

**CODE OF ORDINANCES
CITY OF BELLEFONTAINE NEIGHBORS**

Containing the general ordinances of the City, including zoning regulations

Ordinance No. 2254, enacted June 20, 2013.

**OFFICIALS
of the
CITY OF
BELLEFONTAINE NEIGHBORS,
MISSOURI**

Mayor

Robert J. Doerr

Aldermen

Ward 1

Tony Migliazzo
Shirley D. Paro

Ward 2

Don Merz
Scott Schultz

Ward 3

John Jordan
Mark Roth

Ward 4

Anthony Smith
Audrey Hollis

City Attorney

City of Bellefontaine Neighbors -- QuickCode
Kevin O'Keefe

City Clerk
Deni Donovan

ADOPTING ORDINANCE

BILL NO. 1394 ORDINANCE NO. 1352

An Ordinance Adopting and Enacting a New Code for the City of Bellefontaine Neighbors, Missouri, Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof Providing for the Manner of Amending Such Code; Providing for a Penalty and Providing When Such Code and This Ordinance Shall Become Effective.

Be It Ordained by the Board of Aldermen of the City of Bellefontaine Neighbors, Missouri as Follows:

Section 1. The Code entitled the Code of Ordinances, City of Bellefontaine Neighbors, Missouri, published by Municipal Code Corporation, consisting of Chapters 1 to 28, each inclusive, is hereby adopted and enacted as the "Code of Ordinances, City of Bellefontaine Neighbors, Missouri," which Code shall supersede all general and permanent ordinances of the city passed on or before September 4, 1986, to the extent provided in Section 2 hereof.

Section 2. All provisions of the Code shall be in full force and effect from and after July 2, 1987, and all ordinances of a general and permanent nature enacted on final passage on or before September 4, 1986, and not included in the Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of the Code. All ordinances concerning taxes, licenses, and fees remain in effect, as well as all ordinances listed in section 1-12 of the Code.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance. The repeal provided for in said Section 2 of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before July 2, 1987; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to July 2, 1987; nor shall such repeal affect any ordinance, motion or resolution promising or guaranteeing the payment of money for the city or any evidence of the city's indebtedness or any contract or obligation assumed by the city; nor shall it affect the annual tax levy; nor shall it affect any ordinance levying any tax, license or fee; nor shall it affect any right or franchise conferred by ordinance, motion or resolution of the city on any person or corporation; nor shall it affect any ordinance adopted

City of Bellefontaine Neighbors -- QuickCode

for purposes which have been consummated; nor shall it affect any ordinance which is temporary, although general in effect, or special, although permanent in effect; nor shall it affect any ordinance relating to the compensation of the city officers or employees or special counsel; nor shall it affect any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the city; nor shall it affect any ordinance relating to zoning, building code, housing maintenance, architectural conformity or subdivisions; nor shall it affect any ordinance adopted on final reading and passage after September 4, 1986.

Section 4. Whenever in such Code any act or omission is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this Code or ordinance the doing of any act or the failure to do any act is declared to be unlawful or a misdemeanor, and no specific penalty is provided therefor, and state law does not provide otherwise, the violation of any such provision of such Code shall be a violation punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in jail for a period not exceeding ninety (90) days, or by both such fine and imprisonment, except that where the state has a penalty for the same offense, as a misdemeanor, the penalty for violations of the city ordinance shall be the same as that set by statute for such misdemeanor.

Section 5. Any and all additions and amendments to the Code, when passed in the form as to indicate the intention of the governing body to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code shall be understood and intended to include the additions and amendments.

Section 6. In case of the amendment of any section of the Code for which a penalty is not provided, the general penalty as provided in Section 4 of this ordinance and in section 1-10 of such Code shall apply to the section as amended, or in case the amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in the other section shall be held to relate to the section so amended, unless the penalty is specifically repealed therein.

Section 7. Any ordinance adopted after September 4, 1986, which amends or refers to ordinances which have been codified in such Code, shall be construed as if they amend or refer to like provisions of such Code, and further, any ordinance or section of such Code may be repealed or amended by reference to such ordinance or section of such Code or both.

Section 8. Section 25-8(c) of the Code, relating to swimming pools, is hereby amended by striking the last six lines of said subsection after the word "children."

Section 9. Section 7-4 of the Code, relating to the candidates and filing, is hereby repealed.

Section 10. Section 21-16 of the Code, relating to the private vehicles in police work, is hereby repealed.

Section 11. Subsection (1) of section 21-67 of the Code, pertaining to qualifications of special deputy police, is amended by striking the word "male" therein.

Section 12. This ordinance shall take effect and be in full force from and after its passage and approval by the mayor.

City of Bellefontaine Neighbors -- QuickCode

Passed this 2nd day of July, 1987

/s/ Joseph Berger
Joseph Berger
Mayor and Ex Officio President of
the Board of Aldermen

Approved this 2nd day of July, 1987

/s/ Joseph Berger
Joseph Berger
Mayor

ATTEST:

/s/ Mae McKay
Mae McKay
City Clerk

Chapter 1 -- GENERAL PROVISIONS

ARTICLE I. IN GENERAL

Note—See the editor's note to art. II, § 1-20 et seq.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Bellefontaine Neighbors, Missouri," and may be so cited. Such ordinances may also be cited as "Bellefontaine Neighbors City Code."
(Code 1964, § 1-1)

Editor's note—The City of Bellefontaine Neighbors was incorporated as a fourth class city on June 19, 1950, pursuant to an order of the county court of St. Louis County, Mo.

Sec. 1-2. Definitions and rules of construction.

City of Bellefontaine Neighbors -- QuickCode

In the construction of this Code and of all ordinances of the city, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section or ordinance, or unless inconsistent with the manifest intent of the board of aldermen, unless the context clearly requires otherwise:

Board of aldermen. The term "board of aldermen" shall mean the board of aldermen of the City of Bellefontaine Neighbors, Missouri.

City. The words "the city" or "this city" shall mean the City of Bellefontaine Neighbors, Missouri.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday that shall be excluded.

State law reference—*Similar provisions, RSMo. § 1.040.*

County. The word "county" shall mean the County of St. Louis, State of Missouri.

Gender. When any subject matter, party or person is described or referred to by words importing the masculine, females as well as males, and associations and bodies corporate as well as individuals, shall be deemed to be included.

State law reference—*Similar provisions, RSMo. § 1.030.*

Joint authority. Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of such persons, unless otherwise provided by statute, this Code or other city ordinance.

State law reference—*Similar provisions, RSMo. § 1.050.*

Month. The word "month" shall mean a calendar month.

Number. When any subject matter, party or person is described or referred to by words importing the singular number, several matters and persons and bodies corporate shall be deemed to be included.

State law reference—*Similar provisions, RSMo. § 1.030.*

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Owner. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall include a corporation, partnership, association, organization and any other group acting as a unit as well as individuals. It shall also include an executor, administrator, trustee, receiver or other legal representative, appointed according to law. Whenever the word "person" is

City of Bellefontaine Neighbors -- QuickCode

used in any section of this Code prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.

State law reference—*Similar provisions, RSMo. § 1.020(7), 556-050.*

Personal property. "Personal property" shall include money, goods, chattels, things in action and evidences of debt.

State law reference—*Similar provisions, RSMo. § 1.020(11).*

Preceding, following. The words "preceding" and "following" shall mean next before and next after, respectively.

State law reference—*Similar provisions, RSMo. § 1.020(10).*

Property. The word "property" shall include real and personal property.

State law reference—*Similar provisions, RSMo. § 1.020(14).*

Public way. The words "public way" shall include any street, alley, boulevard, parkway, highway, sidewalk, public right-of-way or other public thoroughfare.

Real property. The terms "real property," "premises," "real estate" or "lands" shall be deemed to be co-extensive with lands, tenements and hereditaments.

Shall, may. The word "shall" is mandatory; the word "may" is permissive.

Sidewalk. The word "sidewalk" shall mean that portion of the street between the street right-of-way and the adjacent curb line and the adjacent property line intended for the use of pedestrians.

Signature. Where the written signature of any person is required, the proper handwriting of such person or his mark shall be intended.

State. The words "the state" or "this state" shall mean the State of Missouri.

Street. The word "street" shall mean and include any public way, highway, street, avenue, boulevard, parkway, alley or other public thoroughfare, and each of such words shall include all of them.

Tenant, occupant. The word "tenant" or "occupant," applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Written, in writing and writing word for word. The words "written," "in writing" and "writing word for word" include printing, lithographing or any other mode of representing words and letters, but in all cases where the signature of any person is required, the proper handwriting of the person, or his mark, is intended.

City of Bellefontaine Neighbors -- QuickCode

State law reference—*Similar provisions, RSMo. § 1.020(20).*

Year. The word "year" shall mean a calendar year, unless otherwise expressed, and the word "year" shall be equivalent to the words "year of our Lord."

State law reference—*Similar provisions, RSMo. § 1.020(9).*

All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the board of aldermen may be fully carried out. (Code 1964, § 1-2)

State law reference—*Construction of statutes generally, RSMo. §§ 1.010—1.210.*

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1964, § 1-6)

Sec. 1-4. City seal.

(a) The seal of the city shall be of metal of circular shape, one and one-half (1½) inches in diameter. It shall contain the words "Seal of Bellefontaine Neighbors, Mo." cut thereon in circular form around the outside edge. It shall be kept in the custody of the city clerk.

(b) No impression of such seal upon any document or record shall be valid or binding unless the same be duly attested by the proper officer of this city and when duly authorized by law.

(Code 1964, § 1-9)

State law reference—*City seal, RSMo. § 79.010.*

Sec. 1-5. Official time.

Whenever certain hours are named in this Code, they shall mean Central Standard Time or Daylight Saving Time, as may be in current use in the city.

(Code 1964, § 1-10; Ord. No. 898, § 1, 1-3-74)

Sec. 1-6. Provisions of Code deemed continuations of prior ordinances.

City of Bellefontaine Neighbors -- QuickCode

The provisions appearing in this Code, so far as they are in substance the same as those of ordinances existing at the time of the adoption of "The Code of the City of Bellefontaine Neighbors, Missouri," shall be considered as a continuation thereof and not as new enactments.

(Code 1964, § 1-3)

Sec. 1-7. Repeal of ordinance not to affect liabilities, etc.

Whenever any provision of this Code or any ordinance or part of an ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, the provision of this Code or ordinance or part of an ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying the same shall go into effect, unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under any provisions of this Code or other ordinance previous to its repeal shall in anywise be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if such ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

(Code 1964, § 1-4)

Sec. 1-8. Repeal not to revive former ordinance.

When an ordinance repealing a provision of this Code or former ordinance or any clause or provision thereof shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it is expressly so provided and such former ordinance, clause or provision is set forth at length.

(Code 1964, § 1-5)

Sec. 1-9. Severability of parts of Code.

It is hereby declared to be the intention of the board of aldermen that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code since the same would have been enacted by the board of aldermen without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

(Code 1964, § 1-7)

Sec. 1-10. Ordinance enforcement and administration.

(a) *General penalty provisions.*

(1) Whenever in this Code or in any ordinance of the city, or in any rule, regulation, notice,

City of Bellefontaine Neighbors -- QuickCode

condition, term or order promulgated by any officer or agency of the city under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this code or any such ordinance, rule, regulation, order or notice shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment, but in any case wherein the penalty for an offense is fixed by any statute, the same penalty shall apply.

- (2) Except where otherwise provided, each and every day any violation of this code or any ordinance of the city or any rule, regulation, order or notice promulgated by any officer or agency of the city under authority duly vested in him/her or it shall constitute a separate offense.
- (3) Whenever any act is prohibited by this code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do said act. Whenever any act is prohibited by this code, an attempt to do the act is likewise prohibited.

(b) *Equitable relief.* In addition to any other remedies or penalties established for violations of any ordinance or code section, or any rule, regulation, notice, condition, term or order promulgated by any officer or agency of the city under duly vested authority, the city official responsible for the enforcement of such ordinance, code section, rule, regulation, notice, condition, term or order may, on behalf of the city and after approval by the Board of Aldermen, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with such ordinance, code section, rule, regulation, notice, condition, term or order. In such action the court may grant such legal or equitable relief, including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant. Upon the successful prosecution of any such action the city may be awarded by the court reasonable attorney fees as allowed by law.

(c) *Restrictions on delinquent applicants.*

- (1) For the purposes of this section, the following terms shall have the following meanings:
 - a. *"Applicant"* means an individual or a corporation, firm, partnership, joint venture, association, organization or entity of any kind, including any shareholder, owner, officer, partner, joint venturer or member of such entity or any other person holding an ownership interest in such entity requesting any city permit, license, franchise or other approval.
 - b. *"Relevant law"* means
 1. Any statute or regulation of the United States or the State of Missouri,
 2. Any ordinance or code section of the city, or any rule, regulation, notice, condition, term or order promulgated by any officer or agency of the city under duly vested authority, of the city, or

City of Bellefontaine Neighbors -- QuickCode

3. Any final judgment or order of any court of competent jurisdiction, when a statute, ordinance, code section, rule, regulation, notice, condition, term, order or judgment at issue regulates conduct or conditions germane to the issuance of the requested permit, license, franchise or other approval as provided by the applicable ordinance or code section of the city.
- c. *"Related person or entity"* means
1. A firm, partnership, joint venture, association, organization or entity of any kind in which the applicant holds any stock, title, or other ownership interest of at least twenty percent (20%),
 2. A firm, partnership, joint venture, association, organization or entity of any kind which holds any stock, title, or other ownership interest in the applicant of at least twenty percent (20%), or
 3. An individual, firm, partnership, joint venture, association, organization or entity of any kind, whose affairs the applicant has the legal or practical ability to direct, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lessor ownership interest, familial relationship or in any other manner.
- (2) In enforcing or administering the ordinances of the city, no permit, license, franchise or approval of any kind shall be granted to any applicant
 - a. Who is charged with, or in violation of, any relevant law, or
 - b. Who is related to or associated with a related person or entity who is charged with, or in violation of, any relevant law, until such time as the applicant or the related person or entity resolves the pending charge or comes into compliance with the relevant law.
 - (3) The reviewing or enforcement officer may consider past violations of relevant law by an applicant or a related person or entity in considering whether to issue a permit, license, franchise or approval requested by an applicant.
 - (4) The reviewing or enforcement officer may refuse to accept the refile of a denied application for one (1) year from the date of the denial unless the officer finds that the application has been substantially revised, or that substantial new facts or change in circumstances warrant reapplication.
 - (5) Any aggrieved applicant may appeal the decision of the reviewing or enforcement officer to the Board of Aldermen within five (5) business days of said decision. The Board of Aldermen may reverse or modify the decision of the reviewing or enforcement officer provided the applicant

City of Bellefontaine Neighbors -- QuickCode

- a. Establishes a good-faith effort to effect compliance with this section and any relevant law, or if applicable, an inability to do so because of the ownership structure of any pertinent related entity, or
- b. Establishes that the applicant has not been charged with, or is not in violation of, any relevant law.

(Code 1964, § 1-8; Ord. No. 1877 §1, 4-5-01)

State law reference—Penalty limits, RSMo. §§ 79.470 and 546.902.

Sec. 1-11. Microfilming of city records.

The city shall make arrangements for the microfilming of such records of the city as may be deemed necessary by the mayor or city clerk.

(Code 1964, § 1-11)

Sec. 1-12. Ordinances saved from repeal generally.

Nothing contained in this Code of Ordinances or the ordinance adopting this Code shall be construed to repeal or otherwise affect the following:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of the ordinance adopting this Code;
- (2) Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (3) Any ordinance fixing salaries or other compensation of officers, employees or special counsel of the city not inconsistent with such Code;
- (4) Any appropriation ordinance;
- (5) Any right to franchise granted by the board of aldermen to any person, firm or corporation;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, or in any way affecting any street or public way in the city;
- (7) Any ordinance establishing and prescribing the street grades of any street in the city;
- (8) Any ordinance providing for local improvements or assessing taxes therefor;
- (9) Any ordinance dedicating or accepting any plat or subdivision in the city;

City of Bellefontaine Neighbors -- QuickCode

- (10) Any ordinance establishing traffic regulations for specific streets or portions thereof;
- (11) Any ordinance annexing property to the city;
- (12) Any zoning ordinance of the city;
- (13) Any ordinance levying taxes, not in conflict or inconsistent with the provisions of this Code;
- (14) Ordinance No. 1196, establishing ward boundaries;
- (15) Any ordinance enacted after January 17, 1985.

Such repeal shall not be construed to revive any ordinance or part of an ordinance which is repealed by this Code.

Sec. 1-13. Recovery of nuisance abatement costs.

If the owner of property upon which any nuisance exists contrary to any provision of this Code of Ordinances or any other ordinances of the city fails to begin removing and/or otherwise abating the nuisance within the time allowed, or shall fail to pursue the removal and/or abatement of such nuisance without unnecessary delay, the City Engineer or Police Chief shall cause the condition which constitutes the nuisance to be removed or otherwise abated. If the City Engineer or Police Chief causes such condition to be removed or abated, the cost of such removal shall be certified to the city clerk and/or city collector who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

(Ord. No. 1870 §1, 12-7-00)

Secs. 1-14—1-19. Reserved.

ARTICLE II. OPEN MEETINGS AND RECORDS

Editor's note—Article II, §§ 1-20—1-32, was added by § 1 of Ord. No. 1572, adopted Sept. 16, 1993. Section 4 of the ordinance specified that the existing provisions of the chapter, §§ 1-1—1-12, be designated art. I.

DIVISION 1. GENERALLY

Sec. 1-20. Definitions.

