it is still current.

**Decision:**

*No revision desired.*

- B. Sections 225.1270 and 225.1280 of Ord. No. 3221 appear to be adequately addressed by the statutory provisions contained in Section 225.1160(A)(6) and (7). Advise if these Section can be excluded.

**Decision:**

*Delete R.O. 2009 Sections 225.1270 and 225.1280.*

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- C. See Section 225.1290 of Ord. No. 3221. This Section mirrors Section 565.253, RSMo., which was repealed by SB 491 in 2014, effective January 1, 2017, with no replacement provisions. Does the City still wish to retain this Section?

**Decision:**

*Retain this Section.*

- D. Would Section 225.1310 of Ord. No. 3221 be better placed in Chapter 220 “Refuse”; possibly as part of Section 220.100 in said Chapter?

**Decision:**

*No revision desired.*

**Article IX, Sexual Offenses And Morals**

- A. See Section 225.1525 of Ord. No. 3221. Due to the age of this provision and the inclusion of statutory Sections 225.1510 and 225.1520, the City may want to review this and determine if it is still necessary.

**Decision:**

*Retain this Section without revision.*

- B. See Section 225.1527 of Ord. No. 3221. Note that the similar statutory provisions of Section 566.095, RSMo., states this is Sexual Misconduct, second degree. The City may wish to review this Section and determine if any revisions are necessary.

***566.095. Sexual misconduct, second degree, penalty.***

*1. A person commits the offense of sexual misconduct in the second degree if he or she solicits or requests another person to engage in sexual conduct under circumstances in which he or she knows that such request or solicitation is likely to cause affront or alarm.*

*2. The offense of sexual misconduct in the second degree is a class C misdemeanor. (L. 1994 S.B. 693, A.L. 2013 H.B. 215) (2002) Section does not violate the constitutional guarantee of freedom of speech. State v. Moore, 90 S.W.3d 64 (Mo.banc).*

**Decision:**

*Insert the above-noted statutory provisions to replace this Section.*

- C. Section 225.1560 of Ord. No. 3221 is not a statutory Section; does the City want to retain this Section?

**Decision:**

*Retain this Section without revision.*



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**Article X, Offenses Concerning Pornography**

- A. See Section 225.1670 of Ord. No. 3221. We carried over R.O. 2009 § 225.480 (based on a 1981 ordinance) into Ord. No. 3221. It is substantially different from our Model Article on Pornography, which we have included in the **Samples** tab of the Codification Portfolio. The City should review this Section against the sample material and determine if this Section should be retained as it is (possibly with revisions based on notes below) or if the City wants to use the Model Article or some combination of the two sets of provisions that would work best for the City.

**Decision:**

*Include the sample Article to replace this Section; disregard questions B(1) through (5) below.*

- B. If Section 225.1670 of Ord. No. 3221 **is retained**:

- (1) See Section 225.1670(A). The following definitions are stated differently in the similar statutory provisions of Section 573.010, RSMo.: NUDITY and PORNOGRAPHIC FOR MINORS.

***573.010. Beginning January 1, 2017--Definitions.***

*As used in this chapter the following terms shall mean:*

*(1) .....*

*(10) "Nudity" or "state of nudity", the showing of the human genitals, pubic area, vulva, anus, anal cleft, or the female breast with less than a fully opaque covering of any part of the nipple or areola;*

*.....*

*(14) "Pornographic for minors", any material or performance if the following apply:*

*(a) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and*

*(b) The material or performance depicts or describes nudity, sexual conduct, the condition of human genitals when in a state of sexual stimulation or arousal, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and*

*(c) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;*

*(L. 1977 S.B. 60, A.L. 1985 H.B. 366, et al., A.L. 1987 H.B. 113, et al., A.L. 1989 H.B. 225, A.L. 2000 S.B. 757 & 602, A.L. 2006 H.B. 1698, et al., A.L. 2014 S.B. 491)*

*Effective 1-01-17*

**Decision:**

*N/A; City will use the sample Article.*

- (2) See Section 225.1670(B). Note that the similar statutory provisions of Section 573.030, RSMo. appear to have been amended numerous times since the adoption of this Section. The City may want to review this and indicate what revisions should be made, if any.

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**573.030. Beginning January 1, 2017--Promoting obscenity in the second degree--penalties.**

1. A person commits the offense of promoting pornography for minors or obscenity in the second degree if, knowing of its content and character, he or she:

(1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain; or

(2) Produces, presents, directs or participates in any obscene performance for pecuniary gain; or

(3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or

(4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or

(5) Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. The offense of promoting pornography for minors or obscenity in the second degree is a class A misdemeanor unless the person has been found guilty of an offense pursuant to this section committed at a different time, in which case it is a class E felony. (L. 1977 S.B. 60, A.L. 1987 H.B. 113, et al., A.L. 2000 S.B. 757 & 602, A.L. 2009 H.B. 62, A.L. 2014 S.B. 491) Effective 1-01-17

**Decision:**

N/A; City will use the sample Article.

- (3) See Section 225.1670(C). Note that the similar statutory provisions of Section 573.040, RSMo. appear to have been amended numerous times since the adoption of this Section. The City may want to review this and indicate what revisions should be made, if any.

**573.040. Beginning January 1, 2017--Furnishing pornographic materials to minors--penalty.**

1. A person commits the offense of furnishing pornographic material to minors if, knowing of its content and character, he or she:

(1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or

(2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

(3) Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. It is not a defense to a prosecution for a violation of this section that the person being furnished the pornographic material is a peace officer masquerading as a minor.

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3. *The offense of furnishing pornographic material to minors or attempting to furnish pornographic material to minors is a class A misdemeanor unless the person has been found guilty of an offense committed at a different time pursuant to this chapter, chapter 566 or chapter 568, in which case it is a class E felony.*

(L. 1977 S.B. 60, A.L. 1987 H.B. 113, et al., A.L. 2000 S.B. 757 & 602, A.L. 2004 H.B. 1055, A.L. 2008 S.B. 714, et al., A.L. 2009 H.B. 62, A.L. 2014 S.B. 491)

*Effective 1-01-17*

**Decision:**

*N/A; City will use the sample Article.*

- (4) See Section 225.1670(D). Note that the similar statutory provisions of Section 573.050, RSMo. appear to have been amended numerous times since the adoption of this Section. The City may want to review this and indicate what revisions should be made, if any.

*573.050. Beginning January 1, 2017--Evidence in obscenity and child pornography cases.--*

*1. In any prosecution under this chapter evidence shall be admissible to show:*

*(1) What the predominant appeal of the material or performance would be for ordinary adults or minors;*

*(2) The literary, artistic, political or scientific value of the material or performance;*

*(3) The degree of public acceptance in this state and in the local community;*

*(4) The appeal to prurient interest in advertising or other promotion of the material or performance;*

*(5) The purpose of the author, creator, promoter, furnisher or publisher of the material or performance.*

*2. Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of obscenity or child pornography, shall be admissible.*

*3. In any prosecution under this chapter, when it becomes necessary to determine whether a person was less than seventeen or eighteen years of age, the court or jury may make this determination by any of the following methods:*

*(1) Personal inspection of the child;*

*(2) Inspection of the photograph or motion picture that shows the child engaging in the sexual performance;*

*(3) Oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;*

*(4) Expert medical testimony based on the appearance of the child engaging in the sexual performance; or*

*(5) Any other method authorized by law or by the rules of evidence.*

*4. In any prosecution for promoting child pornography in the first or second degree, no showing is required that the performance or material involved appeals to prurient interest, that it lacks serious literary, artistic, political or scientific value, or that it is patently offensive to prevailing standards in*

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*the community as a whole.*(L. 1977 S.B. 60, A.L. 1985 H.B. 366, et al., A.L. 1987 H.B. 113, et al., A.L. 2014 S.B. 491) Effective 1-01-17

**Decision:**

*N/A; City will use the sample Article.*

- (5) See Section 225.1670(E). Note that the similar statutory provisions of Section 573.060, RSMo. appear to have been amended numerous times since the adoption of this Section. The City may want to review this and indicate what revisions should be made, if any.

*573.060. Beginning January 1, 2017--Public display of explicit sexual material--penalties.--*

*1. A person commits the offense of public display of explicit sexual material if he or she recklessly:*

*(1) Exposes, places, exhibits, or in any fashion, displays explicit sexual material in any location, whether public or private, and in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision as viewed from a street, highway, public sidewalk, or the property of others, or from any portion of the person's store, the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public; or*

*(2) Fails to take prompt action to remove such a display from property in his or her possession after learning of its existence.*

*2. The offense of public display of explicit sexual material is a class A misdemeanor unless the person has been found guilty of an offense under this section committed at a different time, in which case it is a class E felony.*

*3. For purposes of this section, each day there is a violation of this section shall constitute a separate offense.*(L. 1977 S.B. 60, A.L. 1987 H.B. 113, et al., A.L. 2009 H.B. 62, A.L. 2014 S.B. 491)Effective 1-01-17

**Decision:**

*N/A; City will use the sample Article.*

**Article XI, Offenses Concerning Drugs And Alcohol**

- A. See Section 225.1870 of Ord. No. 3221. Note that the term “non-intoxicating beer” has been repealed from the statutes with the repeal of Chapter 312, RSMo. The City may want to remove this reference.

**Decision:**

*Remove the reference to “non-intoxicating beer”.*

- B. See Section 225.1880 of Ord. No. 3221. Note that this Section may be adequately addressed by other statutorily based Sections in this Article. Review and determine if this Section is still required. Also note that if this Section is retained, the references to Chapter 195, RSMo., should be changed to read “Chapters 195 and 579, RSMo.”

**Decision:**

*No revision desired, except to update the references as noted above.*

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- C. See Sections 225.1880 and 225.1890 of Ord. No. 3221. These Sections appear at least in part to be addressed by Sections 225.1810 and 225.1830. Also note that this seems to combine a number of statutory provisions which have been recently amended. Part of that amendment included transferring some of these provisions into a newly enacted Chapter 579, RSMo. Review the following statutory provisions and Section 225.1810 of Ord. No. 3221 and determine what revisions the City would like made herein.

***579.040. Beginning January 1, 2017--Unlawful distribution, delivery, or sale of drug paraphernalia--penalties.--***

1. *A person commits the offense of unlawful distribution, delivery, or sale of drug paraphernalia if he or she unlawfully distributes, delivers, or sells, or possesses with intent to distribute, deliver, or sell drug paraphernalia knowing, or under circumstances in which one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of this chapter.*

2. *The offense of unlawful delivery of drug paraphernalia is a class A misdemeanor, unless done for commercial purposes, in which case it is a class E felony.(L. 2014 S.B. 491)Effective 1-01-17*

***\*579.074 Beginning January 1, 2017--Unlawful possession of drug paraphernalia--penalty.***

1. *A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance or an imitation controlled substance in violation of this chapter or chapter 195.*

2. *The offense of unlawful possession of drug paraphernalia is a class D misdemeanor, unless the person has previously been found guilty of any offense of the laws of this state related to controlled substances or of the laws of another jurisdiction related to controlled substances, in which case the violation of this section is a class A misdemeanor. Prior findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.*

3. *The offense of unlawful possession of drug paraphernalia is a class E felony if the person uses, or possesses with intent to use, the paraphernalia in combination with each other to manufacture, compound, produce, prepare, test, or analyze amphetamine or methamphetamine or any of their analogues. (L. 1989 S.B. 215 & 58, A.L. 1998 H.B. 1147, et al., A.L. 2014 S.B. 491)\*Transferred 2014; formerly 195.233; Effective 1-01-17*

***579.076 Beginning January 1, 2017--Unlawful manufacture of drug paraphernalia--penalties.***

1. *A person commits the offense of unlawful manufacture of drug paraphernalia if he or she unlawfully manufactures with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of this chapter or chapter 195.*

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2. *The offense of unlawful manufacture of drug paraphernalia is a class A misdemeanor, unless done for commercial purposes, in which case it is a class E felony. (L. 1989 S.B. 215 & 58, A.L. 2001 H.B. 471 merged with S.B. 89 & 37, A.L. 2014 S.B. 491)\*Transferred 2014; formerly 195.235; Effective 1-01-17*

**Decision:**

*No revision desired.*

- D. See Sections 225.1900 and 225.1910 of Ord. No. 3221. These Sections appear at least in part to be addressed by Section 225.1830. Also note that this seems to combine a number of statutory provisions which have been recently amended. Part of that amendment included transferring some of these provisions into a newly enacted Chapter 579, RSMo. Review the following statutory provisions and Section 225.1830 of Ord. No. 3221 and determine what revisions the City would like made herein.

***579.078 Beginning January 1, 2017--Possession of an imitation controlled substance--penalty.***

1. *A person commits the offense of possession of an imitation controlled substance if he or she knowingly possesses an imitation controlled substance.*

2. *The offense of possession of an imitation controlled substance is a class A misdemeanor.(L. 1989 S.B. 215 & 58, A.L. 2014 S.B. 491)\*Transferred 2014; formerly 195.241; Effective 1-01-17*

***579.080 Beginning January 1, 2017--Delivery of an imitation controlled substance--penalty.***

1. *A person commits the offense of delivery of an imitation controlled substance if he or she knowingly delivers, possesses with intent to deliver, or causes to be delivered any imitation controlled substance.*

2. *The offense of delivery of an imitation controlled substance is a class E felony. (L. 1989 S.B. 215 & 58, A.L. 2014 S.B. 491) \*Transferred 2014; formerly 195.242; Effective 1-01-17*

**Decision:**

*No revision desired.*

**Article XII, Offenses Concerning Minors**

Due to the age of the enabling ordinances in this Article of Ord. No. 3221, the City should review this Article in its entirety. Since it is non-statutory and pertains to Curfew, the City should confirm this reflects the current policy regarding this offense.

**Decision:**

*No revision desired.*

**Article XIV, Miscellaneous Provisions**

The City should review Sections 225.2220 to 225.2230 of Ord. No. 3221 due to the age of the enabling ordinances and confirm these are currently being enforced.

**Decision:**

*Retain all the Sections in this Article of Ord. No. 3221.*

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**Chapter 230, Parks and Recreation**

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Due to the age of most of the enabling ordinances, the City may wish to review this Chapter in its entirety to make certain it is still current.

**Decision:**

*No revision desired.*

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**Chapter 235, Nuisances**

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See Section 235.010(D)(3)(c). Note that Section 140.100, RSMo., appears to allow for delinquent taxes to be charged at a different rate than the 1% set out herein. Review and advise if any revisions are needed.

***140.100. Penalty against delinquent lands.***

*1. Each tract of land in the back tax book, in addition to the amount of tax delinquent, shall be charged with a penalty of eighteen percent of each year's delinquency except that the penalty on lands redeemed prior to sale shall not exceed two percent per month or fractional part thereof.*

*2. For making and recording the delinquent land lists, the collector and the clerk shall receive ten cents per tract or lot and the clerk shall receive five cents per tract or lot for comparing and authenticating such list.*

*(RSMo 1939 §§ 11117, 11124, A.L. 1945 p. 1910, A. 1949 S.B. 1024, A.L. 1982 H.B. 1351, et al., A.L. 1999 S.B. 76, A.L. 2010 H.B. 1316) Prior revisions: 1929 § 9945; 1919 § 12937; 1909 § 11491*

**Decision:**

*No revision desired.*

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**Chapter 240, Abandoned Property**

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See the **Samples** tab of the Codification Portfolio. We are including two sample Chapters on “Abandoned Property” and “Abandoned Vehicles.” Chapter 217 is usually contained in Title II, Public Health, Safety and Welfare, while Chapter 385 is usually contained in Title III, Traffic Code. This Article appears to be similar to these Chapters and in fact may be an earlier sample. Our newer sample Chapters have been updated through statutory changes effective January 1, 2017, and would replace this Chapter. Please review and determine if these updated sample Chapters will work to replace this Chapter for the City. If both sample Chapters are not retained then adjustments will need to be made to the retained Chapter.

**Decision:**

*Retain both sample Chapters (in Title II and Title III) to replace this Chapter.*

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## **Chapter 245, ~~Fair Housing~~ Human Rights**

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This Chapter appears to be up to date based on current statutes; however, the current title of the Chapter in the Statutes is now “Human Rights.” The City may want to change the Chapter name.

**Decision:**

*Change the Chapter name to “Human Rights” to match the statute.*

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## **Chapter 250, Greenwood Cemetery**

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See Section 250.010(A). As to the definition of BURIAL SPACE, the City may wish to note the similar statutory provision of Section 214.270(3), RSMo., defines this term differently.

**214.270. Definitions.**

*As used in sections 214.270 to 214.410, the following terms mean:*

...

(3) “Burial space”, one or more than one plot, grave, mausoleum, crypt, lawn, surface lawn crypt, niche or space used or intended for the interment of the human dead;

....

(L. 1961 p. 538 § 2, A.L. 1990 H.B. 1079, A.L. 1994 S.B. 496, A.L. 1996 S.B. 494, A.L. 2002 S.B. 892, A.L. 2008 S.B. 788, A.L. 2009 S.B. 296, A.L. 2010 H.B. 1692, et al. merged with H.B. 2226, et al. merged with S.B. 754)

**Decision:**

*Insert the above definition to replace the definition in Section 250.010(A).*

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## **Chapter 255, Parades or Motorcades**

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Due to the age of the enabling ordinances herein, the City may want to review this Chapter in its entirety to confirm its current applicability. Also note that this Chapter may be better placed in Title III with the Traffic Code.

**Decision:**

*No revision desired.*

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## **Chapter 260 125, Article IV, Administrative Warrants By Municipal Court**

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Since the Administrative Warrants in this Chapter are issued by the Municipal Court, the City may want to place this as an Article in Chapter 125, Municipal Court.

**Decision:**

*No revision desired but move this to Chapter 125 as an additional Article.*



## **Chapter 270, Deer Control and Hunting Regulations**

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This Chapter is less than five years old and if it continues to meet the City's needs, no changes are recommended.

**Decision:**

*No revision desired.*

**Decision With Final Draft:**

*In the definition of "under the influence" in Section 270.010, change "Section 344.030" to "Section 342.030."*

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## TITLE III, TRAFFIC CODE

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### Notes

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A. See the **Samples** tab of the Codification Portfolio. We are including a sample statutory Traffic Code, which has been updated through the 2016 Legislative Session, which the City may wish to use as a replacement for the City's current provisions.

- The sample Traffic Code is based on statutory material as noted at the bottom of each Section and follows the City's Code fairly closely.
- We would of course add any additional Chapters/Sections from the City's Code which are not addressed in the sample Traffic Code.
- We have noted some variations from the City's Code in the notes below.
- If the City chooses to include the sample Traffic Code, note that we will be providing a Derivation Table which maps where the City Code provisions are covered in the new proposed Traffic Code.

**Decision:**

*Use the sample Traffic Code and add in any provisions from the 2009 Revised Ordinances which are not covered in the sample Traffic Code, as well as any decisions below.*

B. If there are no railroad tracks in the City, we can delete the provisions pertaining to railroads in the sample Traffic Code.

**Decision:**

*Delete all reference to railroads.*

C. REVIEWING TIPS:

- **Only Chapters about which we have questions have been included in this Editorial and Code Analysis;** however, that does not preclude the City from making additional revisions to this Title.

**Decision:**

*No additional revisions desired.*

**City of Bolivar, Missouri****Chapter 300, General Provisions**

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- A. In Section 300.005, the sample Traffic Code has been adjusted in the following manner: We have removed the Sections noted in Section 300.005 from the Model Traffic Ordinance. We have changed “Traffic Division” to “Police Department.” We also deleted all reference to street cars. If the City has a “Traffic Division” within the Police Department we can make that adjustment.

**Decision:**

*No revision desired.*

- B. If the City wants to exclude any other provisions of the Model Traffic Ordinance from adoption, please designate which Sections should be so deleted and disregard any questions below which relate to said excluded provisions. (NOTE: This question may be better addressed after the City reviews all the Title III questions.)

**Decision:**

*No additional exclusions are needed.*

- C. Please note that Section 300.005 will be deleted before printing of the Final Draft. It is included for information purposes only as a convenience to the City in the process of codification.

**NO DECISION REQUIRED**

- D. In Section 300.010 of the sample Traffic Code we would retain the following definitions from Section 300.010 of the current Code:

- CENTRAL BUSINESS (OR TRAFFIC) DISTRICT;
- MOTOR VEHICLE;
- MOTORIZED PLAY VEHICLE;
- MOTORIZED SKATEBOARD;
- ~~TRAFFIC DIVISION (if the City indicates it has a Traffic Division).~~

This would account for all the existing definitions which have not been updated in the statutes.