As used in this article, unless the context otherwise indicates, the following terms mean:

- (1) *Closed meeting, closed record, or closed note:* Any meeting, record or vote closed to the public.
- (2) *Copying:* If requested by a member of the public, copies provided as detailed in the provisions of this article, if duplication equipment is available.
- (3) *Public business:* All matters which relate in any way to the performance of the city's functions or the conduct of its business.
- (4) *Public governmental body:* Any legislative, administrative, governmental entity created by the constitution or statutes of this state, orders or ordinance of the city, judicial entities when operating in an administrative capacity, or by executive order, including:
 - a. Any advisory committee or commission appointed by the mayor or board of aldermen;
 - b. Any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rulemaking or quasi-judicial power;
 - c. Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the mayor, board of aldermen or the city clerk, policy or policy revisions or expenditures of public funds. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subsection; and
 - d. Any quasi-public governmental body.
- (5) *Quasi-public governmental body:* Any person, corporation or partnership organized or authorized to do business in the State of Missouri pursuant to the provisions of RSMo., Chapters 352, 353, or 355, or unincorporated association which either:
 - a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

City of Bellefontaine Neighbors -- QuickCode

- b. Performs a public function, as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax exempt debt, rights of eminent domain, or the contracting of lease-back agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from the city, but only to the extent that a meeting, record, or vote relates to such appropriation.
- (6) *Public meeting:* Any meeting of a public governmental body subject to this article at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board. The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this article, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (1) location in order to conduct public business.
- (7) *Public record:* Any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this section shall be retained by the public governmental body in the same manner as any other public record.
- (8) *Public vote:* Any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.
(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1801, § 2, 1-7-99; Ord. No. 1983, § 1, 8-19-04)

Sec. 1-21. Meetings, records and votes to be public; exceptions.

All meetings, records and votes are open to the public; except that any meeting, record, minutes or vote relating to one (1) or more of the following matters, as well as other materials designated elsewhere in this article, shall be closed unless the public governmental body votes to make them public:

- (1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote, or settlement agreement relating

City of Bellefontaine Neighbors -- QuickCode

to legal actions, causes of action, or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of RSMo., Section 610.111, however the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.

- (2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes or vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase, or sale of the real estate.
- (3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two (72) hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two (72) hour period before such decision is made available to the public. As used in herein, the term "personal information" means information relating to the performance or merit of individual employees.
- (4) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
- (5) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.
- (6) Welfare cases of identifiable individuals.
- (7) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.
- (8) Software codes for electronic data processing and documentation thereof.
- (9) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.
- (10) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is

City of Bellefontaine Neighbors -- QuickCode

executed, or all proposals are rejected.

- (11) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment; except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such. It is the policy of the city that no information relating to present or past employees other than names, positions, salaries and lengths of service shall be provided to any person or agency other than as may be required in response to a subpoena lawfully issued by a court of competent jurisdiction, or as otherwise may be required by law.
- (12) Records which are protected from disclosure by law.
- (13) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
- (14) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.
- (15) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this Article.
- (16) Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall expire and be of no further force or effect on December 31, 2008.
- (17) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.
 - (a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;
 - (b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
 - (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the

City of Bellefontaine Neighbors -- QuickCode

receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(d) This exception shall expire and be of no further force or effect on December 31, 2008.

(18) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open.

(19) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1801, § 3, 1-7-99; Ord. No. 1983, §2, 8-19-04)

Sec. 1-22. Records pertaining to internal investigations and investigations of allegedly illegal conduct.

(a) In order to allow the fullest cooperation by employees and members of the public in investigation of matters wherein an employee of the city is alleged to have engaged in any form of misconduct, all files, records and documents relating to investigations of allegations of misconduct by city employees will be considered to be personnel records and shall be closed records under the custody of the respective department head.

(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1735, § 1, 5-15-97)

Sec. 1-23. Records pertaining to medical condition or history.

All information obtained by the city regarding medical examinations, medical condition or medical history of city employees or job applicants, if retained by the city, shall be collected and maintained on separate forms and in separate medical files and shall be treated as closed and confidential records, except that:

City of Bellefontaine Neighbors -- QuickCode

- (1) Supervisors and managers may be informed regarding necessary restrictions on the work duties of employees and necessary accommodations;
- (2) First aid and safety personnel may be informed, when appropriate, if the information reflects the existence of a disability which might require emergency treatment; or
- (3) Government officials investigating compliance with state or federal law pertaining to treatment of persons with disabilities may be allowed access to such records.

(Ord. No. 1572, § 1, 9-16-93)

Sec. 1-24. Records containing confidential, proprietary or private information.

(a) In order to protect reasonable expectations of privacy on the part of persons having dealings with the city, city records containing information or entries of a personal, confidential, private or proprietary nature, including, but not limited to, income, sales data, financial circumstances, household and family relationships, social security numbers, dates of birth, insurance information and other information which reasonable persons generally regard as private and not a customary subject for public discourse, which information or entries have been provided to the city by one complying with regulations requiring the disclosure of such information, shall be excised from copies of city records disclosed or provided to members of the public other than those persons to whom the information of entries pertain. Persons desiring access to information or entries excised from such records may file a supplementary written request with the city clerk for disclosure of material to be specified in the request, which request should state:

- (1) Whether or not the requesting party has informed persons to whom the requested information pertains of the request; and
- (2) All reasons why the requesting party believes disclosure by the city of the specified information is in the public interest.

(b) The city clerk may afford all interested parties, including the persons to whom the information pertains, a reasonable time within which to comment on the requested disclosure prior to acting further on the request. If an interested person objects to the disclosure of the requested information, the city clerk may conduct a hearing at which all interested parties may be heard. At such hearing the clerk shall consider, among such other factors as may be reasonable and relevant:

- (1) The requirements and intent of state law, city ordinances and this policy;
- (2) The legitimate expectations of privacy on the part of interested parties;
- (3) The personal, confidential, private or proprietary nature of the information at issue;
- (4) Whether the information was obtained by the city under compulsion of law or was freely and voluntarily provided by the persons objecting to the disclosure; and

City of Bellefontaine Neighbors -- QuickCode

- (5) The public purposes to be served by disclosure of the requested information.

If the city clerk determines that disclosure is legally required or would otherwise serve the best interests of the public and that such requirements or purposes outweigh the legitimate concerns or interests of the persons to whom the information pertains, the clerk shall provide the requested information to the requesting party.

(c) In addition to or in lieu of the hearing described in subsection (b) above, the city clerk may afford all interested parties a reasonable opportunity to seek judicial review of or relief from the proposed disclosure. The city clerk may also utilize the procedures for judicial determination and/or opinion solicitation provided in section 1-31 below.

(d) Records and information that have been closed pursuant to the provisions of this Chapter, Chapter 610, RSMo, and other relevant state and federal laws and regulations are to be treated as confidential by all employees and elected and appointed officials of the City.

It shall be grounds for disciplinary action for any employee to (1) violate the confidentiality relating to such records or information; (2) copy or remove closed and/or confidential information without the specific consent of the custodian thereof or in the normal course of performing such employee's duties for the City; (3) provide or discuss closed records or confidential information with any person other than as a necessary part of performing such employee's duties for the City; or (4) divulge, discuss or disclose information or records addressed in any closed meeting of a public governmental body, other than as a necessary part of performing such employee's duties for the City.

Elected and appointed officials are also expected to maintain the same strict standards of confidentiality required of employees. Breach of the confidentiality standards established by this Chapter and required of employees in this Section may be grounds for removal from office or other sanctions as may be deemed appropriate by the body of which such official is a member or by the Board of Aldermen.

(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1983, §3, 8-19-04)

Sec. 1-25. Notices of meetings.

(a) Each public governmental body shall give notice of the time, date, place, and tentative agenda of each meeting, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board at City Hall or other prominent place which is easily accessible to the public and clearly designated for that purpose at the city hall.

City of Bellefontaine Neighbors -- QuickCode

The notice shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when the city hall is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

(b) When it is necessary to hold a meeting on less than twenty-four (24) hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

(c) A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

(d) A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of section 610.021 RSMo. shall be allowed without permission of the public body; any person who violates this provision shall be guilty of an ordinance violation and punished by imprisonment for a period not to exceed fifteen (15) days, a fine not to exceed three hundred dollars (\$300.00), or by both such fine and imprisonment.

(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1801, § 4, 1-7-99; Ord. No. 1983, §4, 8-19-04)

Sec. 1-25.1. Closed meetings, how held.

(a) A public governmental body proposing to hold a closed meeting or vote may do so by either:

- (1) Giving notice of same pursuant to section 1-25 of this Code along with reference to the specific exception allowing such a closed meeting under state law; or
- (2) Upon an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to the specific exception allowing such a closed meeting under state law shall be announced publicly at an open meeting of the governmental body and entered into the minutes.

(b) Any meeting or vote closed pursuant to RSMo., Section 610.021, shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

City of Bellefontaine Neighbors -- QuickCode

(c) In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in Chapter 610 RSMo., or this Article such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to Chapter 610 RSMo.

(Ord. No. 1801, § 5, 1-7-99; Ord. No. 1983, §5, 8-19-04)

Sec. 1-26. Journals of meetings and records of voting.

(a) A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken.

(b) All votes by members of a public governmental body at any meeting shall be recorded. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the body. Any votes taken during a closed meeting shall be taken by roll call and the minutes of the closed meeting, sufficient to reflect the vote pursuant to this subsection shall be recorded. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for the Missouri General Assembly and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1801, § 6, 1-7-99; Ord. No. 1983, §6, 8-19-04)

Sec. 1-27. Accessibility of meetings.

Each meeting shall be held at a place reasonably accessible to the public, and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1801, § 7, 1-7-99; Ord. No. 1983, §7, 8-19-04)

Sec. 1-28. Segregation of exempt material.

If a public record contains material which is not exempt from disclosure, as well as material which is exempt from disclosure, the custodian shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying in accord with the policies provided herein. When designing a public record the custodian shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the custodian shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

(Ord. No. 1572, § 1, 9-16-93)

Sec. 1-29. Reserved.

Editor's note—Ord. No. 1735, § 2, adopted May 15, 1997, repealed § 1-29, which pertained to arrest records and derived from Ord. No. 1572, § 1, Sept. 16, 1993.

Sec. 1-30. Custodian designated; response to request for access to records.

(a) The city clerk shall be the custodian of records and will be responsible for maintenance and control of all records. The custodian may designate deputy custodians in operating departments of the city and such other departments or offices as the custodian may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.

(b) Except as otherwise provided by law, the city shall provide access to and, upon request, furnish copies of the city's public records subject to the provisions of section 1-32 of this Code relating to copying fees. No person shall remove original public records from the city hall or from the office of the custodian of records without written permission of the custodian. No public governmental body shall grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

(c) The custodian of records may require persons seeking access to public records to submit such request in writing and/or on a form designated by the custodian for such purpose. Such written request shall be sufficiently particular to reasonably apprise the custodian of the records sought.

(d) Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third (3rd) business day following the date the request is received by the custodian of records. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted

City of Bellefontaine Neighbors -- QuickCode

immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three (3) days for reasonable cause.

(e) If a request for access is denied, the custodian of records shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requestor no later than the end of the third business day following the date that the request for the statement is received.

(f) Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this subsection shall only apply to messages sent to other members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record, subject, however, to the exceptions for closed records as provided by law.

(Ord. No. 1572, § 1, 9-16-93; Ord. No. 1801, § 8, 1-7-99; Ord. No. 1983, §8, 8-19-04)

Sec. 1-31. Procedures for resolving questions of public accessibility.

A public governmental body or record custodian in doubt about the legality of closing a particular meeting, record or vote may, subject to approval by the board of aldermen, bring suit in the county circuit court for the County of St. Louis to ascertain the propriety of such action. In addition, subject to approval by the board of aldermen, the public governmental body or custodian may seek a formal opinion of the attorney general or an attorney for the city regarding the propriety of such action. In such events, the proposed closed meeting or public access to the record or vote shall be deferred for a reasonable time pending the outcome of the actions so taken.

(Ord. No. 1572, § 1, 9-16-93)

Sec. 1-32. Fees.

(a) The custodian shall charge ten (10) cents per page for a paper copy not larger than nine by fourteen inches, plus an hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the City. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the City shall produce the copies using employees of the City that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the City to provide an estimate of the cost to the person requesting the records. The custodian shall receive (or may require) payment prior to duplicating and/or searching for documents.

(b) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, video tapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the City required for making

City of Bellefontaine Neighbors -- QuickCode

copies and programming, if necessary, and the disk or tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming. (Ord. No. 1572, § 1, 9-16-93; Ord. No. 1801, § 9, 1-7-99; Ord. No. 1983, §9, 8-19-04)

Secs. 1-33—1-39. Reserved.

DIVISION 2. LAW ENFORCEMENT RECORDS

Sec. 1-40. Definitions.

As used in sections 1-40 through 1-45, inclusive, the following terms shall have the following definitions:

- (1) *Arrest*: An actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;
- (2) *Arrest report*: A record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;
- (3) *Inactive*: An investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:
 - a. A decision by the law enforcement agency not to pursue the case;
 - b. Expiration of the time to file criminal charges pursuant to the applicable statute of limitations or ten (10) years after the commission of the offense; whichever date earliest occurs;
 - c. Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;
- (4) *Incident report*: A record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;
- (5) *Investigative report*: A record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an

City of Bellefontaine Neighbors -- QuickCode

incident report or in response to evidence developed by law enforcement officers in the course of their duties.

(Ord. No. 1735, § 3, 5-15-97; Ord. No. 1801, § 10, 1-7-99)

Sec. 1-41. Police department records.

(a) The police department of the city shall maintain records of all incidents reported to the police department, and investigations and arrests made by the police department. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsection (c) of this section or RSMo., Section 320.083, investigative reports of the police department are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed for purposes of exculpation and except as provided in section 1-43.

(b) Except as provided in subsections (c) and (d) of this section, if any portion of a record or document of a police department officer or the police department, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for police department investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this article.

(c) Any person, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident may obtain any records closed pursuant to this section or section 1-44 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident and may obtain access to other records closed by the police department pursuant to this section. Within thirty (30) days of such request, the police department shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the police department stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. Pursuant to RSMo., Section 610.100(4), if, based on such motion, the court finds for the police department, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

(d) The victim of an offense as provided in RSMo., Chapter 566, may request that his or her identity be kept confidential until a charge relating to said incident is filed.

(Ord. No. 1735, § 3, 5-15-97; Ord. No. 1801, § 11, 1-7-99)

Sec. 1-42. Effect of nolle pros, dismissal, suspended imposition of sentence, and not

City of Bellefontaine Neighbors -- QuickCode
guilty due to mental disease or defect on records.

If the person arrested is charged but the case is subsequently nolle prossed or dismissed, or the accused is found not guilty, or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except that the disposition portion of the record may be accessed and except as provided in section 1-43. If the accused is found not guilty due to mental disease or defect pursuant to RSMo., Section 552.030, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child care agencies, facilities as defined in RSMo., Section 198.006, and in-home services provider agencies as defined in RSMo., Section 660.250 in the manner established by RSMo., Section 610.120. (Ord. No. 1735, § 3, 5-15-97; Ord. No. 1801, § 12, 1-7-99)

Sec. 1-43. Public access of closed arrest records.

(a) Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and RSMo., Section 43.507. They shall be available to the sentencing advisory commission created in RSMo., Section 558.019, for the purpose of studying sentencing practices, and only to courts, law enforcement agencies, child care agencies as herein defined, department of revenue for driving record purposes, facilities as defined in RSMo., Section 198.006, in-home services provider agencies as defined in RSMo., Section 660.250, the division of worker's compensation for the purposes of determining eligibility for crime victims' compensation pursuant to RSMo., Sections 595.010 to 595.075, and federal agencies for purposes of prosecution, sentencing, parole consideration, criminal justice employment, child care employment, nursing home employment and to federal agencies for such investigative purposes as authorized by law or presidential executive order. These records shall be made available for the above purposes regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes. All records which are closed records shall be removed from the records of the police department and municipal court which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

(b) As used in this article, the term "child care" includes providers and youth services agencies as those terms are defined in RSMo., Section 43.540, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services. (Ord. No. 1735, § 3, 5-15-97; Ord. No. 1801, § 13, 1-7-99)

Sec. 1-44. "911" telephone reports.

Except as provided by this section, any information acquired by the police department by way of a

City of Bellefontaine Neighbors -- QuickCode

complaint or report of a crime made by telephone contact using the emergency number "911" shall be inaccessible to the general public. However, information consisting of the date, time, specific location and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to section 1-41. Any closed records pursuant to this section shall be available upon request by law enforcement agencies or the Division of Workers' Compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

(Ord. No. 1735, § 3, 5-15-97)

Sec. 1-45. Daily log or record maintained by police department of crimes, accidents or complaints; public access to certain information.

(a) The City of Bellefontaine Neighbors Police Department, if it maintains a daily log or record that lists suspected crimes, accidents, or complaints, shall make available the following information for inspection and copying by the public:

(1) The time, substance, and location of all complaints or requests for assistance received by the police department;

(2) The time and nature of the police department's response to all complaints or requests for assistance; and

(3) If the incident involves an alleged crime or infraction:

a. The time, date and location of occurrence;

b. The name and age of any victim, unless the victim is a victim of a crime under Chapter 566, RSMo;

c. The factual circumstances surrounding the incident; and

d. A general description of any injuries, property or weapons involved.