**Decision:**

*Retain the definitions noted above. Do not include the definition of “Traffic Division.”*

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**Chapter 305, Traffic Administration**

Compare Chapter 305 of the City's 2009 Revised Ordinances and Chapter 305 of the sample Traffic Code. The Sections should be compared as follows:

Sample Traffic Code	2009 Revised Ordinances
305.010	Not in current Code
305.020	305.010 (does not match the statute)
	305.020 (is not in the sample, but matches statute)
305.030	305.030 (does not match the statute)
305.040	Not in current Code
305.050	305.040 (does not match the statute)
305.060	305.050 (this matches the statute)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code. In Section 305.050, change "City Engineer" to "Director of Public Works" as set out in R.O. 2009 Section 305.040.*

**Chapter 310, Enforcement and Obedience To Traffic Regulations**

- A. Compare Chapter 310 of the City's 2009 Revised Ordinances and Chapter 310 of the sample Traffic Code. The Sections should be compared as follows:

Sample Traffic Code	2009 Revised Ordinances
310.010	310.010 (matches statute, and adds Subsection C and D)
310.020	310.020 (expands on statute)
310.030	310.030 (matches statute)
310.040	310.040 (matches statute, in the sample section we have added skateboards)
310.050	310.050 (matches statute, except "owner" should read "owned")
310.060	310.060 (statutory language has been updated in 2012 and 2016)
310.070	310.070 (statutory language has been updated in 2016)
310.080 to 310.100	Contained in §§315.010 to 315.030 (matches statutes)
310.110	Contained in §315.040 (statute was updated recently)
	310.080 (does not exist in the sample Chapter, see note below)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

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- B. See Section 310.080 of the 2009 Revised Ordinances. Note that there appear to be some differences between this Section and the similar statutory Sections set out below. The City may also want to review Section 340.240 of the sample Traffic Code which set out similar provisions regarding "Endangerment of an Emergency Responder"; it was enacted in 2013.

**304.580. Definitions.**

*As used in sections 304.582 and 304.585, the term "construction zone" or "work zone" means any area upon or around any highway as defined in section 302.010 which is visibly marked by the department of transportation or a contractor or subcontractor performing work for the department of transportation as an area where construction, maintenance, incident removal, or other work is temporarily occurring. The term "work zone" or "construction zone" also includes the lanes of highway leading up to the area upon which an activity described in this subsection is being performed, beginning at the point where appropriate signs or traffic control devices are posted or placed. The terms "worker" or "highway worker" as used in sections 304.582 and 304.585 shall mean any person that is working in a construction zone or work zone, or any employee of the department of transportation that is performing duties under the department's motorist assist program on a state highway or the right-of-way of a state highway.(L. 1994 H.B. 1430 § 1, A.L. 2001 S.B. 244, A.L. 2006 S.B. 872, et al.)*

**304.582. Fines for moving violations--fines for violations in work or construction zones--signs required for assessing fines--penalty for passing in work or construction zones--not applicable to court costs.**

1. *Upon the first conviction or plea of guilty by any person for a moving violation as defined in section 302.010, or any offense listed in section 302.302, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone. Upon a second or subsequent such conviction or plea of guilty, the court shall assess a fine of seventy-five dollars in addition to any other fine authorized to be imposed by law.*

2. *Upon the first conviction or plea of guilty by any person for a speeding violation under either section 304.009 or 304.010, or a passing violation under subsection 4 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any highway worker in such zone. Upon a second or subsequent such conviction or plea of guilty, the court shall assess a fine of three hundred dollars in addition to any other fine authorized by law. However, no person assessed an additional fine under this subsection shall also be assessed an additional fine under subsection 1 of this section, and no person shall be assessed an additional fine under this subsection if no signs have been posted under subsection 3 of this section.*

3. *The penalty authorized by subsection 2 of this section shall only be assessed by the court if the department of transportation or a contractor or subcontractor performing work for the department of transportation has erected signs upon or around a construction zone or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: Minimum \$250 fine for speeding or passing in this work zone when workers are present."*

4. *The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone as provided in this subsection. Violation of this subsection is a class C misdemeanor.*

*(1) This subsection applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane and not pass by appropriate signs or traffic control devices erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.*

*(2) This subsection also prohibits the operator of a motor vehicle from passing or attempting to pass another motor vehicle in a work zone or construction zone located upon a two-lane highway when highway workers or equipment are working and when appropriate signs or traffic control devices have been erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.*

*5. The additional fines imposed by this section shall not be construed to enhance the assessment of court costs or the assessment of points under section 302.302.(L. 2006 S.B. 872, et al.)*

***304.585. Endangerment of a highway worker defined--fine, points assessed--aggravated endangerment of a highway worker, fine, points assessed--offense not applicable in absence of workers in zone--no citation or conviction, when.***

*1. A person shall be deemed to commit the offense of "endangerment of a highway worker" upon conviction for any of the following when the offense occurs within a construction zone or work zone, as defined in section 304.580:*

*(1) Exceeding the posted speed limit by fifteen miles per hour or more;*

*(2) Passing in violation of subsection 4 of section 304.582;*

*(3) Failure to stop for a work zone flagman or failure to obey traffic control devices erected in the construction zone or work zone for purposes of controlling the flow of motor vehicles through the zone;*

*(4) Driving through or around a work zone by any lane not clearly designated to motorists for the flow of traffic through or around the work zone;*

*(5) Physically assaulting, or attempting to assault, or threatening to assault a highway worker in a construction zone or work zone, with a motor vehicle or other instrument;*

*(6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect workers and motorists in the work zone for a reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of another person; or*

*(7) Committing any of the following offenses for which points may be assessed under section 302.302:*

*(a) Leaving the scene of an accident in violation of section 577.060;*

*(b) Careless and imprudent driving in violation of subsection 4 of section 304.016;*

*(c) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020;*

*(d) Operating with a suspended or revoked license;*

*(e) Driving while in an intoxicated condition or under the influence of controlled substances or drugs or driving with an excessive blood alcohol content;*

*(f) Any felony involving the use of a motor vehicle.*

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2. Upon conviction or a plea of guilty for committing the offense of endangerment of a highway worker under subsection 1 of this section if no injury or death to a highway worker resulted from the offense, in addition to any other penalty authorized by law, the person shall be subject to a fine of not more than one thousand dollars and shall have four points assessed to his or her driver's license under section 302.302.

3. A person shall be deemed to commit the offense of "aggravated endangerment of a highway worker" upon conviction or a plea of guilty for any offense under subsection 1 of this section when such offense occurs in a construction zone or work zone as defined in section 304.580 and results in the injury or death of a highway worker. Upon conviction or a plea of guilty for committing the offense of aggravated endangerment of a highway worker, in addition to any other penalty authorized by law, the person shall be subject to a fine of not more than five thousand dollars if the offense resulted in injury to a highway worker and ten thousand dollars if the offense resulted in death to a highway worker. In addition, such person shall have twelve points assessed to their driver's license under section 302.302 and shall be subject to the provisions of section 302.304 regarding the revocation of the person's license and driving privileges.

4. Except for the offense established under subdivision (6) of subsection 1 of this section, no person shall be deemed to commit the offense of endangerment of a highway worker except when the act or omission constituting the offense occurred when one or more highway workers were in the construction zone or work zone.

5. No person shall be cited or convicted for endangerment of a highway worker or aggravated endangerment of a highway worker, for any act or omission otherwise constituting an offense under subsection 1 of this section, if such act or omission resulted in whole or in part from mechanical failure of the person's vehicle or from the negligence of another person or a highway worker. (L. 2006 S.B. 872, et al.)

**304.590. Travel safe zone defined--doubling of fine for violation in--signage required.**

1. As used in this section, the term "travel safe zone" means any area upon or around any highway, as defined in section 302.010, which is visibly marked by the department of transportation; and when a highway safety analysis demonstrates fatal or disabling motor vehicle crashes exceed a predicted safety performance level for comparable roadways as determined by the department of transportation.

2. Upon a conviction or a plea of guilty by any person for a moving violation as defined in section 302.010 or any offense listed in section 302.302, the court shall double the amount of fine authorized to be imposed by law, if the moving violation or offense occurred within a travel safe zone.

3. Upon a conviction or plea of guilty by any person for a speeding violation under section 304.009 or 304.010, the court shall double the amount of fine authorized by law, if the violation occurred within a travel safe zone.

4. The penalty authorized under subsections 1 and 3 of this section shall only be assessed by the court if the department of transportation has erected signs upon or around a travel safe zone which are clearly visible from the highway and which state substantially the following message: "Travel Safe Zone -- Fines Doubled".

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5. This section shall not be construed to enhance the assessment of court costs or the assessment of points under section 302.302.(L. 2008 S.B. 930 & 947)

**Decision:**

*No revision desired; keep Section 310.080 as it is written.*

**R.O. 2009 Chapter 315, Accidents**

Compare Chapter 315 of the City's 2009 Revised Ordinances and noted Sections of Chapter 310 of the sample Traffic Code. The Sections should be compared as follows:

Sample Traffic Code	2009 Revised Ordinances
310.080 to 310.100	315.010 to 315.030 (matches statute)
310.110	315.040 (statute has been updated recently)
	315.050 (not contained in the sample Traffic Code)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**R.O. 2009 Chapter 320, Traffic Control Devices**

Compare Chapter 320 of the City's 2009 Revised Ordinances and Chapter 315 of the sample Traffic Code. The Sections should be compared as follows:

Sample Traffic Code	2009 Revised Ordinances
315.010 to 315.040	320.010 to 320.040 (matches statutes)
315.050	320.050 (the last phrase of A and B 1 are missing)
315.060	320.060 (matched statutes)
315.070	Not contained in the City's Code
315.080	320.070 (matches statutes)
315.090	Not contained in the City's Code
315.100	320.080 (this expands the statutory Section)
315.110	320.090 (matches statute)
315.120 to 315.130	Not contained in the City's Code
315.140 to 315.150	320.100 to 320.110 (matches statutes)
	320.120 (not contained in sample Chapter)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**Decision With Final Draft:**

*Insert thirty (30) miles per hour as the general speed limit.*



## City of Bolivar, Missouri

**Chapter 325, Turning Movements**

Compare Chapter 325 of the City's 2009 Revised Ordinances and Chapter 325 of the sample Traffic Code. These Chapters are identical except for the use of "director of public works" as opposed to the use of "city traffic engineer" in the sample Traffic Code. If the sample Traffic Code is used, we will change that term throughout the code.

Sample Traffic Code	2009 Revised Ordinances
325.010 to 325.050	325.010 to 325.050 (matches statutes)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**R.O. 2009 Chapter 330, Stop And Yield Intersections**

Compare Chapter 330 of the City's 2009 Revised Ordinances and Chapter 335 of the sample Traffic Code.

Sample Traffic Code	2009 Revised Ordinances
335.010	Not contained in the City's Code
335.020 to 335.040	330.010 to 330.030 (matches statutes)
335.050	330.040 has an added Subsection B
335.060	330.050 (matches statute)
	330.060 (see note in next Chapter, this coincides with §340.210 of the sample Traffic Code)
335.070 to 335.080	330.070 to 330.080 (matches statutes)
335.090	Not contained in the City's Code, possibly the City has no railroad

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

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**R.O. 2009 Chapter 335, Miscellaneous Driving Rules**

- A. Compare Chapter 335 of the City's 2009 Revised Ordinances and Chapter 340 of the sample Traffic Code. The Sections in this Chapter did not follow the way they were laid out in the statutes. We have used the sample Sections sequentially and consequently the City's Code Sections may not be in order.

Sample Traffic Code	2009 Revised Ordinances
340.010 to 340.050	335.040 to 335.080 (matches statute)
340.060 to 340.080	335.010 to 335.030 (matches statutes)
	335.090 to 335.150, these Sections are not contained in the sample Traffic Code, see notes below to these Sections)
	335.160, see §350.010 of the sample Traffic Code(matches statute)
340.090 to 340.120	Not contained in the City's Code
340.125	335.170 (expands the statutory material slightly)
340.130 to 340.150	Not contained in the City's Code
340.160	335.220 (the statute has additional wording)
340.170	335.240 (this statute was updated in 2010 and contains added language)
340.180	335.200 (matches statute)
340.190	335.180 (the statute has additional wording in the last paragraph)
340.200	Not contained in the City's Code
340.210	330.060 (the statute has additional language)
340.220	335.210 (the statute has additional wording)
340.230	335.290 (this statute was updated in 2013)
340.240	Not contained in the City's Code
	335.230 (this is not addressed in the sample Traffic Code)
	335.250 to 335.280 (these are not addressed in the sample Traffic Code)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code; however, exclude Section 340.117, regarding golf carts, from the Code.*

- B. See Sections 335.090 to 335.120 of the 2009 Revised Ordinances. Due to the age of the enabling ordinances in these Sections, the City should review them to confirm they are still currently applicable.

**Decision:**

*No revision desired, keep all these Sections as written.*

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- C. See Section 335.130 of the 2009 Revised Ordinances. This Section should be compared to the statutory provisions in Section 370.150 of the sample Traffic Code which derives from Section 307.010, RSMo. The City should determine if any revisions are needed herein. If this Section is retained, it may be better placed in the Vehicle Equipment Chapter.

**Decision:**

*N/A; City will use the sample Traffic Code.*

- D. See Section 335.140 of the 2009 Revised Ordinances. This Section may be better placed in Chapter ~~375~~ 370, Vehicle Equipment. Review and advise if the City agrees.

**Decision:**

*Move this Section to the Chapter on Vehicle Equipment.*

- E. See Section 335.150 of the 2009 Revised Ordinances. This Section appears to be adequately addressed in the definition of SIGHT TRIANGLE in Section 410.030 and related zoning regulations. Is this Section still necessary?

**Decision:**

*Retain this Section as written.*

**R.O. 2009 Chapter 340, Regulation of Speed**

- A. Compare Chapter 340 of the City's 2009 Revised Ordinances and Chapter 320 of the sample Traffic Code. Since most of the provisions in the City's Chapter 340 deal with specific speed limits, the City may want to place this material in Schedule I of the City's Code where other speed limits are set out.

Sample Traffic Code	2009 Revised Ordinances
	340.010 to 340.070 (not contained in the sample Traffic Code)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

- B. See Section 340.060 of the 2009 Revised Ordinances. The City may want to review this specifically against Section 320.040 and the statutory provisions set out therein.

**Decision:**

*N/A, we will be using the sample Traffic Code as combined with the City's Code.*

- C. Due to the age of many of the enabling ordinances in this Chapter 340, the City should review for current applicability.

**Decision:**

*No revision desired.*

**City of Bolivar, Missouri****R.O. 2009 Chapter 341, School Buses**

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Compare Chapter 341 of the City's 2009 Revised Ordinances and the statutory provisions contained in Section 340.200 regarding School Bus Operation. We believe this Chapter may be adequately addressed therein.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**R.O. 2009 Chapter 342, All-Terrain Vehicles, Motorized Play Vehicles and Motorized Skateboards**

---

Compare Chapter 342 of the City's 2009 Revised Ordinances, specifically Sections 342.010 to 342.030 against the provisions of sample Sections 340.110 through 340.120 and determine if this material can be combined. The provisions of Sections 342.010 through 342.030 appear to follow the statute, so if the sample Traffic Code is being used, one or the other of these provisions should be removed. This Chapter could be retained as an Article in the Chapter on Miscellaneous Driving Rules.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**R.O. 2009 Chapter 343, Alcohol-Related Traffic Offenses**

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Compare Chapter 343 of the City's 2009 Revised Ordinances and Chapter 342 of the sample Traffic Code. All of the Sections in Chapter 342 of the sample Traffic Code have been amended as recently as 2014, effective 1-1-2017.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

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**R.O. 2009 Chapter 345, Stopping, Standing And Parking**

- A. The provisions in this Chapter are addressed in the sample Traffic Code Chapters 350, 355, 360 and 365. We have indicated the coordinating Section so the City can do a comparison.

Sample Traffic Code	2009 Revised Ordinances
350.010 to 350.030	345.020 to 345.030 (does not match statute, but seems to reflect similar regulations)
355.010	345.040 (statute has conflicting wording; also this Section has additional regulations)
355.020	345.050 (matches statute)
355.030	345.060 (matches statute)
355.040	345.070 (matches statute)
355.050	345.080 (matches statute)
355.090	345.100 (matches statute)
355.100	345.175 (statute has different wording)
360.030 to 360.040	345.110 (the section title does not go with the section text, see the coordinating statutory sections noted and determine if additions/revisions are needed)
360.060	345.120 (matches statute)
360.070	345.130 (matches statute)
365.050	345.140 (statute has additional wording)
	§§345.010, 345.055, 345.090, 345.150 to 345.170, 345.180 are not contained in the sample Traffic Code; the City should review the notes below as well

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

- B. Section 345.010 states generally that signs are required for enforcement.. Note that in the sample Chapters, there is similar language in many Sections, see §§350.030, 355.050(B), 355.060(B) and many others. This Section may not be needed if the sample Traffic Code is used.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

- C. Section 345.055 may be adequately addressed in Chapter 385 of the 2009 Revised Ordinances and in Chapters 217 and 385 in the sample Traffic Code.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**City of Bolivar, Missouri**

- D. If Section 345.090 is still current and if the City is using the sample Traffic Code, we would place it in Chapter 355 as Section 355.055.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

- E. If Sections 345.150 and 345.160 are still current and if the City is using the sample Traffic Code, we would place these Sections in Chapter 365 at the end of this Chapter.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

- F. If Section 345.170 is retained and if the City is using the sample Traffic Code, we would place this Section in Chapter 355 at the end of the Chapter.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

- G. If Section 345.180 is retained and if the City is using the sample Traffic Code, we would place this Section in Chapter 300 and change the wording so it applies to all the parking regulations in this Title.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**R.O. 2009 Chapter 350, Rights And Duties of Pedestrians**

Compare Chapter 350 of the City's 2009 Revised Ordinances and the Chapter 345 of the sample Traffic Code.

Sample Traffic Code	2009 Revised Ordinances
345.010	Not contained in the City's Code
345.020	350.010 to 350.020 (statute has additional wording)
345.030	Not contained in the City's Code
345.040	350.050 (matches statute)
345.050	Not contained in the City's Code
345.060 to 345.070	Not contained in the City's Code
345.080	350.060 (statute has additional wording)
345.090 to 345.100	Not contained in the City's Code
	350.030, 350.040, 350.070 are not contained in the sample Traffic Code

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

## City of Bolivar, Missouri

**R.O. 2009 Chapter 355, Bicycles**

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Compare Chapter 355 of the City's 2009 Revised Ordinances and the Chapter 375 of the sample Traffic Code.

Sample Traffic Code	2009 Revised Ordinances
375.010	Not contained in the City's Code
375.020	355.110(matches statute)
375.030	355.100 (matches statute)
375.040	355.010 (matches statute)
375.050	355.040 (matches statute)
375.060 to 375.070	Not contained in the City's Code
375.080	Not contained in the City's Code
375.090 to 375.100	Not contained in the City's Code
	§§355.020, 355.030, 355.050 to 355.090 are not contained in the sample Traffic Code

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**R.O. 2009 Chapter 360, Motorcycles, Motorbikes, Motor Scooters**

---

The provisions in this Chapter 360 are addressed in the sample Traffic Code Chapters 340 and 370, 350, 355, 360 and 365. We have indicated the coordinating Section so the City can do a comparison.

Sample Traffic Code	2009 Revised Ordinances
340.090	360.010 (statute has additional requirements and includes motorized bicycles)
370.190	360.020 (matches statute, except City's section has one additional paragraph)
	360.030 is not contained in the sample Traffic Code
380.020(A)(2—3)	360.040(A) (City's section has an additional paragraph)

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

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**Chapter 370 368, Controlled Parking Areas**

We would retain this Chapter 370 since it is not addressed in the sample Traffic Code or the statutes. Review these provisions to confirm they are all currently applicable since they appear to be rather dated.

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code. Retain this Chapter as Chapter 368.*

**Chapter 375, Vehicle Equipment**

- A. Compare Chapter 375 of the City's 2009 Revised Ordinances and the Chapter 370 of the sample Traffic Code.

Sample Traffic Code	2009 Revised Ordinances
370.010 to 370.040	375.010 to 375.040 (matches statutes)
370.050	375.050 (statute was amended in 2013)
370.060 to 370.130	375.060 to 375.130(matches statutes)
370.140 to 370.180	375.140 to 375.180 (matches statute)
370.190	Contained in Chapter 360 (see note above)
370.200 to 370.230	375.200 to 375.230 (matches statute)
	§375.190 is not contained in the sample Traffic Code

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

- B. The City may want to review Section 375.190 for current applicability due to its age.

**Decision:**

*No revision desired.*



## City of Bolivar, Missouri

**Chapter 380, Licensing Requirements**

Compare Chapter 380 of the City's 2009 Revised Ordinances and the Chapter 380 of the sample Traffic Code.

Sample Traffic Code	2009 Revised Ordinances
380.010 to 380.055	380.010 to 380.055 (matches statutes)
380.060	380.060 (statute was amended in 2015)
380.070 to 380.100	380.070 to 380.100(matches statutes)
380.110 to 380.120	380.110 to 380.120 (statutes were amended in 2015)
380.130	380.130 (matches statute)
380.140	380.140 (statutes was amended in 2014 eff. 1-1-2017)
380.150	380.150 (differs slightly from the statutes)
380.160	380.160 (matches statute)
	380.145 and 380.155 are not contained in the sample Traffic Code

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code.*

**Chapter 385, Abandoned Vehicles**

Compare Chapter 385 of the City's 2009 Revised Ordinances and Chapter 385 of the sample Traffic Code. Both of these Chapters are based on the same basic material from Chapter 304, RSMo. The sample Chapter 385 has been kept up to date and combined with Chapter 217 which is another sample Chapter being provided to the City. The City should review this Chapter against both Chapter 217 and 385 found in the **Samples** tab.