(Ord. No. 1735, § 3, 5-15-97; Ord. No. 1801, § 14, 1-7-99; Ord. No. 1983, § 10, 8-19-04)

Chapter 2 -- ADMINISTRATION

Cross references—Civil defense and disaster, Ch. 6; elections, Ch. 7; assistant electrical inspector, § 8-16 et seq.; department of public health and sanitation, § 13-16 et seq.; revocation of licenses, § 15-250 et seq.; taxation, Ch. 26.

ARTICLE I. IN GENERAL

Editor's note--Ord. no. 2152 §1, adopted November 4, 2010, repealed sections 2-1--2-4 and enacted new provisions set out herein. Sections 2-1 "mayor and collector; terms of office" and 2-3 "outside employment--board of aldermen approval" were not re-enacted by the city. Former sections 2-1--2-4 derived from ord. no. 1433 §1, 10-5-89; and ord. no. 1899 §1, 11-15-01.

Sec. 2-1. Mayor--term of office.

Beginning with the term of office elected at the general city elections to be held in April, 1991, and thereafter, the term of office for the mayor shall be four (4) years and until their successors shall be selected and qualified according to law.
(Ord. No. 2152 §1, 11-4-10)

State law reference--Similar provisions, RSMo. §79.050.

Sec. 2-2. Duties of the mayor.

The Mayor shall perform all duties assigned to the office of the mayor by the laws of the state of Missouri and the ordinances of the city of Bellefontaine Neighbors.
(Ord. No. 2152 §1, 11-4-10)

Sec. 2-3. Mayor--compensation.

The mayor shall receive such compensation as shall be determined by the board of aldermen by ordinance from time to time.
(Ord. No. 2152 §1, 11-4-10)

Secs. 2-4—2-10. Reserved.

ARTICLE II. BOARD OF ALDERMEN

State law references—Board of aldermen and mayor, RSMo. §§ 79.070—79.220.

Sec. 2-11. Regular meetings—Time.

Regular meetings of the board of aldermen shall be held at 7:30 p.m. on the first and third Thursdays of each month. If any regular meeting shall fall on a legal holiday, such regular meeting shall be held at 7:30 p.m. on a date which shall be specified by the board of aldermen at its preceding meeting. The

City of Bellefontaine Neighbors -- QuickCode

board of aldermen shall have the right to cancel or reschedule a meeting, provided it shall, when possible, announce such cancellation or rescheduling in advance at a public meeting. (Code 1964, § 2-1; Ord. No. 1389, § 1, 7-21-88; Ord. No. 2091 §1, 8-7-08)

Sec. 2-12. Same—Place.

The regular meetings of the board of aldermen shall be held at the city hall, unless a different location is resolved by the board of aldermen at a regular meeting of the board of aldermen. (Code 1964, § 2-2)

Sec. 2-13. Special meetings.

Four (4) of the members of the board of aldermen may call a special meeting of the board of aldermen by directing the city clerk to send a notice of such special meeting by ordinary mail to the mayor and each of the members of the board of aldermen, addressed to the last known address of the mayor and each member of such board, setting forth the names of the aldermen calling such meeting and the time and place of such meeting. (Code 1964, § 2-3)

Sec. 2-14. Robert's Rules of Order to govern meetings.

All meetings of the board of aldermen shall be conducted by Robert's Rules of Order. (Code 1964, § 2-4)

Sec. 2-15. Closed meetings.

The board of aldermen may at any time declare any meeting of the board of aldermen to be a closed meeting and closed to the public, as and when permitted by law. (Code 1964, § 2-5)

Sec. 2-16. Passage of ordinances.

(a) The style of all ordinances shall be: "Be it ordained by the board of aldermen of the City of Bellefontaine Neighbors, Missouri, as follows:" No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the board of aldermen shall vote for it and the "ayes" and "nays" be entered on the journal. Every proposed ordinance shall be introduced to the board of aldermen in writing and shall be read by title or in full two (2) times prior to passage; both readings may occur at a single meeting of the board of aldermen. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the board of aldermen.

City of Bellefontaine Neighbors -- QuickCode

(b) Every bill duly passed by the board of aldermen and presented to the mayor and by him approved shall become an ordinance, and every bill presented as aforesaid, but returned with the mayor's objections thereto, shall stand reconsidered. The board of aldermen shall cause the objections of the mayor to be entered at large upon the journal and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the mayor thereto notwithstanding?" The vote on this question shall be taken by "ayes" and "nays" and the names entered upon the journal, and if two-thirds (2/3) of all the members-elect shall vote in the affirmative, the city clerk shall certify the fact on the roll, and the bill thus certified shall be deposited with the proper officer and shall become an ordinance in the same manner and with like effect as if it had received the approval of the mayor. The mayor shall have power to sign or veto any ordinance passed by the board of aldermen; provided, that should he neglect or refuse to sign any ordinance and return the same with his objections, in writing, at the next regular meeting of the board of aldermen, the same shall become a law without his signature.

(Ord. No. 1398, § 1, 9-15-88; Ord. No. 2015, §1, 9-15-05)

State law reference—Procedural requirements for adoption of ordinances by fourth class cities, RSMo. § 79.130.

Sec. 2-17. Acting president of the board of aldermen; selection.

(a) There is hereby created the office of "acting president of the board of aldermen," which office may also be referred to as "president of the board of aldermen." When any vacancy shall happen in the office of mayor by death, resignation, removal from the city, removal from office, refusal to qualify or from any other cause whatever, the person holding the office of acting president of the board of aldermen shall, for the time being, perform the duties of mayor, with all the rights, privileges, powers and jurisdiction of the mayor, until such vacancy shall be filled or such disability removed or, in case of temporary absence, until the mayor's return. The acting president of the board of aldermen may also perform such other duties as may be assigned by law from time to time.

(b) The acting president of the board of aldermen shall be selected by the members of the board of aldermen at the first meeting of the board in the month of May each year, or at the first meeting of the board after certification of the election and seating of the members thereof following the regular city election in April of each year, whichever shall occur later. The acting president of the board of aldermen shall serve for a term of one year or until a successor is selected and qualified as provided by law. The acting president of the board of aldermen shall be a member of the board of aldermen and shall be selected by the members of the board of aldermen by majority vote. In the event of a tie, the mayor shall be empowered to cast the deciding vote.

(Ord. No. 1431, § 1, 9-21-89)

State law references—Similar provisions, RSMo. §§ 70.090, 70.100.

Secs. 2-18—2-26. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

State law references-Elective officers, RSMo. §79.050; appointive officers, § 79.230.

DIVISION 1. GENERALLY

Sec. 2-27. Employees' retirement system.

(a) The city is a "political subdivision" as defined in Sections 70.600 through 70.755, RSMo., and hereby elects to have covered by the Missouri Local Government Employees' Retirement System all its eligible employees in the following classes:

- (1) Present and future general employees (neither "policeman" nor "fireman" as defined in the Act).
- (2) Policemen (as defined in the Act). Present and future policemen.

(b) Reserved.

(Code 1964, § 11-9; Ord. No. 1383, § 1(1), 7-7-88)

Editor's note—Ord. No. 1383, adopted July 7, 1988, did not specifically amend this Code. Section 1(1) adopted a change in the contributions from covered employees, changing to no contributions; such provision was treated as superseding § 2-27(b), which authorized and directed the city treasurer to deduct member contributions and remit same to the retirement system, together with the employer contributions.

Sec. 2-28. Election of benefit program in state local government employees' retirement system.

The city hereby elects Benefit Program L-6 (2% for life) in accordance with the provisions of Section 70.655, RSMo., as amended. The clerk shall certify this election to the Missouri Local Government Employees' Retirement System within ten (10) days hereof. Such election shall be effective

City of Bellefontaine Neighbors -- QuickCode

on the first day of August, 1988.

(Ord. No. 1090, § 1, 7-5-79; Ord. No. 1383, § 1(3), 7-7-88; Ord. No. 1889 § 1, 7-18-01; Ord. No. 1891 § 1, 8-2-01)

Sec. 2-29. Probationary periods.

The first six (6) months of any employment is considered to be first probationary and thereafter there shall be second probation for an additional six (6) months, unless prior to the expiration of the second six-month probation period such second probationary period shall have been extended by action of the appropriate department head concurred in by the board of aldermen. While in either first or second probation period, an employee shall only be considered a probationary employee.

(Ord. No. 1241, § 4, 7-5-84)

Sec. 2-30. Compensation.

The compensation, including any allowances, as well as provisions for pay grades and advancement from one pay grade to another, of all city officers and employees, including members of boards and commissions, shall be as set by the board of aldermen from time to time.

Sec. 2-31. Bonds of officers and employees.

(a) The following officers shall, before entering upon the performance of their duties, give their official bonds in accordance with Section 79.260 of the Revised Statutes of Missouri:

- (1) City treasurer.
- (2) City collector.
- (3) City clerk.

(b) The penalties of such bonds shall be fixed by the board of aldermen, and the bonds, except the bond of the city clerk, shall be filed with the city clerk. The bond of the city clerk shall be filed with the city treasurer.

(c) Other officers and employees of the city may be included in a public employee blanket bond, in penalty, form and condition to be approved by the board of aldermen.

(Code 1964, § 2-6)

State law reference—Bonds of city officials, RSMo. § 79.260.

Sec. 2-32. Duty of city to defend and save harmless city employees from law suits, etc.,

City of Bellefontaine Neighbors -- QuickCode
arising out of employment.

It shall be the obligation of the city to defend and save harmless any official or employee of the city on any claim, cause of action, law suit, judgment or litigation of a civil nature of third parties against such official or employee arising out of the acts, failures or omissions of such official or employee occurring in the course of his governmental capacity or employment, if such official or employee was acting in good faith at such time, in the event such acts, failures or omissions are not covered by insurance carried by the city.

(Code 1964, § 2-7)

Sec. 2-33. Reserved.

Editor's note--Ord. No. 2209 §1, adopted February 16, 2012 repealed section 2-33 "hours of work" in its entirety. Former section 2-33 derived from Ord. No. 927, § 2, 8-1-74.

Sec. 2-34. Vacation.

(a) All department heads will submit a vacation schedule for their departments on or prior to December 15 for the ensuing calendar year to the mayor for his approval. The approved vacation list will be posted in each department on or prior to January 15. Employees shall not be eligible for vacation until first and second probationary periods have been completed. Vacation shall be based on anniversary date of completion of the appropriate probationary period and length of service of regular full-time employees as provided in the Personnel Rules and Regulations and Personnel Handbook of the City of Bellefontaine Neighbors, Missouri, as approved and revised by the board of aldermen from time to time. Beginning January 1, 2012, vacation shall be based and credited on a calendar year basis. Appropriate adjustments will be made for affected employees during transition to this calendar basis.

(b) When a paid holiday occurs during an employee's vacation, an extra day of vacation will be allowed to all employees except police department. This extra day shall be taken either at the beginning of the vacation period by starting the day preceding the scheduled vacation, or at the end of the vacation period by reporting a day later than the usual time. Vacation time cannot be carried over to the following year except that if any employee is unable to take his or her vacation at any time during any particular year due to City needs as provided in writing by department head and approved by the Mayor, then such vacation time can be carried over to the following year.

(c) Full-time employees on a personal leave of absence as hereafter defined are entitled to vacation benefits, sick leave benefits and all other benefits of full-time employees upon return to work provided that the requirements of this chapter are met.

(Ord. No. 927, § 3, 8-1-74; Ord. No. 989, § 1, 5-6-76; Ord. No. 1833, § 1, 10-21-99; Ord. No. 2209 § 1, 2-16-12)

Sec. 2-35. Holidays.

(a) The following are eleven (11) paid holidays for full-time regular employees:

- (1) Memorial Day, the last Monday in May
- (2) Independence Day, July 4
- (3) Labor Day, the first Monday in September
- (4) Veterans' Day, November 11
- (5) Thanksgiving Day, the fourth Thursday in November
- (6) The day after Thanksgiving
- (7) Christmas Day, December 25
- (8) New Year's Day, January 1
- (9) Martin Luther King Day, the third Monday in January
- (10) Washington's Birthday, the third Monday in February
- (11) Good Friday, the Friday immediately preceding Easter

(b) Whenever a paid holiday falls on a Saturday, the day preceding will be observed as a holiday; and when a paid holiday falls on a Sunday, the following Monday shall be considered as a holiday. Whenever a paid holiday occurs during a paid vacation of a full-time employee, his/her vacation shall be extended one (1) day as aforesaid.

(c) Police officers shall be required to work their regular schedule regardless of holidays. In lieu of paid time off for recognized holidays, each officer below the rank of chief will receive an extra eight (8) hours of pay for each holiday which occurs during the officer's full time employment with the city, to be paid concurrently with the payment of wages for the pay period in which the holiday occurs. (Ord. No. 927, § 4, 8-1-74; Ord. No. 976, § 1, 10-2-75; Ord. No. 1190, § 1, 8-19-82; Ord. No. 1443, § 1, 2-15-90; Ord. No. 1998, § 1, 2-17-05)

Sec. 2-36. Sick leave.

Sick leave is made available to employees to permit them to be away from work and sustain their income when they are ill or injured. Sick leave cannot be used for absence due to health concerns of family members or any person other than the employee. Employees must use available vacation,

City of Bellefontaine Neighbors -- QuickCode

compensatory time or other applicable forms of authorized leave if they wish to be away from scheduled work for reasons involving anyone other than the employee. Full-time employees shall earn sick leave at the rate of eight (8) hours per full month. Sick leave for full-time employees will be determined from the first day of the month following their employment. Unused sick leave may be accumulated to a total of not more than six hundred (600) paid hours. Absences paid by Workmen's Compensation will not be paid sick leave. When absence is for more than three (3) consecutive paid working days, a physician's certificate is required and is to be submitted to the department head upon return to work. Also, if absence is taken for more than five (5) separate occurrences during the calendar year, then a physician's certificate shall also be required. Employees who fail to provide a required medical certificate will be subject to disciplinary action up to and including termination. No accrued sick leave shall be paid upon dismissal or resignation. Department heads are responsible for keeping a detailed record of days earned, days used, and days accumulated. A summary of such record shall be distributed to the mayor and the city treasurer as of June 30 and December 31 of each year.

(Ord. No. 927, § 5, 8-1-74; Ord. No. 1019, § 1, 6-2-77; Ord. No. 1241, § 4(d), 7-5-84; Ord. No. 2209 § 1, 2-16-12)

Sec. 2-37. Leaves of absence.

(a) *Military leave.* Full-time employees entering the active military service of the United States by draft, enlistment or by call to active duty through reserves or national guards shall be granted leave of absence without pay to termination of such duty.

(b) *Jury service.* Full-time employees shall be paid the differential between jury pay and city pay. Regular employees will submit vouchers to support payment received as a result of jury duty.

(c) *Deaths.* Full-time employees are allowed three (3) days with pay in the event of death in their immediate family; i.e. wife, husband, child, mother, father, mother-in-law, father-in-law, son-in-law, brother, Sister, daughter-in-law, stepfather or mother, and stepchild, and one (1) day, with pay, will be allowed for grandparents.

(d) *Family and Medical Leave Act (FMLA).* Eligible employees may take unpaid family and medical leave in accord with the city's FMLA policy as more fully detailed in the city's Personnel Rules and Regulations.

(e) *Personal leave of absence.* If the board of aldermen determines, in its unlimited legislative discretion, that an employee with a demonstrated record of exemplary service has an unforeseen and unavoidable inability to work, either for reasons not qualifying for FMLA leave or following exhaustion of FMLA benefits, and the board determines, in its said discretion, that the best interests of the city would be so served, the board may grant a full-time employee a leave of absence for a personal reason for up to ninety (90) days, without pay. Only one (1) extension for an additional period of ninety (90) days, without pay, may be granted by the board of aldermen. Full-time employees on a personal leave of absence are entitled to vacation benefits, sick leave benefits and all other benefits of full-time employees provided that the requirements of this chapter are met.

(Ord. No. 927, § 6, 8-1-74; Ord. No. 2209 § 1, 2-16-12)

Sec. 2-38. Employment discrimination prohibited.

It shall be unlawful for any official of the city to knowingly discriminate against any employee or applicant for employment by the city on account of race, creed, color, sex or national origin, provided such employee or applicant possesses adequate training and educational qualifications.
(Ord. No. 1167, § 1, 8-20-81)

Sec. 2-39. Workers' compensation supplement payments.

(a) In case of occupational injury or illness sustained by an employee of the city, payments will be made in accordance with the provisions of the state workers' compensation law; except, that each occupational injury or illness shall be compensated for from the first day.
(Ord. No. 1048, § 1, 6-1-78; Ord. No. 1174, § 1, 12-19-81; Ord. No. 1486, § 1, 5-16-91)

Sec. 2-40. Expense reimbursement and advances.

(a) For purposes of this section, the term "expenses" shall refer only to expenses actually and necessarily incurred in the performance of the official business of the city. The term "employee" shall include all persons employed by the city and all elected and appointed officials.

(b) Any employee incurring any expense as defined in this section and seeking reimbursement of same may submit to the city clerk a voucher certified as being true and correct. Said voucher shall be submitted in a form as required by the city clerk not more than ten (10) days after the expense is incurred. The city clerk shall review such expense vouchers, shall make such investigation as may be appropriate and shall reimburse to the employee only those expenses properly incurred.

(c) The city clerk may advance payment of projected expenses as authorized by the board of aldermen when the projected expenses to be incurred would pose a financial burden on the employee. If such an advance is authorized, within ten (10) days after such expenses are actually incurred the employee shall submit to the city clerk a voucher for the expenses actually and necessarily incurred and any balance of the advance remaining after expenditure.
(Ord. No. 1680, § 1, 12-21-95)

Editor's note—Ord. No. 1471, § 1, adopted Aug. 2, 1990, repealed § 2-40, which pertained to hospitalization insurance and payments in lieu of; such section derived from Ord. No. 1210, § 1, adopted June 2, 1983. Subsequently Ord. No. 1680 added a new § 2-40 as herein set out.