Sample Traffic Code	2009 Revised Ordinances
385.010 to 385.060 and Ch. 217	385.010 to 385.060

**Decision:**

*City will use the sample Traffic Code as combined with the City's Code and revisions as noted on the attached document.*

**City of Bolivar, Missouri****Traffic Schedules**

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The City should review its lists of specific traffic regulations set forth in the following schedules and note any required revisions.

- Schedule I, Speed Limits
- Schedule II, No Parking
- Schedule III, Restricted Parking
- Schedule IV, Stop Signs
- Schedule V, Caution Signs
- Schedule VI, Parking Zones

**Decision:**

*No revision desired.*

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## TITLE IV, LAND USE

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### Chapter 400, Zoning and Subdivision Regulations

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This Chapter was last updated in 2009. Are the cited documents in Sections 400.010 and 400.020 still accurate?

**Decision:**

*No revision desired.*

### Chapter 405, Municipal Planning Commission and Zoning Commission

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See Section 405.150. Note that the similar statutory provisions of Section 89.450, RSMo. has some additional wording which the City may want to include herein.

***89.450. Use of unapproved plat in sale of land--penalty--vacation or injunction of transfer.***

*No owner, or agent of the owner, of any land located within the platting jurisdiction of any municipality, knowingly or with intent to defraud, may transfer, sell, agree to sell, or negotiate to sell that land by reference to or by other use of a plat of any purported subdivision of the land before the plat has been approved by the council or planning commission and recorded in the office of the appropriate county recorder unless the owner or agent shall disclose in writing that such plat has not been approved by such council or planning commission and the sale is contingent upon the approval of such plat by such council or planning commission. Any person violating the provisions of this section shall forfeit and pay to the municipality a penalty not to exceed three hundred dollars for each lot transferred or sold or agreed or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this penalty. A municipality may enjoin or vacate the transfer or sale or agreement by legal action, and may recover the penalty in such action.(L. 1963 p. 146 § 16, A.L. 2005 S.B. 210)*

**Decision:**

*No revision desired.*

### Chapter 410, Zoning Regulations

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#### Article II, Rules and Definitions

See Section 410.030:

- A. As to the definition of KENNEL, BOARDING, the City may wish to note the Animal Care Facilities Act at Sections 273.325 to 273.357, RSMo., defines the related term “Boarding Kennel” at Section 273.325.2(7), RSMo., as “a place or establishment, other than a pound or animal shelter, where animals, not owned by the proprietor, are sheltered, fed, and watered in return for a consideration;

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*however, "boarding kennel" shall not include hobby or show breeders who board intact females for a period of time for the sole purpose of breeding such intact females, and shall not include individuals who temporarily, and not in the normal course of business, board or care for animals owned by other individuals." Section 273.325.2(9), RSMo., defines the related term "commercial kennel" as "a kennel which performs grooming or training services for animals, and may or may not render boarding services in return for a consideration."*

**Decision:**

*No revision desired.*

- B. As to the definition of KENNEL, BREEDING, the City may wish to review the definition of the related term "commercial breeder" at Section 273.325.2(8), RSMo., which states that this word means "*a person, other than a hobby or show breeder, engaged in the business of breeding animals for sale or for exchange in return for a consideration, and who harbors more than three intact females for the primary purpose of breeding animals for sale.*"

**Decision:**

*No revision desired.*

- C. As to the definition of STRUCTURAL ALTERATIONS, the City may wish to cross-reference this definition with the definition of the similar word "Alteration" as it appears in this Section to avoid any potential there may be for conflict.

**Decision:**

*No revision desired.*

**Article III, Designation of Districts, Boundaries and District Regulations****Additional Decision:**

*In Sections 410.100(I), 410.110(I), 410.120(I), 410.130(I), 410.140(J), 410.150(J), 410.160(K), 410.170(K), 410.180(J), 410.190(J), 410.200(J), 410.210(I), 410.220(J), 410.230(J), and 410.240(N), change "(See the Article on Landscaping.)" to "(See Section 415.100, Landscaping.)"*

In Sections 410.110(C)(7), 410.120(C)(7), 410.130(C)(8) and 410.140(C)(12), the density of 1,500 feet has been tested in the courts and found to be discriminatory. The City may want to consider changing this number to a lower number. Many communities are using 500 as the distance between group homes.

**Decision:**

*No revision desired.*

**Decisions With Final Draft:**

*In Section 410.200(F)(4), delete "R-S" from the listing in parenthesis.*

*In Section 410.220(F)(4), delete "R-S" and "M-P" from the listing in parenthesis.*

*In Section 410.280(A)(8), delete "'C-R' Residential Shopping District" from the listing.*

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## Article VIII, Board of Adjustment

- A. See Section 410.500(A)(1)(a). This Subsection should be compared to the similar statutory provisions of Section 89.100, RSMo.

***89.100. Board of adjustment--appeals, procedure.***

*Appeals to the board of adjustment may be taken by any person aggrieved, by any neighborhood organization as defined in section 32.105 representing such person, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.(RSMo 1939 § 7418, A.L. 1997 S.B. 112) Prior revision: 1929 § 7265*

**Decision:**

*Include the underlined language noted above in Subsection (A)(1)(a) and in a new Subsection (A)(1)(c).*

- B. Section 410.530 should be compared to the similar statutory provisions of Section 89.110, RSMo., for possible revisions.

***89.110. Board of adjustment--decisions subject to review--procedure.***

*Any person or persons jointly or severally aggrieved by any decision of the board of adjustment, any neighborhood organization as defined in Section 32.105, RSMo., representing such person or persons or any officer, department, board or bureau of the municipality, may present to the circuit court of the county or city in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board. Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds*

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*of the decision appealed from and shall be verified. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under sections 89.080 to 89.110 shall have preference over all other civil actions and proceedings.(RSMo 1939 § 7418, A.L. 1997 S.B. 112) Prior revision: 1929 § 7265*

**Decision:**

*Include the underlined language noted above.*

**Article X, Enforcement, Violation and Penalty**

Section 410.610 should be compared against the similar statutory provisions of Section 89.120, RSMo., and the differences set out below.

**89.120. Violations--penalties.**

*1. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of sections 89.010 to 89.140 or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by an officer empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of sections 89.010 to 89.140.*

*2. The owner or general agent of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation, or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable as follows:*

*(1) In any city with more than three hundred thousand inhabitants, by a fine of not less than ten dollars and not more than five hundred dollars for each and every day that such violation continues, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of section 82.300, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than two hundred and fifty dollars or more than one thousand dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court;*

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(2) *In all other municipalities, by a fine of not less than ten dollars and not more than two hundred fifty dollars for each and every day that such violation continues, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court. Notwithstanding the provisions of section 82.300, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than one hundred dollars or more than five hundred dollars for each and every day that such violation shall continue, or by imprisonment for ten days for each and every day such violation shall continue, or by both such fine and imprisonment in the discretion of the court.*

3. *Any such person who, having been served with an order to remove any such violation, shall fail to comply with such order within ten days after such service or shall continue to violate any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.* (RSMo 1939 § 7419, A.L. 1989 H.B. 498, A.L. 1998 H.B. 977 & 1608 and H.B. 1352, A.L. 2008 H.B. 1849 merged with S.B. 1002) Prior revision: 1929 § 7266

**Decision:**

*Insert the underlined language noted above.*

**Chapter 415, Subdivision Regulations**

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- A. In Section 415.010 note that the definition of SUBDIVISION is different than the provisions set out in Section 89.300, RSMo. Does the City want any revisions made?

***89.300. Definitions.***

*For the purpose of sections 89.300 to 89.480 the following terms mean or include:*

- (1) *"Council," the chief legislative body of the municipality;*
- (2) *"Streets," any public ways;*
- (3) *"Subdivision," the division of a parcel of land into two or more lots, or other divisions of land; it includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.* (L. 1963 p. 146 § 1)

**Decision:**

*No revision desired.*

- B. At the next stage of the project, we will incorporate the amendment by Ord. No. 3317 in Section 415.060.

**NO DECISION REQUIRED**

- C. Appendix A, Fee Chart.

- (1) In the recodified Code, we will place the Appendix A, Fee Chart, which is currently at the beginning of Title IV, with this Subdivision Regulations Chapter.

**NO DECISION REQUIRED**

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- (2) The Fee Chart does not reflect a date of adoption. As a best practice, we suggest that the source ordinance or resolution adopting or amending the fees should be cited. Perhaps this was the same as the Subdivision Regulations adoption, which would be Ord. No. 782, adopted July 31, 1999.

**Decision:**

*This chart was compiled from several documents; it is okay that it is not dated.*

- (3) Are the fees in this Chart current?

**Decision:**

*No revision desired; fees are current.*

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**Chapter 420, Floodplain Management**

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Although this is a fairly new ordinance on Floodplain, the City may want to have the local SEMA office review it to confirm it is completely up to date if that has not previously been done. The contact that we usually give to cities is Karen McHugh. Her email is [karen.mchugh@sema.dps.mo.gov](mailto:karen.mchugh@sema.dps.mo.gov) and she has assisted many of our clients.

**NO DECISION REQUIRED**

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**Chapter 425, Development Regulations**

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Since most of this Chapter 425 appears to be forms for implementing the regulations in this Title, these documents may be better placed online in the Public Documents module of eCode360 and then linked to the Code. Then these documents would still be on the same platform with the Code and fully searchable but would not be contained in the paper copy of the Code book. This would incur a slightly greater annual cost for eCode. (See also the note under [Chapter 130](#), Article III, above.)

**Decision:**

*No revision desired for this Chapter.*



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## TITLE V, BUILDING AND CONSTRUCTION

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### Chapter 500, Building Code

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#### Articles I to VIII, Building Codes

- A. See Sections 500.010, 500.060, 500.110, 500.160, 500.210, 500.260, 500.310 and 500.360. All of these Sections indicate that THREE copies of the Codes are required. This requirement has now been changed to "ONE copy" as set out in 67.280, RSMo.