Sec. 2-41. Alcohol and controlled substances testing policy.

City of Bellefontaine Neighbors -- QuickCode

The board of aldermen hereby adopts Exhibit A, attached to Ord. No. 1681, as the city's alcohol and controlled substances testing policy. The mayor is directed to take all steps reasonable and necessary to implement this policy in accordance with the terms thereof. Said policy is not set out herein but is on file and available for inspection in the office of the city clerk.
(Ord. No. 1681, § 1, 12-21-95)

Editor's note-Ord. No. 1681, § 1, adopted December 21, 1995, did not specifically amend the Code; hence, inclusion herein as § 2-41 was at the discretion of the editor. In the original ordinance the word "unnecessary" previously found above, read "necessary", this was a typographical error changed at the direction of the city.

Sec. 2-42. Personnel rules and regulations adopted.

(a) The rules, regulations, and procedures set forth in the document entitled "Personnel Rules And Regulations And Personnel Handbook City Of Bellefontaine Neighbors, Missouri" dated May 3, 2012, as revised by Ordinance No. 2223 on August 16, 2012, and Ordinance No. 2228 on October 18, 2012, are hereby incorporated herein by reference and adopted as the rules, regulations and procedures governing employment with the city as to all matters encompassed therein.

(b) The board of aldermen reserves the right to amend, modify, repeal or revise the provisions set forth in the referenced document from time to time and to interpret and apply the rules and regulation as may be necessary from time to time.

(Ord. No. 1701, §§ 1, 2, 8-1-96; Ord. No. 2111 §1, 7-16-09; Ord. No. 2216 § 1, 5-3-12; Ord. No. 2223 §1, 8-16-12; Ord. No. 2228 §1, 10-18-12)

Editor's note—Nonamendatory Ord. No. 1701, §§ 1, 2, adopted Aug. 1, 1996, has been included herein as section 2-43 at the discretion of the editor. The "Personnel Rules and Regulations and Personnel Handbook, City of Bellefontaine Neighbors, Missouri" has not been set out herein but is available in the office of the city clerk.

Sec. 2-43. Deferred compensation plan adopted.

The City of Bellefontaine Neighbors hereby adopts the U.S. Conference of Mayors Deferred Compensation Program and its attendant investment options and hereby establishes the City of Bellefontaine Neighbors Deferred Compensation Plan for the voluntary participation of all eligible city employees, elected officials and independent contractors.

The mayor of the city is hereby authorized to execute for the city individual participation agreements with each said employee requesting same, and to act as the administrator of the plan representing the city, and to execute such agreements and contracts as are necessary to implement the program. It is implicitly understood that other than the incidental expenses of collecting and disbursing the employee's deferrals and other administrative matters, that there is to be no cost to the city for the

program.

(Ord. No. 1717, §§ 1, 2, 12-5-96)

Editor's note—Ord. No. 1717, §§ 1, 2, adopted Dec. 5, 1996, was nonamendatory of the Code; hence, codification herein as § 2-43 was at the discretion of the editor.

Secs. 2-44—2-45. Reserved.

DIVISION 2. IMPEACHMENT AND REMOVAL OF OFFICERS

State law reference—Removal of officers and authority to adopt ordinances regulating the same, RSMo. § 79.240.

Sec. 2-46. Generally.

In pursuance of section 79.240 of the Revised Statutes of Missouri, the provisions of this division shall regulate the procedure to be followed in the impeachment and removal of all elective officers and, where the same is deemed advisable by a majority of the board of aldermen, the impeachment and removal of appointive officers. (Code 1964, § 2-8)

Sec. 2-47. All officers subject to division; procedure not mandatory for removal of appointive officers.

All officers, elective and appointive, shall be subject to impeachment under this division, but the procedure provided under this division shall not be mandatory or required for the removal of appointive officers.
(Code 1964, § 2-9)

Sec. 2-48. Drawing of articles of impeachment; same to be transmitted to city attorney or special counsel.

When the mayor and the majority of the board of aldermen shall be satisfied that there is good cause to impeach any city officer, they shall cause articles of impeachment to be made out in due form against such officer and shall transmit the articles of impeachment to the city attorney or special counsel for action thereon and prosecution thereof.
(Code 1964, § 2-10)

Sec. 2-49. Designation of prosecutor; setting of date and place for hearing on articles of

City of Bellefontaine Neighbors -- QuickCode
impeachment.

The city attorney or special counsel or other officer or person designated or appointed by the mayor by and with the concurrence of a majority of the board of aldermen shall act as prosecutor of the articles of impeachment, and such prosecutor shall set a time, date and place for hearing upon such articles, which hearing date and place shall be within sixty (60) days after receipt by such prosecutor.
(Code 1964, § 2-11)

Sec. 2-50. Service of articles of impeachment and notice of hearing on accused.

After the city attorney or prosecutor shall have set a time, date and place for hearing upon the articles of impeachment, he shall report such time, date and place to the mayor, who shall order a copy of the articles of impeachment and notice of the time, date and place of hearing thereof to be served upon the accused personally, if he can be found; and if he cannot be found, then by leaving a copy of such notice and articles at his dwelling house or usual place of abode with some member of the family above the age of fifteen (15) years.
(Code 1964, § 2-12)

Sec. 2-51. Answer by accused.

The accused shall have thirty (30) days in which to answer to the articles of impeachment. When the answer shall be filed, the mayor and board of aldermen, acting by and through the prosecutor, shall reply thereto. The accused, by right, shall be entitled to a continuance of at least ten (10) days. Additional time may be granted with the approval of the prosecutor.
(Code 1964, § 2-13)

Sec. 2-52. Failure of accused to answer or appear.

If the accused shall not appear after being notified or, after appearing, shall fail to answer, the board of aldermen may proceed ex parte.
(Code 1964, § 2-14)

Sec. 2-53. Board of aldermen constituted as board of impeachment; quorum; presiding officer.

The board of aldermen is constituted as a board of impeachment for the hearing upon such articles of impeachment. A majority of the members of the board of aldermen shall constitute a quorum for such purpose. Unless the mayor is the officer being impeached, he shall be presiding officer of the board of impeachment. In the event the mayor is the officer being impeached or is unavailable or unable to serve, the board of aldermen shall elect a presiding officer from among their number.
(Code 1964, § 2-15)

Sec. 2-54. Grounds for impeachment.

Grounds for impeachment shall be the commission of a crime, misconduct, habitual drunkenness, willful neglect of duty, corruption in office, incompetency or any offense involving moral turpitude or oppression in office.
(Code 1964, § 2-16)

Sec. 2-55. Oath or affirmation to be taken by members of board.

At the time and place appointed for trial, and before proceeding therein, some person authorized by law to do so shall administer to the members of the board of aldermen an oath or affirmation impartially to try and determine the charges and to do justice according to the law and the evidence. No member shall sit or give his vote as a member of the board of impeachment until he shall have taken such oath or affirmation.
(Code 1964, § 2-17)

Sec. 2-56. Procedure generally.

The members being sworn, the board of aldermen, sitting as a board of impeachment, shall proceed to hear, try and determine such impeachments, and may adjourn the trial to another time. The board shall determine all questions of law arising during the trial upon the admissibility of evidence, the competency of witnesses or otherwise, and may punish any person for contempt committed toward it or for obstructing the administration of justice on such trial in as full a manner as any court of record could do for like contempt toward such court. Except as otherwise provided in this division or in amendments hereto, the rules of evidence and procedure applicable in civil actions in the circuit courts of this state shall be followed in all trials of impeachment.
(Code 1964, § 2-18)

Sec. 2-57. Suspension of officer during impeachment proceedings or investigation.

If any officer shall be impeached or if investigation shall be instituted or ordered with a view toward impeachment of such officer, he shall be immediately suspended from exercising his office, but in no event shall such suspension be effective without impeachment being instituted within thirty (30) days from the date of suspension.
(Code 1964, § 2-19)

Sec. 2-58. Right of accused to counsel; number of votes required for conviction.

In all trials as under articles of impeachment, the accused shall have a right to be heard by himself

City of Bellefontaine Neighbors -- QuickCode

and his counsel, and all matters relating to procedure and the conduct of the trial shall be entered and made a part of the record of the proceeding. Judgment or sentence of conviction and removal from office shall be given, with the approval or recommendation of the mayor, upon a majority vote of all the members elected to the board of aldermen. Independently of the mayor's approval or recommendation, such judgment or sentence shall require a two-thirds vote of all the members elected to the board of aldermen.

(Code 1964, § 2-20)

Secs. 2-59—2-70. Reserved.

DIVISION 3. CONFLICTS OF INTEREST

Editor's note—Section 1 of Ord. No. 1492, adopted September 5, 1991, repealed §§ 2-71—2-74 and added new §§ 2-71—2-79. Former §§ 2-71—2-74 pertained to conflicts of interest and derived from §§ 2-21—2-24 of the 1964 Code.

State law references—Regulation of conflicts of interest and lobbying, RSMo. §§ 105.450—105.482; local, more stringent regulations authorized, § 105.476.

Sec. 2-71. Definitions.

As used in sections 2-71 through 2-79, the following terms shall have the following meanings:

Adversary proceeding: Any proceedings in which a record of the proceedings may be kept and maintained as a public record at the request of either party by a court reporter, notary public or some other person authorized to keep such record by law or any rule or regulation of the agency conducting the hearing; or from which an appeal may be taken directly or indirectly, or any proceeding from the decision of which any party may be granted, on request, a hearing de novo; or any arbitration proceeding; or a proceeding of a personnel review board; or an investigative proceeding initiated by an official, department, division or agency which pertains to matters which, depending on the conclusion of the investigation, could lead to a judicial or administrative proceeding being initiated against the party by the official, department, division or agency.

Business entity: A corporation, association, firm, partnership, proprietorship or business entity of any kind or character.

Business with which one is associated:

- (1) Any sole proprietorship owned by oneself, one's spouse or any dependent children in one's custody; or
- (2) Any partnership or joint venture in which one or one's spouse is a partner, other than a limited partner of a limited partnership, and any corporation or limited partnership in which one is an

City of Bellefontaine Neighbors -- QuickCode

officer or director or of which either one or one's spouse or dependent child in one's custody whether singularly or collectively owns in excess of ten (10) percent of the outstanding shares of any class of stock or partnership units; or

- (3) Any trust in which one is a trustee or settlor in which one or one's spouse or dependent child whether singularly or collectively is a beneficiary or holder of a reversionary interest of ten (10) percent or more of the corpus of the trust.

City: The City of Bellefontaine Neighbors, Missouri.

Commission: The Missouri Ethics Commission established pursuant to state law.

Confidential information: All information whether transmitted orally or in writing which is of such a nature that it is not, at that time, a matter of public record or public knowledge.

Decision-making public servant: An official, appointee or employee of the city who exercises supervisory authority over the negotiation of contracts, or has the legal authority to adopt or vote on the adoption of rules and regulations with the force of law or exercises primary supervisory responsibility over purchasing decisions and is designated as a decision-making public servant by the board of aldermen.

Dependent child or dependent child in one's custody: All children, stepchildren, foster children and wards under the age of eighteen (18) residing in one's household and who receive in excess of fifty (50) percent of their support from the individual.

Substantial interest: Ownership by the individual, the individual's spouse, or the individual's dependent children, whether singularly or collectively, directly or indirectly, of ten (10) percent or more of any business entity, or of an interest having a value of ten thousand dollars (\$10,000.00) or more, or the receipt by an individual, the individual's spouse or the individual's dependent children, whether singularly or collectively, of a salary, gratuity, or other compensation or remuneration of five thousand dollars (\$5,000.00), or more, per year from any individual, partnership, organization, or association within any calendar year.

Substantial personal or private interest in any measure, bill, order or ordinance: Any interest in a measure, bill, order or ordinance which results from a substantial interest in a business entity. (Ord. No. 1492, § 1, 9-5-91)

Sec. 2-72. Prohibited actions—All officials and employees.

No elected or appointed official or employee of the city shall:

- (1) Act or refrain from acting in any capacity in which one is lawfully empowered to act as an official or employee by reason of any payment, offer to pay, promise to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to oneself or any third person, including any gift or campaign contribution, made or received in relationship to

City of Bellefontaine Neighbors -- QuickCode

or as a condition of the performance of an official act, other than compensation to be paid by the city; or

- (2) Use confidential information obtained in the course of or by reason of one's employment or official capacity in any manner with intent to result in financial gain for oneself, one's spouse, dependent child in one's custody, or any business with which one is associated; or
- (3) Disclose confidential information obtained in the course of or by reason of one's employment or official capacity in any manner with intent to result in financial gain for oneself or any other person; or
- (4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such employee or official or the employee's or official's spouse or dependent children including, but not limited to, increases in retirement benefits, whether received from the city or any third party by reason of such act. For the purposes of this section, "special monetary benefit" means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters, such officials or employees must recuse themselves from acting and shall not be relieved by reason of the provisions of section 2-73(3), below, except that such official or employee may act on increases in compensation subject to the restrictions of the Missouri Constitution; or
- (5) Use one's decision-making authority for the purpose of obtaining a financial gain which materially enriches oneself, one's spouse or dependent children by acting or refraining from acting for the purpose of coercing or extorting from another anything of actual pecuniary benefit.

(Ord. No. 1492, § 1, 9-5-91)

Sec. 2-73. Same—Executive or administrative officials and employees.

No elected or appointed official or employee of the city, serving in an executive or administrative capacity, shall:

- (1) Perform any service for the city or for any agency of the city over which the officer or employee has supervisory power for receipt of any compensation, other than the compensation provided for the performance of one's official duties, in excess of five hundred dollars (\$500.00) per annum, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received; or
- (2) Sell, rent or lease any property to the city or to any agency of the city over which the officer or employee has supervisory power and received consideration therefor in excess of five hundred dollars (\$500.00) per year unless the transaction is made pursuant to an award on a contract let

City of Bellefontaine Neighbors -- QuickCode

or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received; or

- (3) Participate in any matter, directly or indirectly, in which the officer or employee attempts to influence any decision of the city or any agency of the city over which the officer or employee has supervisory power, when the officer or employee knows the result of such decision may be the acceptance of the performance of a service or the sale, rental or lease of any property to the city or that agency for consideration in excess of five hundred dollars (\$500.00) value per annum to the officer or employee, to his or her spouse, to a dependent child in his or her custody or to any business with which the officer or employee is associated, unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received; or
- (4) Perform any service for consideration, during one (1) year after termination of his office or employment, by which the officer or employee attempts to influence a decision of the city or any agency of the city over which the officer or employee had supervisory power, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation therefor in any adversary proceeding or in the preparation or filing of any public document or to prohibit an employee of one department or agency of the city from being employed by another department or agency of the city; or
- (5) Perform any service for any consideration for any person, firm or corporation after termination of the officer's term or the employee's employment in relation to any case, decision, proceeding or application with respect to which the officer or employee was directly concerned or in which the officer or employee personally participated during the period of his or her service or employment.

(Ord. No. 1492, § 1, 9-5-91)

Sec. 2-74. Prohibited acts; members of the board of aldermen.

- (a) No member of the board of aldermen shall:
 - (1) Perform any service for the city or any agency thereof for any consideration other than the compensation provided for the performance of one's official duties; or
 - (2) Sell, rent or lease any property to the city or any agency of the city for consideration in excess of five hundred dollars (\$500.00) per annum unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received; or
 - (3) Attempt, for any compensation other than the compensation provided for the performance of one's official duties, to influence the decision of any agency of the city on any matter; except that, this provision shall not be construed to prohibit such person from participating for

City of Bellefontaine Neighbors -- QuickCode
compensation in any adversary proceeding or in the preparation or filing of any public document or conference thereon.

(b) No sole proprietorship, partnership, joint venture, or corporation in which any member of the board of aldermen is a sole proprietor, a partner having more than ten (10) percent partnership interest, or a coparticipant or owner of in excess of ten (10) percent of the outstanding shares in any class of stock shall:

- (1) Perform any service for the city or any agency thereof for any consideration in excess of five hundred dollars (\$500.00) per annum unless the transaction is made pursuant to an award on a contract let after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received; or
- (2) Sell, rent or lease any property to the city or any agency of the city where the consideration is in excess of five hundred dollars (\$500.00) per annum unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.

(Ord. No. 1492, § 1, 9-5-91)

Sec. 2-75. Disclosure of interest required.

(a) Any member of the board of aldermen who has a substantial personal or private interest in any measure, bill, order or ordinance proposed or pending before the board of aldermen shall, before passing on the measure, bill, order or ordinance, file a written report of the nature of the interest with the city clerk and such statement shall be recorded in the minutes of the meeting.

(b) Any member of the board of aldermen shall be deemed to have complied with the requirements of this section if he or she has filed, at any time before passing on such measure, bill, order or ordinance, a financial interest statement pursuant to section 2-79(c), below, which discloses the basis for his or her substantial personal or private interest or interests that he or she may have therein. Any member may amend his or her financial interest statement to disclose any subsequently acquired substantial interest at any time before he or she passes on any measure, bill, order or ordinance and shall be relieved of the provisions of subsection (a) of this section.

(Ord. No. 1492, § 1, 9-5-91)

Sec. 2-76. Prohibited acts—Persons with rule-making authority.