*67.280 Communities may incorporate by reference certain technical codes--penalty provisions, requirements--definitions.*

*1. As used in this section, the following terms mean:*

*(1) "Code", any published compilation of rules prepared by various technical trade associations, federal agencies, this state or any agency thereof, but shall be limited to: regulations concerning the construction of buildings and continued occupancy thereof; mechanical, plumbing, and electrical construction; and fire prevention;*

*(2) "Community", any county, fire protection district or municipality;*

*(3) "County", any county in the state;*

*(4) "Fire protection district", any fire protection district in the state;*

*(5) "Municipality", any incorporated city, town or village.*

*2. Any community, if the community otherwise has the power under the law to adopt such an ordinance, may adopt or repeal an ordinance which incorporates by reference the provisions of any code or portions of any code, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of such code in full. At least one copy of such code, portion or amendment which is incorporated or adopted by reference, shall be filed in the office of the clerk of the community and there kept available for public use, inspection, and examination. The filing requirements herein prescribed shall not be deemed to be complied with unless the required copies of such codes, portion, or amendment or public record are filed with the clerk of such community for a period of ninety days prior to the adoption of the ordinance which incorporates such code, portion, or amendment by reference.*

*3. Any ordinance adopting a code, portion, or amendment by reference shall state the penalty for violating such code, portion, or amendment, or any provisions thereof separately, and no part of any such penalty shall be incorporated by reference. (L. 1983 H.B. 92 §§ 1, 2, 3, A.L. 1995 H.B. 452, et al., A.L. 2009 H.B. 859)*

#### **Decision:**

*Change all these references to indicate one copy.*

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- B. See Section 500.025(C). Note that the fee schedules mentioned in this Subsection could also be held online and searchable simultaneously with the Code in the Public Documents module of eCode360. This would involve a change in the level of eCode to premium. This can be explained to the City when the Code is closer to completion. (See also the notes under [Chapter 130](#), Article III, above; and [Chapter 425](#) above.)

**Decision:**

*Yes, contact the City Officials to demonstrate how Public Documents works and the associated cost.*

**Article IX, Miscellaneous Provisions**

- A. Are the fees in Section 500.410(B) still correct?

**Decision:**

*No revision desired.*

- B. See Section 500.430, which appears to be modeled after Section 67.281, RSMo. This statutory Section has been amended. Additionally, the statutory Section appears to be stated differently than Section 500.430.

***67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings--purchaser may decline--expiration date.***

*1. A builder of one- or two-family dwellings or townhouses shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling or townhouse. Notwithstanding any other provision of law to the contrary, no purchaser of such a one- or two-family dwelling or townhouse shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or townhouse being purchased by any code, ordinance, rule, regulation, order, or resolution by any county or other political subdivision. Any county or other political subdivision shall provide in any such code, ordinance, rule, regulation, order, or resolution the mandatory option for purchasers to have the right to choose and the requirement that builders offer to purchasers the option to purchase fire sprinklers in connection with the purchase of any one- or two-family dwelling or townhouse.*

*2. Any governing body of any political subdivision that adopts the 2009 International Residential Code for One- and Two-Family Dwellings or a subsequent edition of such code without mandated automatic fire sprinkler systems in Section R313 of such code shall retain the language in section R317 of the 2006 International Residential Code for two-family dwellings (R317.1) and townhouses (R317.2).*

*(L.2009, H.B. No. 103, § A. Amended by L.2011, S.B. No. 108, § A; L.2014, H.B. No. 1410, § A, eff. Aug. 28, 2014; L.2014, S.B. Nos. 655, 672, § A, eff. Aug. 28, 2014; L.2016, S.B. No. 732, § A, eff. Aug. 28, 2016.)*

**Decision:**

*Include the newest statutory Section 67.281.1, RSMo., above to replace this Section.*

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**Chapter 505, Dangerous Buildings**

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**NOTE:** In order to trigger the insurance split provisions set forth in Section 505.080(A)(6) of the City's Code and Section 67.410, RSMo., this Chapter should have been filed with the Director of Insurance, 301 W. High Street, Jefferson City, Missouri, 65101, within 14 days after adoption of the Code, in accordance with Section 67.412, RSMo. If the City has done this there is no need to do it again. Though we do suggest when a Code is readopted that this be filed again just to be certain it is done. We will include a reminder to do so with the Code adoption materials.

**Decision:**

*Yes, include this reminder when the Code Adoption materials are submitted at the end of the codification project.*

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**Chapter 510, Construction and Repair of Sidewalks**

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**Article I, Sidewalk Construction and Repair**

- A. Does the City still have a Street Commissioner as mentioned in this Chapter? The only other place we have seen this official is in Section 105.080(D)(9).

**Decision:**

*Change "Street Commissioner" to "Director of Public Works."*

- B. See Section 510.015. The City may wish to clarify the heading of this Section which does not appear to offer much insight into the subject matter of the ordinance.

**Decision:**

*Change the Section Title to read "Sidewalk Construction — Determination."*

- C. See Section 510.030. The City may wish to clarify the heading of this Section which does not appear to offer much insight into the subject matter of the ordinance.

**Decision:**

*Change the Section Title to read "Privately Constructed Sidewalks."*

- D. See Section 510.035. The City may wish to consider offering an extension of the thirty-day period in the event such sidewalks are not built for legitimate reasons.

**Decision:**

*Add the following sentence to the end of this Section: "This thirty-day period maybe extended to ninety (90) days by the City for good reason."*

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- E. The City may wish to review the provisions of Section 510.065 against the provisions of Section 510.040 to avoid any potential there may be for conflict.

**Decision:**

*No revision desired.*

- F. Section 510.070 may be adequately addressed by Section 510.055. Review and advise if any revisions are needed.

**Decision:**

*No revision desired.*

**Chapter 515, Ground Source Heat Pumps**

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Does this Chapter continue to reflect the City's regulations?

**Decision:**

*No revision desired.*

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## TITLE VI, BUSINESS AND OCCUPATION

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### Chapter 600, Intoxicating Liquor

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- A. See the **Samples** tab of the Codification Portfolio. We are providing a sample Chapter 600, Alcoholic Beverages, which has been updated with new provisions through the 2016 Legislative Session.
- The provisions set forth in the sample Chapter are intended to cover a multitude of possibilities for the sale of intoxicating liquor in the City.
  - The City may want to review this sample Chapter along with the notes below and determine if the City wants to use the updated sample Chapter with additions from the City's provisions; or retain the City's Chapter and make changes as noted below.
    - Note that the City previously used our sample in 2008 and the Attorney combined it at that time with the City's provisions.
  - The following table lists the City's current provisions and the Sections of the newest sample Chapter and to make the City's comparison a little easier.

<b>2009 Revised Ordinances – Intoxicating Liquor</b>	<b>Sample Alcoholic Beverages Chapter</b>
600.005	600.010 to 600.015
600.010	600.020(A)
600.015	Not contained in the sample Alcoholic Beverages Chapter
600.020	600.055
600.025	First sentence: 600.055; otherwise not contained in the sample Alcoholic Beverages Chapter
600.030	See 600.055
600.035	Not contained in the sample Alcoholic Beverages Chapter
600.040(A) and (E)	600.030(A); see 600.020(B)(1)
600.040(B) through (D)	Not contained in the sample Alcoholic Beverages Chapter
600.045	Not contained in the sample Alcoholic Beverages Chapter
600.050	See 600.020(D)
600.055	Not contained in the sample Alcoholic Beverages Chapter
600.060	600.020(D)(2)
600.065	Not contained in the sample Alcoholic Beverages Chapter
600.070	Not contained in the sample Alcoholic Beverages Chapter
600.075	See 600.030(B)
600.080	Not contained in the sample Alcoholic Beverages Chapter
600.085	Not contained in the sample Alcoholic Beverages Chapter
600.090	600.030(C)

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2009 Revised Ordinances – Intoxicating Liquor	Sample Alcoholic Beverages Chapter
600.095	600.035
600.100	Not contained in the sample Alcoholic Beverages Chapter
600.105	600.030(E)(3)
600.110	600.055(C)
600.115	600.030(E)(2)
600.100	Not contained in the sample Alcoholic Beverages Chapter
600.120	Not contained in the sample Alcoholic Beverages Chapter
600.125	600.070(C)
600.130	Not contained in the sample Alcoholic Beverages Chapter
600.135	See 600.055(D) (“May I”)
600.140	Not contained in the sample Alcoholic Beverages Chapter
600.145(A) through (D)	600.060
600.145(E)	600.065
600.150	Not contained in the sample Alcoholic Beverages Chapter
600.155	600.070(A) and (B)
600.160	600.030(C)(2)
600.165	Not contained in the sample Alcoholic Beverages Chapter; <i>preempted by statutory repeal?</i>
600.170	600.070(D)
600.175	Not contained in the sample Alcoholic Beverages Chapter
600.180	See 600.090
600.185	See 600.100
600.190	Not contained in the sample Alcoholic Beverages Chapter
600.195	Not contained in the sample Alcoholic Beverages Chapter
600.200	Not contained in the sample Alcoholic Beverages Chapter
600.205	Not contained in the sample Alcoholic Beverages Chapter
600.210	Not contained in the sample Alcoholic Beverages Chapter
600.220	Not contained in the sample Alcoholic Beverages Chapter
Not contained in the City’s Code	600.005
Not contained in the City’s Code	600.020(B) through (D)
Not contained in the City’s Code	600.040
Not contained in the City’s Code	600.045
Not contained in the City’s Code	600.047
Not contained in the City’s Code	600.050
Not contained in the City’s Code	600.053

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2009 Revised Ordinances – Intoxicating Liquor	Sample Alcoholic Beverages Chapter
Not contained in the City's Code	600.080
Not contained in the City's Code, but see 600.180 and 600.185	600.090 to 600.100

**NO DECISION REQUIRED HERE; see notes below**

- B. See Section 600.005, Definitions, of the 2009 Revised Ordinances. Note that some of these definitions are no longer accurate based on current statutes: refer to Sections 600.010 and 600.015 of the sample Chapter and the statutes noted below.

- (1) The definition of INTOXICATING LIQUOR differs from State Statute set out below.

***311.020. Definition of intoxicating liquor.***

*The term "intoxicating liquor" as used in this chapter shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter, but subject to inspection as provided by sections 196.365 to 196.445\*. (RSMo 1939 § 4894, A.L. 1990 H.B. 1180, A.L. 2009 H.B. 132) \*sections 196.365 to 196.445 were repealed in 2003 by H.B. 600 merged with S.B. 175.*

**Decision:**

*Use the definition from sample Chapter 600.*

- (2) Also note that the definition of FINANCIAL INTEREST set out in Section 311.060, RSMo., does not contain the last sentence in the City's definition which appears to expand the definition somewhat.

**Decision:**

*Delete the last sentence of the current definition.*

- (3) Note that the definition of MALT LIQUOR appears to set out the ingredients for Malt Liquor. The ingredients are set out in Section 311.490, RSMo., and do not appear to agree with this definition. Also note that throughout Chapter 311, RSMo., it is stated that "malt liquor is not in excess of 5%" (see Section 311.200, RSMo.).

***311.490. Ingredients of beer--intoxicating malt liquor.***

*No person, partnership or corporation engaged in the brewing, manufacture or sale of beer as defined, in this chapter, or other intoxicating malt liquor, shall use in the manufacture or brewing thereof, or shall sell any such beer or other intoxicating malt liquor which contains ingredients not in compliance with the following standards:*

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(1) *Beer shall be brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer;*

(2) *Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than forty-nine percent of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six percent by volume, no more than one and one-half percent of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol; and*

(3) *Beer, intoxicating malt liquor, and malt beverages, as defined in this section, shall not be subject to the requirements of subsection 1 of section 311.332 and sections 311.335 and 311.338. (RSMo 1939 § 4921, A.L. 2006 S.B. 725, A.L. 2009 H.B. 132)*

**Decision:**

*Use the definition from sample Chapter 600.*

- (4) The definition of NON-INTOXICATING BEER should be removed since the entire Chapter 312, RSMo., and all regulations regarding non-intoxicating beer have been repealed in the statutes.

**Decision:**

*Delete this definition and every occurrence of “non-intoxicating beer” in this Chapter and anywhere else it occurs in the Code.*

- C. See Section 600.020. Note that the similar statutory provisions of Section 311.060, RSMo., sets these requirements out differently. Review and determine if any revisions are desired.

***311.060. Qualifications for licenses--resident corporation and financial interest defined.***

*1. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village; and no person shall be granted a license or permit hereunder whose license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs in his or her business as such dealer any person whose license has been revoked or who has been convicted of violating such law since the date aforesaid; provided, that nothing in this section contained shall prevent the issuance of licenses to nonresidents of Missouri or foreign corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquors to, by or through a duly licensed wholesaler, within this state.*

*2. (1) No person, partnership or corporation shall be qualified for a license under this law if such person, any member of such partnership, or such corporation, or any officer, director, or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such corporation, or other financial interest therein, or ten percent or more of the interest in the business for which the person, partnership or corporation is licensed, or any person employed in the business licensed under this law shall have had a license revoked under this law or shall have been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating*



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*liquor since the ratification of the twenty-first amendment to the Constitution of the United States, or shall not be a person of good moral character.*

*(2) No license issued under this chapter shall be denied, suspended, revoked or otherwise affected based solely on the fact that an employee of the licensee has been convicted of a felony unrelated to the manufacture or sale of intoxicating liquor. Each employer shall report the identity of any employee convicted of a felony to the division of liquor control. The division of liquor control shall promulgate rules to enforce the provisions of this subdivision.*

*(3) No wholesaler license shall be issued to a corporation for the sale of intoxicating liquor containing alcohol in excess of five percent by weight, except to a resident corporation as defined in this section.*

*3. A "resident corporation" is defined to be a corporation incorporated under the laws of this state, all the officers and directors of which, and all the stockholders, who legally and beneficially own or control sixty percent or more of the stock in amount and in voting rights, shall be qualified legal voters and taxpaying citizens of the county and municipality in which they reside and who shall have been bona fide residents of the state for a period of three years continuously immediately prior to the date of filing of application for a license, provided that a stockholder need not be a voter or a taxpayer, and all the resident stockholders of which shall own, legally and beneficially, at least sixty percent of all the financial interest in the business to be licensed under this law; provided, that no corporation, licensed under the provisions of this law on January 1, 1947, nor any corporation succeeding to the business of a corporation licensed on January 1, 1947, as a result of a tax-free reorganization coming within the provisions of Section 112, United States Internal Revenue Code, shall be disqualified by reason of the new requirements herein, except corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent by weight, or owned or controlled, directly or indirectly, by nonresident persons, partnerships or corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent by weight.*

*4. The term "financial interest" as used in this chapter is defined to mean all interest, legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such interest in the net profits of the enterprise, after the payment of reasonable and necessary operating business expenses and taxes, including interest in dividends, preferred dividends, interest and profits, directly or indirectly paid as compensation for, or in consideration of interest in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned or otherwise made available to the enterprise, except by way of ordinary commercial credit or bona fide bank credit not in excess of credit customarily granted by banking institutions, whether paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any other form whatsoever.*

*5. The supervisor shall by regulation require all applicants for licenses to file written statements, under oath, containing the information reasonably required to administer this section. Statements by applicants for licenses as wholesalers and retailers shall set out, with other information required, full information concerning the residence of all persons financially interested in the business to be licensed as required by regulation. All material changes in the information filed shall be promptly reported to the supervisor. (RSMo 1939 § 4906, A.L. 1947 V. I p. 370, A.L. 1987 H.B. 520 merged with H.B. 62 & 70, A.L. 2009 H.B. 132)*

**Decision:**

*No revision desired.*

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- D. The City may want to review Section 600.025 and confirm the procedure of a license application herein is still correct.

**Decision:**

*No revision desired.*

- E. See Section 600.040(B). As regards malt liquor, the words “not in excess of 3.2% by weight” has been deleted with the repeal of non-intoxicating beer.

**Decision:**

*Delete “in excess of three and two-tenths percent (3.2%) by weight and”.*

- F. As regards the definition of ORIGINAL PACKAGE in Section 600.040(C), the term “non-intoxicating beer” was removed and the below underlined sentence was added to this definition in our sample Chapter, see the definition of ORIGINAL PACKAGE in Section 600.010 of the sample Chapter.

***311.200. Licenses--retail liquor dealers--fees--applications.***

.....

*2. For a permit authorizing the sale of malt liquor not in excess of five percent by weight by grocers and other merchants and dealers in the original package direct to consumers but not for resale, a fee of fifty dollars per year payable to the director of the department of revenue shall be required. The phrase "original package" shall be construed and held to refer to any package containing one or more standard bottles, cans, or pouches of beer. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.*

**Decision:**

*Insert the sample Chapter definition of ORIGINAL PACKAGE herein.*

- G. Subsection 600.040(D) can be removed due to the repeal of the non-intoxicating beer regulations in Chapter 312, RSMo.

**Decision:**

*Delete this Subsection.*

- H. See Section 600.050. Note that the similar statutory provisions of Section 311.097, RSMo. were repealed in 2012 without replacement provisions. It appears that the “Resort” license is now the license being issued to these “restaurant bars.”

**Decision:**

*Delete this Section and anywhere else “restaurant bar” occurs. Renumber Section 600.055 as Section 600.050.*

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- I. See Section 600.070. There are two additional paragraphs in the similar statutory provisions of Section 311.482, RSMo., as set out below. The City should review and determine if any additions are needed.

***311.482. Temporary permit for sale by drink may be issued to certain organizations, when, duration--collection of sales taxes, notice to director of revenue.***

1. Notwithstanding any other provision of this chapter, a permit for the sale of all kinds of intoxicating liquor, including intoxicating liquor in the original package, at retail by the drink for consumption on the premises of the licensee may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such club or organization.

2. To secure the permit, the applicant shall complete a form provided by the supervisor, but no applicant shall be required to furnish a personal photograph as part of the application. The applicant shall pay a fee of twenty-five dollars for such permit.

3. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 a.m.

4. At the same time that an applicant applies for a permit under the provisions of this section, the applicant shall notify the director of revenue of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within fifteen days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three years. Under no circumstances shall a bond be required from the applicant.

5. No provision of law or rule or regulation of the supervisor shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.(L. 1987 S.B. 150 § 3, A.L. 1995 S.B. 43, A.L. 2009 H.B. 132, A.L. 2011 H.B. 101)

**Decision:**

*Insert the two underlined paragraphs above.*

- J. See Section 600.080. Note that the words “in excess of 3.2% by weight” have been removed from the similar statutory provisions of Section 311.218, RSMo., when the non-intoxicating beer regulations were repealed in 2009.

**Decision:**

*Delete the words noted above.*

- K. See Section 600.090. Note that the similar statutory provisions of Section 311.290, RSMo. have been amended to include additional elements. Review and advise if any revisions are needed. See also sample Section 600.030(C), which includes the updated language.

***311.290. Time fixed for opening and closing premises--closed place defined--penalty.***

*No person having a license issued pursuant to this chapter, nor any employee of such person, shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00*

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*a.m. Monday, upon or about his or her premises. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs, hotels, or bowling alleys, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants or bowling alleys whose business is conducted in one room only, then the licensee shall keep securely locked during the hours and on the days specified in this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.(RSMo 1939 § 4891, A.L. 1941 p. 412, A.L. 1951 p. 16, A.L. 1957 p. 27, A.L. 1967 p. 424, A.L. 1979 S.B. 192, A.L. 1981 S.B. 128, A.L. 1987 S.B. 150, A.L. 2003 S.B. 298, A.L. 2009 H.B. 132, A.L. 2013 S.B. 59, A.L. 2013 S.B. 121)*

**Decision:**

*Make the underlined changes noted above.*

- L. See Section 600.140. Note that the references to non-intoxicating beer should be removed as they have been from the similar statutory provisions of Section 311.480, RSMo.

**Decision:**

*Delete all references to non-intoxicating beer.*

- M. See Section 600.145(A). Note that the references to non-intoxicating beer should be removed as they have been from the similar statutory provisions of Section 311.300, RSMo. Also note that there are additional provisions in said Section which addresses warehouses, etc. See also sample Section 600.060, which includes the updated statutory language.

***311.300. Persons eighteen years of age or older may sell or handle intoxicating liquor.***

*3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor but which does not sell intoxicating liquor at retail, persons at least eighteen years of age may be employed and their duties may include the handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail.*

*4. Any wholesaler licensed pursuant to this chapter may employ persons of at least eighteen years of age to:*

*(1) Rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor;*  
*and*

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(2) Unload delivery vehicles and transfer intoxicating liquor into retail licensed premises if such persons are supervised by a delivery vehicle driver who is twenty-one years of age or older.

(R.S.1939, § 4885. Amended by 1949, S.B. No. 1114; L.1969, S.B. No. 37, p. 429, § 1; L.1971, H.B. No. 173, p. 337, § 1; L.1976, S.B. No. 487, p. 713, § 1; L.1976, H.B. No. 1367, p. 712, § 1; L.1981, S.B. No. 128, p. 442, § 1; L.1996, S.B. No. 933, § A; L.1997, H.B. No. 63, § A; L.2009, H.B. No. 132, § A; L.2019, S.B. No. 197, § A, eff. Aug. 28, 2019.)

**Decision:**

*Delete all references to non-intoxicating beer; and use the wording from sample Section 600.060 to include the additional provisions noted above.*

- N. See Section 600.145(B). Note that the references to non-intoxicating beer should be removed as they have been from the similar statutory provisions of Section 311.310, RSMo. Also note that there is slightly different wording in the first paragraph of this Section. Refer to sample Section 600.060, which includes the updated statutory language.