(a) No member of any agency of the city who is empowered to adopt a rule or regulation, other than rules and regulations governing the internal affairs of the agency, or who is empowered to fix any rate, adopt zoning or land use planning regulations or plans, or who participates in or votes on the adoption of any such rule, regulation, rate or plan shall:

- (1) Attempt to influence the decision or participate, directly or indirectly, in the decision of the

City of Bellefontaine Neighbors -- QuickCode

agency of which he or she is a member when he or she knows the result of such decision may be the adoption of rates or zoning plans by the agency which may result in a direct financial gain or loss to such member, the member's spouse or a dependent child in the member's custody or to any business with which the member is associated; or

- (2) Perform any service, during the member's term, for any person, firm or corporation for compensation other than the compensation provided for the performance of the member's official duties, if by the performance of the service the member attempts to influence the decision of the agency of which he or she is a member; or
- (3) Perform for one year after termination of the member's term any service for compensation for any person, firm or corporation to influence the decision or action of the agency which he or she served as a member; provided, however, that he or she may, after termination of his or her office or employment, perform such service for consideration in any adversary proceeding or in the preparation or filing of any public document or conference thereon unless he or she participated directly in that matter or in the receipt or analysis of that document while serving as a member.

(b) No such member or any business with which such member is associated shall knowingly perform any service for, or sell, rent or lease any property to any person, firm or corporation which has participated in any proceeding in which the member adopted, participated in the adoption or voted on the adoption of any rate or zoning plan or the granting or revocation of any license during the preceding year and received therefor in excess of five hundred dollars (\$500.00) per annum except on transaction pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received. (Ord. No. 1492, § 1, 9-5-91)

Sec. 2-77. Same—Persons in judicial or quasi-judicial positions.

(a) No person serving in a judicial or quasi-judicial capacity shall participate in such capacity in any proceeding in which:

- (1) He or she knows that a party is any of the following: His or her great-grandparent, grandparent, parent, stepparent, guardian, foster parent, spouse, former spouse, child, stepchild, foster child, ward, niece, nephew, brother, sister, uncle, aunt, or cousin, or any firm or corporation in which he or she has an ownership interest, or any trust in which he or she has any legal, equitable or beneficial interest; or
- (2) He or she knows the subject matter is such that he or she may receive a direct financial gain from any potential result of the proceeding, except that no provision of this subsection shall be construed to prohibit him or her from participating in any proceeding by reason of the fact that the city, or any agency of the city, is a party.

(b) No provision of this section shall be construed to prohibit him or her from entering an order disqualifying himself or herself or transferring the matter to another court, body or person for further

proceedings.

(Ord. No. 1492, § 1, 9-5-91)

Sec. 2-78. Exceptions.

(a) No provision of sections 2-71 through 2-79 shall be construed to prohibit any person from performing any ministerial act or any act required by order of a court of law to be performed.

(b) No provision of sections 2-71 through 2-79 shall be construed to prohibit any person from communicating with the office of the attorney general or any prosecuting attorney or any attorney for the city concerning any prospective claim or complaint then under consideration not otherwise prohibited by law.

(c) No provision of sections 2-71 through 2-79 shall be construed to prohibit any person, firm or corporation from receiving compensation for property taken by the city under the power of eminent domain in accord with the provisions of the Missouri Constitution, the Laws of the State of Missouri or the ordinances of the city.

(Ord. No. 1492, § 1, 9-5-91)

Sec. 2-79. Disclosure of conflicts of interest and substantial interests.

(a) *Definitions.* For purposes of this section, the following terms shall have the following meanings:

Chief administrative officer shall mean the mayor of the city.

Chief purchasing officer shall mean that official of the city designated by the mayor from time to time to be primarily responsible for purchasing on behalf of the city; provided, however, that the "chief purchasing officer" and "chief administrative officer" may be one and the same person and may be the mayor, if so designated.

Elected official shall mean each person elected to a city office by the voters of the city or a portion thereof.

Full-time general counsel shall mean the city attorney, but only if employed by the city under such terms that he or she is precluded from providing legal services to any person or entity other than the city.

Officials (or "employees") authorized to promulgate or vote on rules and regulations with the force of law shall mean the members of the board of aldermen and such other board, agency or commission members designated from time to time by the board of aldermen as having been specifically delegated such authority.

(b) *Disclosure statements.* Each elected official, the chief administrative officer of the city, the chief purchasing officer of the city and officials or employees authorized to promulgate or vote on rules and regulations with the force of law shall disclose the following information by May 1 of each year if any

City of Bellefontaine Neighbors -- QuickCode

such transactions occurred during the previous calendar year:

- (1) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars (\$500.00), if any, that such person had with the city, other than compensation received as an employee of the city or payment of any tax, fee or penalty due to the city, and any other transfers for no consideration to the city.
- (2) The date and identities of the parties to each transaction known to any such person with a total value in excess of five hundred dollars (\$500.00), if any, that any business entity in which such person had a substantial interest, had with the city, other than the payment of any tax, fee or penalty due to the city or transactions involving payment for providing utility service to the city, and other than transfers for no consideration to the city.

(c) *Financial interest statements.* By May 1 of each year the following information for the previous year must be disclosed by the chief administrative officer and the chief purchasing officer. In addition, any other elected or appointed official of the city may file a financial interest statement in lieu of compliance with the requirements of section 2-75(a), above.

- (1) The name and address of each of the employers of such person from whom income of one thousand dollars (\$1,000.00) or more was received during the year covered by the statement;
- (2) The name and address of each sole proprietorship owned by such person;
- (3) The name, address and general nature of business conducted by each general partnership and joint venture in which such person was a partner or participant;
- (4) The name and address of each partner or coparticipant for each partnership or joint venture identified according to the preceding subsection, unless such names and addresses are filed by the partnership or joint venture with the Missouri Secretary of State;
- (5) The name, address and general nature of the business conducted by any closely held corporation or limited partnership in which such person owned ten (10) percent or more of any class of the outstanding stock or limited partnership units;
- (6) The name of any publicly traded corporation or limited partnership that is listed on any publicly regulated stock exchange or automated quotation system in which such person owned two (2) percent or more of any class of outstanding stock, limited partnership units or other equity interests;
- (7) The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.

(d) *Times to file financial interest statements.* Financial interest statements shall be filed at the following times, but no person shall be required to file more than one financial interest statement in any calendar year:

City of Bellefontaine Neighbors -- QuickCode

- (1) Every person required to file a financial interest statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any person may supplement their financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement.
- (2) Each person appointed to an office for which a financial interest statement is required by this section shall file the statement within thirty (30) days of such appointment or employment.
- (3) Financial interest statements filed prior to January 1, 1993, shall be filed with the city clerk and with the Missouri Secretary of State. Reports filed after January 1, 1993, shall be filed with the city clerk and with the Missouri Ethics Commission. All reports shall be available for public inspection and copying during normal business hours of the city hall.

(Ord. No. 1492, § 1, 9-5-91)

Sec. 2-80. Penalty provisions.

Any person violating Sections 2-71 to 2-79 of this Chapter shall be prosecuted under the general penalty ordinance of the City of Bellefontaine Neighbors as set forth at Section 1-10(a) of the Code of Ordinances.

(Ord. No. 2142 §1, 8-5-10)

Secs. 2-81-2-85. Reserved.

DIVISION 4. CITY ATTORNEY

Sec. 2-86. Appointment.

The mayor, with the consent and approval of the majority of the members of the board of aldermen, shall appoint a city attorney who shall be licensed to practice law in the State of Missouri and the federal courts thereof. The person so appointed shall provide legal services to the mayor, the members of the board of aldermen, and other city officials as shall be designated by the board of aldermen. For such services the city attorney shall receive such compensation as shall be determined by the board of aldermen from time to time.

(Ord. No. 1147, § 1, 5-7-81; Ord. No. 1379, § 1, 6-2-88)

Secs. 2-87—2-100. Reserved.

DIVISION 5. CITY CLERK

Sec. 2-101. Term of office; salary.

(a) The term of office of the city clerk shall be four (4) years, beginning on the first day of May following each regular election for the office of mayor.

(b) The salary of the city clerk shall be as established from time to time by the board of aldermen. (Code 1964, § 2-25; Ord. No. 1697, § 1, 6-6-96)

Secs. 2-102—2-115. Reserved.

DIVISION 6. COLLECTOR

Editor's note—The county now collects personal and real property taxes for the city.

Cross reference—City finances generally, § 2-246 et seq.

Sec. 2-116. Collector—Office created; appointment.

There is hereby created the office of collector of the city. The collector shall be appointed by the mayor, with the approval of a majority of the members elected to the board of aldermen. (Code 1964, § 11-5; Ord. No. 1874 § 3, 2-15-01)

Sec. 2-117. Same—Bond; liability insurance; office.

(a) The collector of the city shall furnish a bond in the sum of one thousand dollars (\$1,000.00) with sureties thereon acceptable to the board of aldermen, designed for the protection of money received by him on behalf of the city, the preservation and delivery when called for of the records of the city and to indemnify the city against any loss or losses or expenses incurred through the violation of this Code or any other city ordinance or failure of the collector to perform his duties as specified in this Code or any other city ordinance.

(b) The collector shall also, at his own expense, provide liability insurance upon the premises of his office for the purpose of protecting whomsoever might sustain an injury or damage while on such premises. His office, with all services incident to its operation and maintenance, shall be at the expense of the collector; except, that; the complete abstract which has been certified to by the county clerk shall be paid for by the city. (Code 1964, § 11-6; Ord. No. 1874 § 3, 2-15-01)

Sec. 2-118. Same—Duties.

The duties of the collector of the city shall be as follows:

- (1) Obtain from the county clerk a tax book in which there shall be entered the name of each person owning property, personal and real estate, situated in the city and upon which a tax has been levied, and opposite such name shall be entered the item of property, the assessed valuation thereof as returned by the county assessor and the board of equalization and certified to by the county clerk and also the amount of taxes, whether general or special, due thereon.
- (2) Fill out and extend all tax bills on or about October fifteenth of each year.
- (3) Give notice on or about October fifteenth of each year, by mail or otherwise, to all parties owing taxes to the city. Such notices shall show separately the amount of personal and real estate taxes due and the date the same shall become delinquent. Such notices shall include nonresident taxpayers.
- (4) Whenever any funds are remitted, by mail or otherwise, he shall receive the same for and on behalf of the city and send a receipt therefor, by mail or otherwise, to the person remitting the same.
- (5) Promptly after March first of each year, as the circumstances will permit, he shall prepare a delinquent tax book and list thereof, separating the taxes upon personal property and the taxes upon real estate. Such lists shall contain complete information as to such taxes, the amount due, description of property and against whom levied.
- (6) Make settlement with the city and pay over to the city, except as otherwise provided, all money collected in its behalf by his office at the end of each month. The collector shall make settlement also at such other times as may be from time to time directed by the mayor and the board of aldermen. In the making of settlements whenever the same shall be made, the collector shall compile a list showing an itemized statement of the taxes included in such settlement with the amounts thereof, the items of property paid upon, etc., separately stated, and such settlement statements shall be filed with the city clerk.

(Code 1964, § 11-8; Ord. No. 1874 § 3, 2-15-01)

Secs. 2-119—2-130. Reserved.

DIVISION 7. CITY ENGINEER

Cross References—Building inspector, § 5-3; city engineer designated official for enforcement of electrical regulations chapter, § 8-1; city engineer designated

City of Bellefontaine Neighbors -- QuickCode
*enforcement officer for flood damage prevention and control chapter, § 11-6;
duty of city engineer relative to abatement of nuisances, § 13-38.*

Sec. 2-131. Office created.

There is hereby created the office of city engineer.
(Code 1964, § 2-26)

Sec. 2-132. Appointment.

The city engineer shall be appointed by the mayor, subject to the approval of the board of aldermen.
(Code 1964, § 2-27)

Sec. 2-133. Qualifications.

The person appointed to the office of city engineer shall either be a registered professional engineer or a registered architect under the laws of the state.
(Code 1964, § 2-28)

Sec. 2-134. Duties generally.

The city engineer shall perform the following duties:

- (1) He shall serve as the building official of the city, and shall issue all permits and make all inspections required by the building code.
- (2) He shall serve as city engineer, with such supervisory control over the streets as may be prescribed by this Code or other city ordinances.
- (3) He shall have such duties concerned with the inspection of sewers in the city as may be determined by the board of aldermen; except, that such duties shall not be concerned with or supersede the duties, obligations or jurisdiction of the St. Louis Metropolitan Sewer District.
- (4) He shall serve as the electrical inspector of the city.
- (5) He shall serve as the plumbing inspector of the city.

(Code 1964, § 2-29)

Sec. 2-135. Assistant.

City of Bellefontaine Neighbors -- QuickCode

In the absence of the city engineer or his inability to act, the mayor may appoint someone else, with the same qualifications, to act for the city engineer, subject to approval of the board of aldermen. Such person shall have all the authority and duties vested in the city engineer under the provisions of this Code and other city ordinances, and shall be known as and have the title of "assistant city engineer".
(Code 1964, § 2-30)

Sec. 2-136. Business hours.

The city engineer shall keep prescribed hours, as may be approved by the board of aldermen, for the purpose of having interviews with persons requesting building permits or having other business concerning the office of the city engineer.
(Code 1964, § 2-31)

Sec. 2-137. Attendance at certain meetings; monthly reports to board of aldermen.

The city engineer shall attend all meetings of the board of aldermen, the planning and zoning commission and the board of adjustment. He shall give monthly reports to the board of aldermen concerning his office.
(Code 1964, § 2-32)

Sec. 2-138. Compensation.

As established by the board of aldermen from time to time, the city engineer shall receive a sum per month as compensation for the duties prescribed for such office by the laws of the city, but such sum shall not be compensated for engineering services such city engineer may hereafter be specifically directed by ordinance to perform for projects or matters designated in such ordinance as special projects, in which event to compensation for such engineering services shall be fixed by the board of aldermen in each such ordinance directing engineering services herein provided.
(Ord. No. 1149, § 1, 5-7-81)

Secs. 2-139—2-150. Reserved.

DIVISION 8. CITY TREASURER

Sec. 2-151. Compensation.

The city treasurer shall receive such sum as established by the board of aldermen from time to time per month as compensation for the duties of his office.
(Ord. No. 11478, § 1, 5-7-81)

Sec. 2-152. Duties.

(a) The treasurer shall receive and safely keep all moneys, warrants, books, bonds, and obligations entrusted to his or her care, and shall pay over all moneys, bonds or other obligations of the city on warrants or orders, duly drawn, passed or ordered on by the board of aldermen, and signed by the mayor and attested by the city clerk and having the seal of the city affixed thereto, and not otherwise, except as hereinafter provided.

(b) The board of aldermen hereby orders and authorizes the payment of moneys, bonds or other obligations of the city in the following circumstances:

- (1) All payments in the amount of five hundred dollars (\$500.00) or less each; and
- (2) All payments for:
 - (a) electric, phone, gas, water, sewer and other utility services;
 - (b) obligations imposed by law;
 - (c) employee salaries and benefits; and
 - (d) ongoing contractual obligations for services such as insurance coverage and professional services payable on a periodic basis pursuant to contracts authorized and approved by the board of aldermen

upon signature of the mayor and attestation by the city clerk, if sufficient funds are on hand for such payment within the amount allocated for such purposes in the annual budget adopted or approved by the board of aldermen. A listing of such payments shall be provided to the board of aldermen by the treasurer at least monthly.

(c) Each expenditure or payment by the treasurer other than as provided above shall be made only after order or authorization by the board of aldermen at any regular or special meeting or as may otherwise be directed by the board of aldermen from time to time.

(d) The treasurer shall also perform such other duties as may be required by ordinance.
(Ord. No. 1476, § 1, 12-6-90)

Secs. 2-153—2-165. Reserved.

DIVISION 9. PARKS AND RECREATIONAL FACILITIES

Sec. 2-166. Executive director; compensation.

The salary of the executive director of parks and recreation facilities shall be as established by the board of aldermen from time to time.
(Ord. No. 1244, § 1, 7-5-84)

Sec. 2-167. Designation of work positions and classifications; salaries; part-time employees.

Designation of work positions and classifications for employees of the department of parks and recreational facilities shall be based upon the recommendation of the department supervisor, with approval of the mayor and the board of aldermen, and there shall be salaries for all full-time regular employees of the department based on the recommendation of the department supervisor, with the approval of the mayor and the board of aldermen, as established from time to time. The mayor and board of aldermen may, from time to time, establish and adjust a program of employment benefits for some or all part-time employees of the parks and recreational facilities department.
(Ord. No. 1242, § 2, 7-5-84; Ord. No. 1831, § 1, 10-21-99)

Sec. 2-168. Probationary periods for departmental employees.

The first six (6) months of any employment in the department of parks and recreational facilities is considered to be a probationary period and thereafter there shall be a second probationary period for an additional six (6) months, unless prior to the expiration of the second six-month probationary period such second probationary period shall have been extended by action of the department supervisor, concurred in by the board of aldermen. While in either first or second probationary period such employee shall only be considered a probationary employee. They will perform such other duties as directed by the supervisor and/or the mayor. All salaries are subject to review and change upon the recommendation of the department supervisor, with the approval of the mayor and the board of aldermen.
(Ord. No. 1242, § 3, 7-5-84)

Sec. 2-169. Holidays; sick leave; hospitalization insurance.

(a) Regular full-time employees of the department who are scheduled to work on a holiday shall be paid for eight (8) hours pay for each holiday in addition to their regular pay. Whenever a paid holiday falls on a Saturday, the day preceding will be observed as a holiday; and whenever a paid holiday falls on a Sunday, the following Monday shall be considered as a holiday. Whenever a paid holiday occurs during a paid vacation of a full-time employee, his/her vacation shall be extended eight (8) hours as aforesaid. When an employee is scheduled to work on a holiday, the employee shall be paid eight (8) hours pay for each holiday worked in addition to their regular pay, to be paid concurrently with the payment of wages for the pay period in which the holiday occurs.

City of Bellefontaine Neighbors -- QuickCode

(b) Sick leave for regular full-time employees, other than crossing guards, shall be accumulated on the basis of one (1) day for each month employed, up to but not exceeding a total of seventy-five (75) days.

(Ord. No. 1242, § 4, 7-5-84; Ord. No. 2209 § 2, 2-16-12)

Sec. 2-170. Park rangers.

(a) *Park ranger program established.* A park ranger program is hereby established within the City of Bellefontaine Neighbors for the purpose of enhancing the security of city parks and recreational facilities and enforcing laws, ordinances and applicable regulations within and around such parks and facilities. The park ranger program shall consist of such number of paid and volunteer personnel as the board of aldermen may authorize from time to time. The operation and management of the park ranger program shall be in accord with the personnel policies and regulations of the city and shall be the responsibility of the director of parks and recreation, subject to compliance with the standards and criteria hereinafter set forth.

(b) *Qualifications of park rangers.* All persons employed as park rangers must have a current, valid license, or have a valid temporary permit, for such a position issued by the St. Louis County Department of Police in accord with regulations adopted by that agency. Applicants for a park ranger position must also meet the following qualifications:

- (1) Be at least twenty-one (21) years of age;
- (2) Be a citizen of the United States;
- (3) Be of good moral character;
- (4) Be able to read and write the English language;
- (5) Have no serious physical or mental disorder which would render such applicant unable to perform the essential functions of the position without reasonable accommodation;
- (6) Have no dependence on alcoholic beverages, narcotics, dangerous drugs or any controlled substances;
- (7) Have no felony conviction.

(c) *Authority and duties.*

- (1) Park rangers shall have authority to enforce state statutes, municipal ordinances and park or facility regulations within any city park or recreational facilities and upon roadways, paths and parking lots within or adjacent to such facilities. Park ranger may have such additional duties as may be prescribed by the director of parks and recreation or the board of aldermen from time to time.

City of Bellefontaine Neighbors -- QuickCode

- (2) Park rangers shall have the authority to effect physical arrests, issue municipal summonses in lieu of arrest, write official reports and search for and seize evidence pertinent to a crime within their jurisdiction and while in uniform for any crime committed in their presence or for a felony not committed in their presence or view when reasonable grounds exist to believe, based upon probable cause, that the offense was perpetrated by the person to be arrested. Provided, however, that park rangers serving under a temporary permit shall not have any powers of arrest or search and seizure.
- (3) Park rangers shall have authority to act upon the following: burglaries, larcenies, auto or vehicle thefts, destruction of property, non-fatal vehicle accidents, municipal ordinance violations, and miscellaneous incidents such as complaints, accidental injuries, found or abandoned property, adherence to park or facility regulations.
- (4) Park rangers shall neither prepare official reports nor conduct follow-up investigations for the following incident classifications: homicide, rape, robbery, assault, other crimes against persons, arson, fatal vehicle or other accidents, operation of a motor vehicle while intoxicated or under the influence of drugs or alcohol.
- (5) When making an arrest park rangers shall use the minimum amount of force necessary to deliver the prisoner into safe custody or to overcome resistance that may be offered. Any abuse of prisoners, either by word or act, is forbidden.
- (6) In exercising the authority given under this section, park rangers are to cooperate with police officers of the city and all other law enforcement agencies and shall immediately refer matters outside authority of a park ranger to the Bellefontaine Neighbors Police Department.

(d) *Compensation.* Park rangers may be paid or volunteer. Paid park rangers shall receive such compensation and benefits as may be established by the board of aldermen from time to time. Rangers may also receive such uniform and/or equipment allowance as may be established by the board of aldermen from time to time.

(e) *Uniform.* Park rangers shall wear a uniform prescribed by the director of parks and recreation at all times while on duty. The uniform shall be distinct from those worn by police officers of the city. Park rangers shall also wear an approved badge and carry an approved identification card whenever they are on duty.

(f) *Firearms and equipment.* Park rangers shall be issued firearms and equipment consistent with the regulations of the St. Louis County Department of Police and as approved by the director of parks and recreation. Provided, however, that park rangers serving under a temporary permit shall not have any firearms or protective devices upon or about their person at any time while on duty as a park ranger. (Ord. No. 1786, § 1, 8-6-98)

Secs. 2-171—2-185. Reserved.

ARTICLE IV. PLANNING AND ZONING COMMISSION

Cross reference—Subdivision regulations, Ch. 24.

State law reference—Planning and zoning commission, RSMo. § 89.070.

Sec. 2-186. Created.

In order to make adequate provision for and to stimulate, guide, direct, arrange and beautify the city and the future development and growth thereof, there is hereby created a commission to be known as the planning and zoning commission.

(Code 1964, § 2-40)

Sec. 2-187. Membership; qualifications, appointment and term of office of members; vacancies.

(a) The planning and zoning commission shall consist of six (6) citizen members; together with the mayor, a member of the board of aldermen selected by the board of aldermen, and the building official, who shall be ex officio members of the commission. The six (6) member citizen members shall be qualified by knowledge and experience to act on questions pertaining to the development and planning of the city. They shall be appointed by the mayor, with the approval of the board of aldermen, for terms of four (4) years. Appointments to fill vacancies shall be for the unexpired terms only.

(b) The initial terms of office of the current members of the planning and zoning commission immediately following the enactment of this subsection shall be as follows: One (1) for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and one (1) for four (4) years, with the respective terms to be determined by lot. Thereafter, pursuant to subsection (a) of this section, members shall be appointed for terms of four (4) years each which shall expire on the 1st day of June of the applicable year.

(Code 1964, § 2-41; Ord. No. 1755, § 1, 11-6-97; Ord. No. 1756, § 1, 12-4-97)

Sec. 2-188. Officers; rules of organization and procedure.

The planning and zoning commission shall elect from among its citizen members a chairman, vice-chairman and secretary, and from time to time adopt such rules and regulations not inconsistent with this Code and other ordinances of the city and the laws of the state for its own organization and procedure as it may deem proper.

(Code 1969, § 2-42)

Sec. 2-189. Compensation of members.

(a) Members of the planning and zoning commission shall receive compensation monthly for services rendered as such planning and zoning commission in such amounts as established by the board of aldermen from time to time.

(b) Neither the chairman nor any member shall be entitled to such compensation for any month unless he shall have attended, during that month, at least one (1) meeting of the planning and zoning commission.

(Code 1964, § 2-41)

Sec. 2-190. Reports to board of aldermen; employment of engineers, clerks, etc.

The planning and zoning commission shall make such reports to the board of aldermen from time to time as it may deem proper or as may be required by the board of aldermen, covering its investigations, transactions and recommendations. The planning and zoning commission may employ such city planners, engineers, clerks and other persons as may be authorized by the board of aldermen.

(Code 1964, § 2-44)

Sec. 2-191. Removal of members.

Any member of the planning and zoning commission, except the mayor and building official, may be removed by the board of aldermen for cause, upon written charges filed with the city clerk and after public hearing before the board of aldermen called for by publication in a legal newspaper published in the county at least thirty (30) days prior to the date of such public hearing. (Code 1964, § 2-45)

Sec. 2-192. Duties generally.

The planning and zoning commission shall have the duty and authority to prepare and submit to the board of aldermen a master plan for the physical development of the city, including the general location, character and extent of streets, bridges, parks, waterways and other public ways, grounds and spaces, together with the general location and arrangement of public buildings and other public property, public utilities and the extent and location of any public housing projects, and shall recommend such modifications of and plans from time to time as it deems to be in the city's interest. It shall act as the planning and zoning commission under the statutes of this state and shall have authority to prepare, adopt and recommend to the board of aldermen for enactment a comprehensive plan for the zoning of the city, with regulations as it shall determine to be necessary or desirable for the promotion of the health, safety, morals and the general welfare of the inhabitants of the city. It shall consider all proposals for amendments or changes in the zoning ordinance and make its recommendations thereon to the board of aldermen. Plans for all proposed subdivisions shall, before approval by the board of aldermen, be

City of Bellefontaine Neighbors -- QuickCode
submitted to the planning and zoning commission for its recommendations with respect thereto.
(Code 1964, § 2-46)

Secs. 2-193—2-205. Reserved.

ARTICLE V. YOUTH COMMISSION

Sec. 2-206. Established.

There is hereby established within the city a youth commission.
(Code 1964, § 2-47; Ord. No. 1268, § 2, 6-6-85)

Sec. 2-207. Membership; appointment of members.

The youth commission is comprised of nine (9) regular voting members, each of whom shall be appointed to the commission by the mayor with the approval of the board of aldermen. The mayor and the chief of police shall serve as ex officio members of the commission, but shall have no voting rights.
(Code 1964, § 2-48; Ord. No. 1268, § 2, 6-6-85; Ord. No. 1874 § 1, 2-15-01)

Sec. 2-208. Term of office of members.

The term of office for each member of the youth commission shall run concurrently with that of the mayor, ending with the term of the mayor so appointing him; subject, however, to resignation or removal in accordance with law.
(Code 1964, § 2-49; Ord. No. 1268, § 2, 6-6-85)

Sec. 2-209. Chairman.

The mayor shall appoint from among the members of the youth commission, a chairman of the commission, who shall be charged with the duties and responsibilities of supervising all activities of the commission and making reports to the mayor and board of aldermen at such times as the mayor or board of aldermen may so direct.
(Code 1964, § 2-50; Ord. No. 1268, § 2, 6-6-85)

Sec. 2-210. Duties.

The activities of the youth commission shall be primarily concerned with the promotion of the general welfare of youths and young adults within the sphere of and in compliance with law, subject to

City of Bellefontaine Neighbors -- QuickCode
such rules and regulations as might be imposed by the board of aldermen, if deemed necessary by the board of aldermen.
(Code 1964, § 2-51; Ord. No. 1268, § 2, 6-6-85)

Secs. 2-211—2-225. Reserved.

ARTICLE VI. INSURANCE ADVISORY BOARD

Sec. 2-226. Established.

There is hereby established an insurance advisory board in the city which shall be composed of four (4) licensed insurance agents or brokers, all of whom must be duly licensed by the state.
(Ord. No. 961, § 2, 6-5-75)

Sec. 2-227. Appointment.

All of the insurance advisory board members shall be appointed by the mayor with the approval of the board of aldermen and prior to such appointment each one (1) shall file a copy of his insurance agent's or broker's license with the city clerk.
(Ord. No. 961, § 3, 6-5-75)

Sec. 2-228. Duties.

The insurance advisory board shall:

- (1) Review from time to time, as is deemed necessary, the insurance needs of the city.
- (2) Make recommendations regarding the insurance needs and policies to the board of aldermen.
- (3) Draft specifications for such insurance policies and shall advertise for and obtain bids on insurance policies required for the city.
- (4) Receive bids on such insurance policies and then recommend the three (3) lowest and best bids, designating them in order as one, two and three as to lowest and best bids to the aldermanic insurance committee which committee shall then submit and recommend the insurance policies for the city under such insurance company or companies so submitting the lowest and best bid or bids and considered to be sound and financially secure.

(Ord. No. 961, § 4, 6-5-75)

Sec. 2-229. Compensation.

Each of the insurance advisory board members shall be paid such sum per month as established by the board of aldermen from time to time as and for his compensation as an insurance advisory board member and shall not share in insurance commission or the city's insurance.
(Ord. No. 961, § 5, 6-5-75)

Secs. 2-230—2-245. Reserved.

ARTICLE VII. FINANCES

Cross references—City collector, § 2-116 et seq.; city treasurer, § 2-151 et seq.

DIVISION 1. IN GENERAL

Sec. 2-246. Depository for city funds; checks for withdrawals from city funds.

(a) Such bank as shall be designated from time to time shall be selected and appointed as depository for the funds of this city. The city treasurer shall deposit to the credit of this city, in such bank, all funds of the city and in such accounts, all bearing the designation "City of Bellefontaine Neighbors", as may be necessary and convenient for the transaction of the city's business.

(b) The withdrawals from the deposits of funds to the credit of this city in such bank shall be by check, signed by the city treasurer and city clerk and countersigned by the mayor. All checks shall bear evidence of having been protected by mechanical means.

(c) The mayor, the city treasurer and the city clerk shall enter into a contract with such bank and a trustee to be named in such contract for the securing as required by law of the funds of this city on deposit with the bank.

(Code 1964, § 11-1; Ord. No. 2066 §1, 7-5-07)

Sec. 2-247. Monthly reports by city clerk to county assessor.

(a) In order to assist the county assessor in assessing all real and tangible personal property situated within the city and subject to taxation under the laws of the state, it shall be the duty of the city clerk to transmit, prior to the fifteenth day of each month, the following information pertaining to the city for the month next preceding:

City of Bellefontaine Neighbors -- QuickCode

- (1) All permits issued for the construction, alteration, demolition or repair of buildings or structures.
- (2) All permits issued for the installation, erection or alteration of electrical wires or apparatus in buildings or structures.
- (3) All permits issued for the installation, alteration, repair or relocation of plumbing systems or fixtures.
- (4) All changes in the zoning of land.
- (5) All locations, relocations, establishments, extensions or vacations of public highways, streets, boulevards, parks, parkways, sidewalks, alleys, bridges, viaducts or subways.
- (6) All licenses issued for motor vehicles, trailers or semitrailers.

(b) The city clerk shall transmit the information herein specified on such forms as shall be prescribed by the county assessor; provided that, until such forms are so prescribed, the city clerk shall devise and use such forms as he considers suitable for such purpose.

(Code 1964, § 11-2; Ord. No. 2066 §1, 7-5-07)

Sec. 2-248. Investment policy.

(a) *Scope.* This policy applies to the investment of all funds of the City except pension funds, which are managed by a private asset manager. City funds will be invested so as to provide maximum security with the highest return while meeting the City's cash flow demands and conforming to all applicable laws governing the investment of public funds.

- (1) *Pooling of funds.* Except for cash in certain restricted and special funds, the City will consolidate cash balances from all funds to maximize investment earnings. Investment income will be allocated to the various funds based on their respective participation and in accordance with the generally accepted accounting principles.
- (2) *External management of funds.* Investment through external programs, facilities and professionals operating in a manner consistent with this policy will constitute compliance.

(b) *General objectives.*

(1) *Safety.* Safety of principal is the foremost objective of the investment program. The objective will be to minimize credit risk and interest rate risk.

a. *Credit risk.* The failure of the security issuer or backer by the following.

1. The City will pre-qualify the financial institutions, brokers/dealers, intermediaries, and advisors with which the City will do business. The City shall use a thorough screening process to select qualified financial institutions. The selection bases shall include evaluation of each applicant's assets, liabilities, public deposits, local presence, credit characteristics, financial position, and collateral capabilities.

City of Bellefontaine Neighbors -- QuickCode

2. All banking contracts shall specify that the City reserves the right to make investment decisions with any bank or brokerage firms. All banking contracts shall specify, consistent with this investment policy, what types of investments may be used as collateral for deposits.
 - (a) The City Treasurer will maintain a list of financial institutions and security broker/dealers authorized to provide investment services. Preference is given to St. Louis based institutions. The City shall not conduct public business with any securities dealer with the knowledge that the securities dealer is known to have charged excessive prices or defrauded public entities.
 3. All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must annually provide proof of National Association of Security Dealers certification. The City Treasurer shall ensure that a current audited financial statement is on file for each financial institution and broker/dealer with which the City invests.
 4. The City will diversify the portfolio so that potential losses on individual securities will be minimized.
 - b. *Interest rate risk.* The City will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:
 - (2) *Structure.* Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity. Investing operating funds primarily in shorter-term securities.
 - (3) *Liquidity.* The investment portfolio will be structured so that securities mature concurrent with cash needs to meet anticipated demands.
 - (4) *Yield.* The investment portfolio shall be designed with the objectives of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Only rarely would a security be sold prior to maturity.
- (c) *Standards of care.*
- (1) *Prudence.* The standard of care to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. That is: "investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence would exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."
 - (2) *Ethics and conflicts of interest.* Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and

City of Bellefontaine Neighbors -- QuickCode

management of the investment program or impair their ability to make impartial decisions.

Employees and investment officials shall disclose any material interests in financial institutions in which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio.

(3) *Delegation of authority.* Authority to manage the investment program is granted to the City Treasurer, hereinafter referred to as investment officer and derived from the state statutes or constitution. Responsibility for the operation of the investment program is hereby delegated to the investment officer, who shall act in accordance with the established written procedures and internal controls for the operation of the investment program consistent with this investment policy. Procedures should include references to: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, and collateral/depository agreements. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the investment officer. The investment officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

(d) *Internal controls.* The investment officer is responsible for establishing and maintaining an internal control structure that will be reviewed annually with the City's independent auditor. The internal control structure shall be designed to ensure that the assets of the City are protected from loss, theft or misuse and to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits require estimates and judgments by management.

The internal controls shall address the following points:

Control of collusion

Separation of transaction authority from accounting and record keeping

Custodial safekeeping

Clear delegation of authority to subordinate staff members

Written confirmation of transactions for investments and wire transfers

Development of a wire transfer agreement

(e) *Suitable and authorized investments.*

(1) *Investment types.* In accordance with and subject to restrictions imposed by current statutes, the following list represents the entire range of investments that the City will consider and which shall be authorized for the investments of funds by the City.

a. *United States Treasury Securities.* The City may invest in direct obligations of the United States government for which the full faith and credit of the United States are pledged for the payment of principal interest.