***311.310. Sale to minor--certain other persons, misdemeanor--exceptions--permitting drinking or possession by a minor, penalty, exception--defenses.***

1. Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one to drink or possess intoxicating liquor is his or her parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation of this subsection is a class A misdemeanor.

3. It shall be a defense to prosecution under this section if:

(1) The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;

(2) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one or more years of age; and

(3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri nondriver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one years of age and of the legal age for consumption of intoxicating liquor.(L. 1947 V. I p. 373 § 4885a, A.L. 1990

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*H.B. 1180, A.L. 2005 H.B. 972 merged with S.B. 37, et al. and S.B. 402, A.L. 2005 1st Ex. Sess. H.B. 2)*

*Effective 9-15-05*

**Decision:**

*Delete all references to non-intoxicating beer and use the wording from sample Section 600.060 to update the language.*

- O. See Section 600.145(D) and (E). Note that the references to non-intoxicating beer should be removed as they have been from the similar statutory provisions of Section 311.325, RSMo. Also note that there have been some very recent amendments to this Section which the City may want to review for possible revisions to this Code Section. Refer to sample Sections 600.060(D) and 600.065, which contain an updated version of this Subsection.

***311.325. Beginning January 1, 2017--Purchase or possession by minor, penalty--container need not be opened and contents verified, when--consent to chemical testing deemed given, when--burden of proof on violator to prove not intoxicating liquor--section not applicable to certain students, requirements.***

*1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly in an intoxicated condition as defined in section 577.001, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. A first violation of this section shall be punishable as a class D misdemeanor. A second or subsequent violation of this section shall be punishable as a class A misdemeanor. Prior findings of guilt shall be pleaded and proven in the same manner as required by section 558.021. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.*

*2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.*

*3. Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit*

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*issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:*

- (1) The type of test administered and the procedures followed;*
- (2) The time of the collection of the blood or breath sample or urine analyzed;*
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;*
- (4) The type and status of any permit which was held by the person who performed the test;*
- (5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.*

*Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.*

*4. The provisions of this section shall not apply to a student who:*

- (1) Is eighteen years of age or older;*
- (2) Is enrolled in an accredited college or university and is a student in a culinary course;*
- (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and*
- (4) Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university. The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum. (L. 1959 H.B. 248 § 1, A.L. 1994 S.B. 693, A.L. 2003 S.B. 298, A.L. 2005 S.B. 402, A.L. 2006 S.B. 725, A.L. 2009 H.B. 62, A.L. 2011 H.B. 111, A.L. 2014 S.B. 491) Effective 1-01-17*

**Decision:**

*Insert the sample Sections 600.060(D) and 600.065 to replace these Subsections.*

- P. See Section 600.155. Note that reference to non-intoxicating beer should be removed from this Section as is done in the similar statutory provisions of Section 311.280, RSMo. Refer to sample Section 600.070(A) and (B).

**Decision:**

*Delete the words "or non-intoxicating beer" in Subsection (B).*

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- Q. See Section 600.165. Note that the similar statutory provisions of Section 311.470, RSMo. were repealed in 2010 by HB 1965. This Section should probably be removed.

**Decision:**

*Delete this Section 600.165.*

**Chapter 605, Occupational Licenses**

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**Additional Decision:**

*Revise the definition of “permanent place of business” in Section 605.010 to read as follows:*

*Includes places within the City of Bolivar wherein:*

- 1. A physical brick and mortar business is located from which a profession, occupation or business intends to be conducted;*
- 2. A residence is located wherein business is permitted from which a profession, occupation or business intends to be conducted; or*
- 3. A principal place of business is located from which a profession, occupation or business intends to be conducted at least partly within the City of Bolivar.*

*Add the definition of “principal place of business” to Section 605.010 as follows:*

*A place wherein a business's officers or management direct, control, and coordinate the business's activities.*

- A. Is the temporary license fee in Section 605.115(E) still correct?

**Decision:**

*No revision desired.*

- B. Are the license fees in Section 605.120 still correct?

**Decision:**

*No revision desired.*

- C. In Section 605.130, as regards the penalty for late payment, the City may want to review Section 71.625, RSMo., which has fairly recently set out new provisions for collection of delinquent license fees. The City should determine with your Attorney’s assistance how this should be handled.

***71.625. License tax, payment, when deemed timely--municipal corporations, interest and penalties on delinquencies to apply.***

- 1. The timely payment of a license tax due to any municipal corporation in this state, or any county pursuant to section 66.300, which is delivered by United States mail to the municipality or county office designated by such municipality or county office to receive such payments, shall be deemed paid as of the postmark date stamped on the envelope or other cover in which such payment is mailed. In the event any payment of tax due is sent by registered or certified mail, the date of the registration or certification shall be deemed the postmark date. No additional tax, penalty or interest shall be imposed by any municipality or county on any taxpayer whose payment is delivered by*



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*United States mail, if the postmark date stamped on the envelope or other cover containing such payment falls within the prescribed period on or before the prescribed date, including any extension granted, for making the payment. When the last day for making any license tax payment, including extensions, falls on a Saturday, a Sunday, or a legal holiday in this state, the payment shall be considered timely if the payment is made on the next succeeding day which is not a Saturday, Sunday or legal holiday.*

*2. Except as otherwise provided by law, the interest provisions of section 144.170 and penalty provisions of section 144.250 relating to delinquent sales taxes shall apply to delinquent taxes due as a result of the imposition of a license tax by any municipal corporation. The limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.510. (L. 1998 H.B. 1301, A.L. 2012 H.B. 1504)*

**Decision:**

*Delete this Section.*

- D. See Section 605.160. Note that some of the occupations herein cannot be taxed unless they have a business office in the City. See the listing in Section 605.140(B). Possibly this language should be added to these professions.

**Decision:**

*Revise Subsection (A) to read as follows: "The professions, occupations or businesses listed in Section 94.110, RSMo., shall require a license and fees and shall be levied upon each as specified above, except as noted in Section 605.140."*

- E. Due to the age of Section 605.170, is the policy of this Section still correct?

**Decision:**

*No revision desired.*

- F. Are the fees in Section 605.180 still current?

**Decision:**

*No revision desired.*

**Chapter 610, (Reserved)**

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- A. See [Reserved Chapters and Renumbering](#) above.

**NO DECISION REQUIRED HERE**

- B. If the City wishes to consider regulating peddlers and solicitors, we can provide a sample Chapter based on MML language and recommendations for your consideration.

**Decision:**

*No thanks. The City does not wish to regulate peddlers and solicitors.*

## **Chapter 611, (Reserved)**

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See [Reserved Chapters and Renumbering](#) above.

### **NO DECISION REQUIRED HERE**

## **Chapter 615, Garage Sales**

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Is there a fee for Garage sales?

**Decision:**

*No fee is required.*

## **Chapter ~~620, Private Watchmen~~**

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Due to the age of the enabling ordinances in this Chapter, the City should review this Chapter in its entirety and determine if any revisions are needed.

**Decision:**

*Delete this Chapter.*

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## TITLE VII, PUBLIC UTILITIES

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### Chapter 700, Water Distribution System and Sewage Disposal System

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- A. See Section 700.005. As to the definition of WATER DISTRIBUTION SYSTEM OR WATER SYSTEM, the City may wish to note that Section 640.102(6), RSMo., defines the similar term “Public water system” as “*a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per calendar year. Such system includes any collection, treatment, storage or distribution facilities used in connection with such system.*”

**Decision:**

*Replace this definition with the statutory definition set out above.*

- B. We noticed the use of the term “Water and Sewer Collector” in some areas of this Title VII, See Section 700.030(A)(5) and 710.065(D)(1) and (2). We see more consistent use of the term “Public Works Director” and some use of the term “Utility Clerk” throughout the rest of the material. Should any of these officials be eliminated or changed?

**Decision:**

*Change “Utility Clerk” to “Water and Sewer Collector.”*

### Chapter 710, Classification of Water and Sewer Users — Water and Sewer Rates — Procedures For and Collection of Delinquent Accounts

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- A. Due to the age of the enabling ordinances, the City may wish to review this Chapter in its entirety to make certain the procedures are still current.

**Decision:**

*No revision desired.*

- B. The City should review the rates in Sections 710.030, 710.035, 710.036, 710.037 and 710.050 to confirm they are correct.

**Decision:**

*These Sections were amended by Ord. Nos. 3583, adopted 12-17-2019; 3487, adopted 10-23-2018; 3448, adopted 4-17-2018; 3449, adopted 4-17-2018; and 3584, adopted 12-17-2019, respectively. These ordinances were incorporated into the City’s Code during supplementation.*

- C. At the next stage of the project, we will incorporate the amendment by Ord. No. 3323 in Section 710.055.

**NO DECISION REQUIRED**

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## **Chapter 720, Public and Private Sewers**

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### **Article I, Public and Private Sewers**

- A. Due to the age of the enabling ordinances in this Article, the City may wish to review this Article in its entirety to make certain it is still current.

**Decision:**

*No revision desired.*

- B. Is the permit and inspection fee in Section 720.030(B) still current?

**Decision:**

*No revision desired.*

### **Article II, Wastewater Collection and Treatment System**

- A. Due to the age of the enabling ordinances in this Article, the City may wish to review this Article in its entirety to make certain it is still current.

**Decision:**

*No revision desired.*

- B. Is the permit application fee in Section 720.122(B) still current?

**Decision:**

*No revision desired.*

- C. Are the fees in Section 720.125(D) still current?

**Decision:**

*No revision desired.*

- D. Are Appendixes A and B attached to Chapter 720 appropriate for inclusion in the Code? If they are internal documents that do not require formal amendment by ordinance, they might be better kept on file in the City offices.

**Decision:**

*Exclude these Appendixes from the new Code and where referenced in Section 720.125, include an Editor's Note indicating that they are on file in the City offices.*

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**Chapter 730, Miscellaneous Utility Provisions**

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- A. Due to the age of the enabling ordinances in this Chapter, the City may wish to review this Chapter in its entirety to make certain it is still current.

**Decision:**

*No revision desired.*

- B. The penalty in Section 730.030 could be as high as \$500.00 based on the General Penalty in the Code and Section 79.470, RSMo., which authorizes the same. The imprisonment should be 90 days instead of 300 days based on the above Sections.

**Decision:**

*Change 300 days to 90 days.*

**Chapter 740, Cross-Connection Control Policy**

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Is there a Water Purveyor in the City or should this official be changed? Based on the definition it appears that the City would be the Water Purveyor.

**Decision:**

*No revision desired.*