City of Bellefontaine Neighbors -- QuickCode

- b. *United States Agency Securities.* The City may invest in obligations which are unconditionally guaranteed as to timely payment of the principal and interest by any agency of the United States Government.
 - c. *Repurchase agreements.* The City may invest in contractual agreements between the City and commercial banks or primary government securities dealers. The purchaser in a repurchase agreement (repo) enters into a contractual agreement to purchase Treasury and government agency securities while simultaneously agreeing to resell the securities at predetermined dates and prices.
 - d. *Collateralized public deposits.* Instruments issued by financial institutions which state that specified sums have been deposited for specified periods of time and at specified rates of interest. Such deposits are required to be backed by acceptable collateral securities as dictated by State statute.
 - e. *Commercial paper.* The City may invest in commercial paper issued by domestic corporations, which has received the highest rating issued by Moody's Investor Services, Inc. or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that have total assets in excess of five hundred million dollars (\$500,000,000).
- (2) *Investment restrictions and prohibited transactions.* To provide for the safety and liquidity of the City's funds, the investment portfolio will be subject to the following restriction:
- a. Borrowing for investment purposes ("Leverage") is prohibited.
 - b. Instruments known as Structured Notes (e.g. inverse floaters, leveraged floaters, and equity-linked securities) are not permitted. Investment in any instrument, which is commonly considered a "derivative" investment (e.g. options, futures, swaps, caps, floors, and collars), is prohibited.
 - c. Contracting to sell securities not yet acquired in order to purchase other securities for purposes of speculating on developments or trends in the market is prohibited.
 - d. No more than 20% of the total market value of the portfolio may be invested in commercial paper of any one issuer.
- (3) *Collateralization.* Collateralization will be required on two types of investments: certificates of deposit and repurchase agreements. In order to anticipate market changes and provide a level of security for all funds, the market value (including accrued interest) of the collateral should be at least 100%.

For certificates of deposit, the market value of collateral must be at least 100% or greater of the amount of certificates of deposits plus demand deposits with the depository, less the amount, if any, which is insured by the Federal Deposit Corporation, or the National Credit Unions Share Insurance Fund.

All securities, which serve as collateral against the deposits of a depository institution must be safe-kept at a non-affiliated custodial facility. Depository institutions pledging collateral

City of Bellefontaine Neighbors -- QuickCode

against deposits must, in conjunction with the custodial agent, furnish the necessary custodial receipts within five business days from the settlement date.

The City shall have a depositary contract and pledge agreement with each safekeeping bank that will comply with the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989 (FIRREA). This will ensure that the City's security interest in collateral pledge to secure deposits is enforceable against the receiver of a failed financial institution.

(4) *Repurchase agreements.* The securities for which repurchase agreements will be transacted will be limited to Treasury and government agency securities that are eligible to be delivered via the Federal Reserve's fed-wire book entry system. Securities will be delivered to the City's designated Custodial Agent. Funds and securities will be transferred on a delivery vs. payment basis.

(f) *Investment parameters.*

(1) *Maximum maturities.* To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Investments in bankers' acceptances and commercial paper shall mature and become payable not more than one hundred eighty days (180) from the date of purchases. All other investments shall mature and become payable not more than three (3) years from the date of purchase.

(2) *Availability.* Because of inherent difficulties in accurately forecasting cash flow requirements, a portion of the portfolio should be continuously invested in readily available funds such as in bank deposits or overnight repurchase agreements to ensure that appropriate liquidity is maintained to meet ongoing obligations.

(g) *Reporting.* The investment officer will prepare an investment report annually, including a management summary that provides an analysis of the status of the current investment portfolio and transactions made over the last year. The report should be provided to the governing body of the City.

(Ord. No. 1989, §1, 11-18-04)

DIVISION 2. PURCHASING

Sec. 2-249. Powers and duties of director of purchasing.

(a) The director of purchasing shall be the mayor who shall be responsible for the procurement and acquisition of all materials, supplies, equipment, contractual services and insurance (acquisition of real estate and certain professional services including, but not limited to, accountants, architects, attorneys, physicians or other services requiring expert or specialized knowledge or skill, planning consultants, insurance advisors and brokers, landscape architects and designers are outside the scope of these regulations). Questions of interpretation of these regulations or questions on procedures in purchasing not specifically stated herein shall be referred to the mayor.

City of Bellefontaine Neighbors -- QuickCode

(b) A purchase order or contract shall be valid only when signed by the director of purchasing and verified by the relevant department head, both of whom shall have determined that there are sufficient funds appropriated to cover such purchases.

(c) No purchase or contract for services of any kind or description, payment for which is to be made from funds of the city, shall be made by the director of purchasing or any officer, employee or agent of the city, except in the manner hereinafter set forth.

- (1) Items estimated to cost ten thousand dollars (\$10,000.00) or more can be purchased only after obtaining formal written and sealed bids or by special board action on sole source, specialized and non-standard items.
- (2) Items estimated to cost between two thousand five hundred dollars (\$2,500.00) and nine thousand nine hundred ninety-nine dollars ninety-nine cents (\$9,999.99) may be purchased by the director of purchasing after obtaining three (3) or more price quotations on company stationery.
- (3) Items estimated to cost between five hundred dollars (\$500.00) and two thousand four hundred ninety-nine dollars ninety-nine cents (\$2,499.99) may be purchased by obtaining three (3) or more written price quotations.
- (4) Items estimated to cost less than five hundred dollars (\$500.00) may be purchased without quotes. However, it is encouraged that cursory solicitations are conducted on occasion to ensure that the city is receiving various items at a competitive market price.
- (5) The city recognizes that there are certain expenses which occur monthly and are part of an established contract or service. These type of expenses include, but are not limited, natural gas, electricity, water, sewer, health insurance, dental insurance, life insurance, retirement fund, refuse collection, facility maintenance, issuing or replacement of uniforms, issuing or replacement of essential department gear and maintenance supplies or materials. These expenditures require the approval of the director of purchasing and relevant department head. An "accounts payable" form or stamp may be used in lieu of a "purchase order" on those items where the contract or service is part of the current budget.
- (6) The city may from time to time hold charge cards and business charge accounts from a limited number of vendors. These vendors are primarily used for small day-to-day purchases. A listing of any business charge/credit card accounts shall be maintained at city hall. This list shall identify those employees who are authorized to use those accounts. Authorization of purchases that utilize these accounts shall follow the procedures as outlined above in items (a) through (d) of this section.
- (7) All capital expenditures of five thousand dollars (\$5,000.00) or more are required to be recorded as a fixed asset of the City. Department heads are directed to maintain an up-to-date fixed asset report, which should be submitted to the Mayor on an annual basis.
- (8) No contract or purchase shall be subdivided to avoid the dollar limitations specified in this Section.
- (9) All purchase orders will be validated by the office of the director of purchasing after receipt

City of Bellefontaine Neighbors -- QuickCode

of a complete purchase order in the manner specified below. The director of purchasing shall examine all purchase orders and shall have the authority to revise purchase orders as to quantity or established cost after consulting with the head of the using department.

- (d) The director of purchasing and department heads shall take into consideration the following criteria when expending funds for the city:
- (1) Act to procure for the city the highest quality in supplies and contractual services at the least expense to the city.
 - (2) Encourage competition and endeavor to obtain as full and open competition as possible on all purchases and sales.
 - (3) Exploit the possibilities of buying in bulk so as to take full advantage of discounts.
 - (4) Keep informed of current developments in the fields of purchasing, prices, market conditions and new products and secures for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and private businesses and organizations. All contracts awarded by the federal, state, county or local governmental consortiums for the purchase of supplies, materials or contracted services may be used in lieu of the procedures set out in this policy when the best interests of the city would be served.
 - (5) Act so as to procure for the city all federal tax exemptions to which it is entitled.
 - (6) Disqualify vendors who default on their quotations and restrict them from receiving any business from the city for a certain period of time.
 - (7) The city purchases many items which have a warranty or guarantee for a certain length of time. Before these items are repaired or replaced, a specific check should be made as to the warranty or guarantee coverage. Each department shall maintain an active up-to-date file on such warranties or guarantees with complete information.

(Ord. No. 2066 §1, 7-5-07; Ord. No. 2232 §1, 10-18-12)

Sec. 2-249.1. Department responsibility.

(a) While the final responsibility for purchasing rests with the director of purchasing, all departments will be required to participate in the development and procurement of open, competitive bidding on the procurement of all items purchased by the city.

(b) While the final responsibility for purchasing rests with the director of purchasing, all departments are responsible to ensure that goods and services purchased by the city shall be purchased from merchants and businesses located in the city, unless such goods or services are not available in the city or such goods or services may be purchased outside the city at a savings of five percent (5%) or more. In addition, the department head shall also be responsible to ensure goods purchased by the city shall be American made, unless such goods are not available as american made goods or foreign goods may be purchased at a savings of five percent (5%) or more.

City of Bellefontaine Neighbors -- QuickCode

(c) For purchases anticipated to cost in excess of ten thousand dollars (\$10,000.00) the director of purchasing shall handle the paper work necessary in the advertising for bids, consideration and award of the contract and the development of the contract for the purchase. The departments shall be responsible for development of specifications as instructed by the director of purchasing and for assisting in the development of a list of potential bidders.

(d) For purchases anticipated to cost less than ten thousand dollars (\$10,000.00) the department shall be responsible for the solicitation of informal bids. Whenever possible, at least three (3) and preferably more sources shall be contacted. In every case, all interested vendors are to be given an opportunity to submit a quote. The purchase order (see below) is to be completed in detail. All sources contacted for quotations shall be noted. The director of purchasing will, when deemed necessary, solicit additional quotations, spot check prices noted on the purchase order and take such measures as are necessary to assure that fair and equal opportunity is offered to all vendors interested in supplying the city.

(e) Small purchases of fifty dollars (\$50.00) or less can be purchased directly from the department petty cash fund. It shall be the responsibility of the department head to control the use of petty cash so as to best serve the needs of the city. Purchases may be made from petty cash only for goods or services for which there are line items in the budget.

(f) It is hereby declared to be the policy of city of Bellefontaine Neighbors that a wage of no less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed as determined by the Missouri department of labor shall be paid to all workmen employed by or on behalf of the city engaged in public works exclusive of maintenance work. All invitations to bid on construction projects for the city of Bellefontaine Neighbors must include this requirement.

(g) The city of Bellefontaine Neighbors will encourage all contractors and subcontractors on city funded projects to implement the policy recommendations of the federal committee on apprenticeship, United States department of labor, employment and training administration and shall include the following language in bid specifications issued by the city:

The city seeks to ensure that the highest quality workmanship will be performed on its projects and to do so, encourages bidders to use employees on the projects who have satisfactorily completed apprenticeship programs developed and operated in accordance with the policy recommendation, dated January 28, 1992, of the federal committee on apprenticeship, U.S. department of labor, employment and training administration, office of work-based learning, bureau of apprenticeship and training (the "policy recommendation"). All bidders are required to certify in their bids the percentage of their prospective employees for the project which have satisfactorily completed such a program for the type of work they will be performing.

(h) It is the policy of the city of Bellefontaine Neighbors, Missouri, that it will affirmatively encourage minority business enterprise and women's business enterprise participation in contracts and programs which it administers with the objective of increasing the participation by businesses owned or controlled by minorities and women and the city will assure that all reasonable efforts are made within

the confines of the law which will aid in meeting this objective.
(Ord. No. 2066 §1, 7-5-07)

Sec. 2-250. Specifications.

(a) It shall be the duty of the operating department to prepare written specifications for open, competitive bidding. Such specifications shall be approved by the director of purchasing or by such knowledgeable person as the director of purchasing may appoint to review the specifications.

(b) The department head shall have the authority to interview such salesmen or representatives of manufacturing concerns as he or she may wish in the development of specifications as long as such interviewing does not result in a cost to the city.
(Ord. No. 2066 §1, 7-5-07)

Sec. 2-251. Budget transfers of supplements.

(a) If a purchase is requested and there are not sufficient funds within the departmental account appropriation, the director of purchasing will so notify the department head who may:

- (1) Drop the request.
- (2) Request a transfer of funds.
- (3) Request an additional appropriation.

(b) If option 2 is selected, an interdepartmental transfer of funds can be made after a request for transfer of funds is filled out and signed by the department head and approved by the director of purchasing.

(c) If option 3 is selected, the request for an additional appropriation must be fully explained in a memo that will set forth the need and justification for the purchase. If, after review of the request, the director of purchasing agrees the request is justified, it shall be submitted to the board who must approve the appropriation.
(Ord. No. 2066 §1, 7-5-07)

Sec. 2-252. Purchase order.

(a) The purchase order will be the basic form of concern to the department head since it will serve as the means by which the department will inform the director of purchasing of the needs of the department.

(b) Purchase orders should be prepared far enough in advance so as not to create an emergency. This will permit the procurement of competitive prices and the best materials at the right

City of Bellefontaine Neighbors -- QuickCode

price in time to meet the anticipated need. Request for bids for items of more than ten thousand dollars (\$10,000.00) should be submitted at least six (6) weeks in advance of the time the materials or services will be needed. Delivery of many goods will demand advance planning and early ordering.

(c) The purchase order is to be completed with the name and address of the suggested vendor, the cost from the vendor, the quantity, description of the material, the account to be charged, other prices obtained and the address to which the material is to be delivered.

(d) The completed purchase order is then given to the city treasurer who reviews the purchase order as submitted, checking the account number and verifying that monies are available in the budget under the account number as shown.

(e) The purchase order will then go to the director of purchasing for approval or disapproval. If approved, the purchase order will be signed and returned to the department head, who will make proper distribution of the copies.

(f) The purchase order shall be prepared in triplicate so as to serve all purposes for which it is intended and shall be distributed by the finance office as follows:

(1) The third copy retained by the issuing department.

(2) After being signed by the director of purchasing, the original is sent to the vendor.

(3) The second copy is to be retained by the city treasurer.

(g) A description of equipment to be used as trade-in shall accompany a purchase order when a trade-in is to be included in the acquisition.
(Ord. No. 2066 §1, 7-5-07)

Sec. 2-253. Emergency orders.

(a) Emergency purchases will happen and must be handled. Emergency purchases are defined as those purchases which must be made in order to prevent the loss of life, damage to public property or to protect a service that simply cannot be stopped or delayed. Emergency purchases do not include items that are discovered to be needed at once simply because a department head forgot to order an item ahead of time.

(b) When it is necessary to make an emergency purchase, the procedure will be to call the director of purchasing for oral approval, then proceed with the purchase. A purchase order complete with all the details of the purchase and marked "confirming emergency order of (date)" will then be submitted. An emergency purchase order cannot exceed five thousand dollars (\$5,000.00) without board of aldermen approval.

(c) If, for some reason, it is impossible to reach the director of purchasing, for example, on a weekend or in the evening, the department head can order the purchase. In this case, the purchase and

City of Bellefontaine Neighbors -- QuickCode

rationale must be reported to the director of purchasing immediately on the first working day after the purchase. A purchase order complete as to details of the purchase must be submitted. An emergency purchase cannot exceed five thousand dollars (\$5,000.00) without board of aldermen approval. (Ord. No. 2066 §1, 7-5-07)

Sec. 2-254. Petty cash purchases.

(a) Minor purchases - fifty dollars (\$50.00) or less - can be made (without a purchase order) directly from the vendor and paid for from the departmental petty cash fund. A paid receipt shall be obtained from the vendor and a petty cash voucher completed and attached thereto.

(b) Departments may replenish petty cash at reasonable intervals. Department heads and such persons authorized by the department head in writing shall be responsible for petty cash funds. (Ord. No. 2066 §1, 7-5-07)

Sec. 2-255. Approving receipt of material.

(a) When an order is received, each item will be examined by the department head and the quantity and quality noted. An inter-office memo should be written on any deficiency or unusualness of the order. Reasons for changes in price should be noted on the invoice or inter-office memo and forwarded to the finance department.

(b) If a partial shipment is received, the department shall approve the items received for payment, noting shipping is incomplete on the invoice. (Ord. No. 2066 §1, 7-5-07)

Sec. 2-256. Purchasing procedures on items over \$10,000.

(a) Supplies, materials, equipment and contractual services shall be procured only after obtaining formal sealed written bids, when the value of the proposed procurement is in excess of ten thousand dollars (\$10,000.00) or when directed by the board of aldermen or when required by the laws of the State of Missouri. The procurement of several items of the same type at substantially the same time is a single purchase for the purpose of this regulation and the total cost of all such items will determine whether formal competitive bidding procedure must be followed. No contract or purchase shall be subdivided to avoid competitive bidding procedures.

(b) *Invitations, notice.* Such bids shall be invited through a notice to be published in at least one (1) local newspaper at least one (1) time, the first publication to be at least ten (10) days prior to the date specified for submission of bids. Such notice shall include: a general description of the items to be purchased; the conditions of such purchase; the place specifications and bid forms may be secured; the time and place for submitting such bids; and the time and place for acceptance of bids. The director may also solicit bids by mailing copies of the specifications and bidding documents to prospective vendors by mail.

City of Bellefontaine Neighbors -- QuickCode

(c) The director of purchasing may advertise for sealed bids (1) for any item for which an appropriation has been made in the annual budget for the city or (2) upon resolution of a majority of the members of the Board of Aldermen.

(d) *Requirements on sealed bids.* All bids shall be sealed, shall be identified as bids on the envelope and shall be submitted within the time and at the time stated in the public notice inviting bids. Any person delivering a bid shall be directed to hand it to the city clerk or such person designated for receipt of bids. Any mail identified as a bid shall be segregated promptly from all other mail and delivered to the person designated for the receipt of bids. The time of receipt of each bid shall be entered by that person on the envelope containing such bid. The city clerk or person designated shall promptly place all bids in a safe place, designated to be retained until opened.

(e) The city clerk shall open all bids as soon as practical after the time to submit bids has expired and shall, in conjunction with the head of the using agency, prior to the next regular meeting of the Board after the bid time expires, prepare a summary of all bids, including a review of the facts. All bids received shall be made available for inspection as a public record

(f) *Presentation to the board of bids for award.* After presentation of the available data, the board of aldermen at a regular or special meeting may award the contract in the best interest of the city for the goods or services to be procured; however, the board of aldermen shall have the authority to reject all bids.

(g) *Contract required after award.* Subsequent to the award by the board of aldermen the director of purchasing shall, by purchase order and/or formal contract, enter into an agreement with the bidder selected by board for procurement of the goods and services to be procured.

(h) *Requirements for bid deposits.* When deemed necessary by the director, bid deposits may be required. Said deposits may be required to be in the form of a certified check or bid bond and may be for an amount not exceeding one thousand dollars (\$1,000.00) or ten percent (10%) of the amount of the bid, which ever is greater. When so requested, all bids not accompanied by such deposit shall be rejected. Such bid deposit shall be returned to all bidders upon execution of a contract with or issuance of a purchase order to the successful bidder. A successful bidder shall forfeit their deposit if they fail to enter into a contract within thirty (30) days after the award.

(i) *Requirement of performance bond.* The successful bidder may be required to post a performance bond whenever the same is deemed appropriate by the director of purchasing; provided, however, such requirement must be set forth in the conditions of bidding. Said performance bond may be in the form of a specified amount or a percentage of the value of the proposed purchase. The director of purchasing shall establish, in the conditions of bidding, such terms as may be deemed appropriate to protect the interest of the city of Bellefontaine Neighbors.

(j) *Absence or rejection of bids.* The board of aldermen may, by resolution, approve negotiated procurement of goods or services of a value in excess of ten thousand dollars (\$10,000.00) if there have been no responsive bids to an advertisement for bids or there is no prospect of receiving bids and/or if the board of aldermen has rejected all bids.

(Ord. No. 2066 §1, 7-5-07)

Sec. 2-257. Sole source, specialized and non-standard items.

(a) The board of aldermen may, by resolution, approve negotiated procurement of goods of a value in excess of ten thousand dollars (\$10,000.00) without requiring formal competitive bids if the board determines from all information submitted to it by the director of purchasing and the using agency that such goods are of such specialized or non-standard nature that they can be acquired only from a sole source of supply and that no similar goods would reasonably satisfy the city's requirements.

(b) The director of purchasing may approve goods in value of less than ten thousand dollars (\$10,000.00) from a sole source, provided the department acquiring the goods or services writes an inter-office memorandum stating reasons why only one company can supply the goods or services requested.

(Ord. No. 2066 §1, 7-5-07)

Sec. 2-258. Professional services.

When professional services in addition to those provided by the city's officers and employees are required by the city in an amount greater than ten thousand dollars (\$10,000.00), investigation shall be made in the manner directed or approved by the board of aldermen concerning persons or companies who perform the required service. On the basis of such investigation, the board shall then designate or approve one (1) or more of such persons or companies for negotiation. The board of aldermen may then, by ordinance, approve a contract for the required professional service.

(Ord. No. 2066 §1, 7-5-07)

Sec. 2-259. Award of contract or purchase orders.

It is the responsibility of the director of purchasing to review and investigate all bids and to make a recommendation thereon to the board of aldermen regarding award of a particular contract or purchase order. The following criteria will be utilized in making this evaluation:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the services required.
- (2) Determine whether the bidder can perform the contract to provide the services promptly or within the required time periods without delay or interference.
- (3) The quality of performance of previous contracts or services.
- (4) The previous and existing compliance by the bidder with laws and ordinances of the city.
- (5) The financial resources and the ability of the bidder to perform the contract or provide the services.

(6) The quality, availability and adaptability of the supplies or services.
(Ord. No. 2066 §1, 7-5-07)

Sec. 2-260. Purchase orders or contracts must be for current fiscal year.

All purchase orders or contracts must be for goods or services covered by a category in the budget for the current fiscal year as approved by the board of aldermen. Any purchaser of an item not provided for in the current fiscal year budget must receive the prior approval of the board of aldermen. The director of purchasing is authorized to approve all purchases after complying with the competitive shopping requirements as specified above.
(Ord. No. 2066 §1, 7-5-07)

ARTICLE VIII. PARKS AND RECREATION BOARD

Sec. 2-261. Established; composition.

There is hereby established a parks and recreation board in the city, which board shall consist of eight (8) members who are residents of the city.
(Ord. No. 1306, § 1, 4-3-86)

Sec. 2-262. Appointment; terms; compensation.

The members of the board established by this article shall be appointed by the mayor with the approval of the board of aldermen and shall serve with the term of the mayor. Members shall receive such compensation, not to exceed two hundred dollars (\$200.00) per month, as may be determined by the board of aldermen from time to time.
(Ord. No. 1306, § 2, 4-3-86; Ord. No. 1778, § 1, 6-18-98)

Sec. 2-263. Chairman.

The mayor shall also designate one of the members of the board established by this article as chairman of such board.
(Ord. No. 1306, § 3, 4-3-86)

Sec. 2-264. To act in advisory capacity.

The board established by this article shall act in an advisory capacity to the mayor and board of aldermen.

(Ord. No. 1306, § 4, 4-3-86)

Sec. 2-265. Duties.

The board established by this article shall make continuing studies of programs and matters for the benefit of the city's parks, park activities, the city recreation center, and recreational center activities.

(Ord. No. 1306, § 5, 4-3-86)

Sec. 2-266. Board may establish reservation system for park facilities; interference with reserved facilities prohibited.

(a) The parks and recreation board may establish rules and regulations to administer and enforce a system of reservations for such park facilities as may be appropriate. In order to reserve any park facility it shall be necessary for the applicant to apply for such reservation at least seven (7) days prior to the requested use and provide information as to the time, place, date, name of organization, number of people to be using the facility, and such other information as the board may require. If a request for reservation of a facility is filed on behalf of an organization of ten (10) or more people and approved, the reservation shall entitle the permitted party to priority of use for the designated area or facility and related ball fields or similar auxiliary facilities for the reserved period.

(b) It shall be unlawful for any person to interfere with the reasonable use of any reserved park area or facility by the party holding such reservation, or to refuse to vacate any reserved area or facility as to which notice of a reservation has been posted. Violation of any provision of this section shall be punished as provided in section 1-10 of this Code of Ordinances.

(Ord. No. 1708, § 1, 9-5-96)

Secs. 2-267—2-280. Reserved.

ARTICLE IX. ENVIRONMENTAL QUALITY COMMISSION

Sec. 2-281. Established; composition.

There is hereby established an environmental quality commission in the city to consist of eight (8) members who are residents of the city.

(Ord. No. 1493, § 1, 9-5-91)

Sec. 2-282. Appointment; terms.

The members of the commission established by this article shall be appointed by the mayor with the

City of Bellefontaine Neighbors -- QuickCode

approval of the board of aldermen and shall serve terms of office concurrent with the mayor, and until their successors are duly appointed and qualified.

(Ord. No. 1493, § 1, 9-5-91)

Sec. 2-283. Chairman; meetings.

The mayor shall designate one of the members of the commission established by this article to serve as chairman of the commission. The commission shall meet at such times as business may require at the direction of the chairman.

(Ord. No. 1493, § 1, 9-5-91)

Sec. 2-284. Duties.

The commission established by this article shall review, consider and report to the mayor and board of aldermen on such matters as may be referred to it by the mayor or board of aldermen concerning the quality of the physical environment of the city, including, but not limited to, matters concerning solid waste collection and disposal and recycling of solid waste materials. The commission may also advise and assist other boards, commissions and officers of the city on such matters touching upon issues of the physical environment of the city as may be referred to the commission from time to time.

(Ord. No. 1493, § 1, 9-5-91)

Secs. 2-285—2-290. Reserved.

ARTICLE X. TAX INCREMENT FINANCING COMMISSION

Sec. 2-291. Definitions.

When used in this article, the following words shall have the meaning indicated herein:

Act shall mean the real property tax increment allocation redevelopment act, sections 99.800 through 99.865, RSMo., as amended.

City shall mean the mayor and board of aldermen of the city, acting in their official capacity.

Redevelopment area shall mean an area designated by the city in respect to which the city, upon recommendation of its TIF commission, has made a finding that there exist conditions which caused the area to be classified as a blighted area, a conservation area, an economic development area or a combination thereof.

Redevelopment plan shall mean the comprehensive plan for redevelopment of an area intended by

City of Bellefontaine Neighbors -- QuickCode

the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment area as a blighted area, a conservation area, an economic development area or a combination thereof, and thereby enhance the tax base of the taxing districts which extend into the redevelopment areas. Each redevelopment plan adopted shall conform to the requirements of section 99.810 of the act.

Redevelopment project shall mean any redevelopment project within a designated redevelopment area in furtherance of the objectives of the redevelopment plan.

TIF commission shall mean the tax increment financing commission of the city, as authorized pursuant to section 99.820 of the act.

(Ord. No. 1847, § 1, 5-4-00)

Sec. 2-292. Commission established.

There is hereby established a commission to be known as the tax increment finance commission of the city (TIF commission). All members of the commission shall serve without compensation.

(Ord. No. 1847, § 2, 5-4-00)

Sec. 2-293. Authority.

The TIF commission shall serve as an advisory body to the city as it relates to the consideration of tax increment financing proposals submitted by interested parties or initiated by any public agency in accordance with the act. The TIF commission shall hold public hearings and give notice pursuant to sections 99.825 and 99.830 of the Act on proposed redevelopment plans, redevelopment projects and designation of redevelopment areas and amendments thereto. The TIF commission shall vote on all proposed redevelopment plans, redevelopment projects and designations of redevelopment areas and amendments thereto, within thirty (30) days following completion of a hearing on any such plan, project, designation or amendment and shall make recommendations to the city within ninety (90) days of a hearing referred to in section 99.825 of the act concerning adoption of or amendment to redevelopment plans, redevelopment projects and/or designation of redevelopment areas.

(Ord. No. 1847, § 3, 5-4-00)

Sec. 2-294. Organization.

The TIF commission shall elect from among its number a chairman, vice-chairman and secretary. Meetings of the TIF commission shall be open to the public to the extent provided by law and a record of each meeting shall be kept. The TIF commission shall have the authority to establish rules and procedures not in conflict with city ordinances or policies or the act and shall meet as required to fulfill its obligations set forth in the act.

(Ord. No. 1847, § 4, 5-4-00)

Sec. 2-295. Membership.

Membership on the TIF commission shall consist of two classes of members: city appointees and other appointees. The TIF commission shall be composed of twelve (12) persons of which six (6) shall be city appointees and six (6) shall be other appointees. Regardless of class, each member of the TIF commission shall have one (1) vote on all matters properly before it and shall participate in all deliberations of the TIF commission without differentiation.

(Ord. No. 1847, § 5, 5-4-00)

Sec. 2-296. Appointment of city appointees.

(a) The city appointees shall be appointed by the mayor with the consent and approval of the board of aldermen. Any vacancies shall be filled for the unexpired terms in the same manner as were the original appointments.

(b) Terms of office for city appointees shall be for a term of four (4) years, except two of the initial appointments shall be for term of two (2) years and two of the initial appointments shall be for a term of three (3) years from the date of initial appointment.

(Ord. No. 1847, § 6, 5-4-00)

Sec. 2-297. Appointment of other appointees.

(a) Other appointees shall be appointed in accordance with the act when a redevelopment area, redevelopment plan or redevelopment project is proposed to be established or amended or at such earlier date as the city shall invite other affected taxing jurisdictions to do so. Three (3) of the other appointees shall be appointed by the county executive with the consent of a majority of the county council in accord with section 99.820.2(6) of the act, as amended. Two (2) of the other appointees shall be appointed by the board of education of the school district(s) whose district(s) is (are) included within the redevelopment plan or redevelopment area in accord with section 99.820.2(1) of the act, as amended; such members shall be appointed in any manner agreed upon by such school districts. One (1) other appointee shall be appointed in accord with section 99.820.2(2) of the act, as amended, in any manner agreed to by the other affected taxing jurisdictions levying ad valorem taxes within the contemplated redevelopment area included in a redevelopment plan. The city shall not be considered a taxing jurisdiction for purposes of appointment of this other appointee.

(b) The term of office of the other appointees shall consist of the period of time from the time that the affected school district(s) and other affected taxing jurisdictions are notified in writing of a proposed redevelopment plan or designation of a redevelopment area until final approval or disapproval of the redevelopment plan, redevelopment project or designation of a redevelopment area by the city in response to an initiating proposal.

City of Bellefontaine Neighbors -- QuickCode

(c) In the event the appropriate appointing authority, affected school district(s), or other affected taxing jurisdictions shall fail to appoint other appointees within thirty (30) days of receipt of written notice of a proposed redevelopment plan, redevelopment project, designation of a redevelopment area or amendment thereto, the remaining city appointees and other appointees may proceed to exercise the power of the TIF commission as it relates to proposals then before it.
(Ord. No. 1847, § 7, 5-4-00)

Secs. 2-298—2-299. Reserved

ARTICLE XI. PUBLIC SAFETY COMMITTEE

Sec. 2-300. Public safety committee established; composition; appointment; term of office.

(a) The Public Safety Committee shall consist of members appointed by the Mayor with the approval of the Board of Aldermen. Members shall be residents of the city and qualified by training, education, experience, or activity in public safety issues and should, to the extent possible, reflect a cross section of residents and businesses in the city. Annually, the Committee membership shall elect a Chairperson, Vice-Chairperson and Secretary from among those members appointed by the Mayor.

(b) In addition to those appointed by the Mayor, the Committee shall have three additional non-voting participants: the Chief of the Bellefontaine Neighbors Police Department, the Chief of the Riverview Fire Protection District, and one (1) member of the Board of Aldermen selected by the Board.

(c) Committee members appointed by the Mayor shall serve a term of three (3) years members and may be reappointed. All terms of office, other than initial appointments to the first Committee, shall begin on June 1 and all terms will expire on May 31 of the appropriate year. Members shall serve until a successor is selected and qualified. Vacancies shall be filled for the balance of the unexpired term. Initial appointments to the first Committee shall be for staggered terms of one, two and three years such that roughly an equal number of positions shall expire each year thereafter. Members shall receive compensation as determined by the Board of Aldermen from time to time.
(Ord. No. 1997, §1, 2-3-05)

Sec. 2-301. Public safety committee--meetings and reports.

(a) A majority of the total authorized voting membership of the Committee shall constitute a quorum to conduct the business of the Committee.

(b) The Committee shall meet once a month at the Bellefontaine Neighbors City Hall. All meetings shall be open to the public unless closed as provided by law. The Secretary or his/her designee shall make a journal of the proceedings of the Committee and provide a copy thereof to the City Clerk for filing and distribution to the Mayor and Board of Aldermen.

(c) The Committee shall submit a report of its activities to the Board of Aldermen each month in which a meeting is held. The Secretary's meeting journal may serve as such report at the discretion of the Committee Chairperson.

(d) The Committee may adopt rules and regulations to govern the procedure of meetings and the conduct of its business.

(Ord. No. 1997, §1, 2-3-05)

Sec. 2-302. Public safety committee--powers and duties.

The Public Safety Committee shall assist and advise the Mayor, Board of Aldermen and other city officials and departments on matters involving public safety policy, including but not limited to:

- (1) Vehicular and pedestrian traffic on all streets and sidewalks within the city;
- (2) Parking regulations and related signage;
- (3) Signage for traffic control and way-finding;
- (4) Periodic analysis of emergency management and disaster evacuation programs, policies and procedures;
- (5) Coordinate and carry out a Citizen Emergency Response Training (C.E.R.T.) program;
- (6) Periodically review city ordinances pertaining to the police department, offenses and traffic and make any recommendations to the Mayor and Board of Aldermen on suggested revisions;
- (7) Develop short, medium and long term goals related to public safety in the city and make recommendations relating thereto to the Mayor and Board of Aldermen.

(Ord. No. 1997, §1, 2-3-05)

ARTICLE `XII. PUBLIC EMPLOYEE CERTIFICATION AND COLLECTIVE BARGAINING

Sec. 2-303. Establishment of appropriate bargaining unit.

Any labor organization designated to represent employees of the city is to submit a specific, written description of the bargaining unit sought, together with specific exclusions to the city via certified mail addressed to the mayor.

(a) Within fourteen (14) days of receipt, the mayor shall appoint a three (3) person personnel committee (from among the members of the board of aldermen) which shall consider the appropriateness of the requested unit and either:

City of Bellefontaine Neighbors -- QuickCode

- (1) Agree to the unit,
- (2) Send the description back to the labor organization for further specificity, or
- (3) Reject the unit as being inappropriate with specific, written reasons for the rejection.

(b) The affected labor organization can either accept the personnel committee's decision regarding the bargaining unit or appeal to the board of aldermen within fourteen (14) days of the date of the committee's decision.

(c) The appeal must be sent via certified mail and must be received by the board of aldermen within fourteen (14) days after the initial decision is issued. The board of aldermen's decision with respect to the appropriateness of the bargaining unit shall be final and binding.

(d) In evaluating the appropriateness of the proposal bargaining unit, board of aldermen may consider, but is not bound by, precedent from other cities, other states and/or under the National Labor Relations Act.

(Ord. No. 2103 §1, 5-13-09)

Sec. 2-304. Determining representative status of the labor organization.

(a) Within forty-five (45) days after establishing the appropriate bargaining unit, there will be a secret ballot election to determine whether the majority of employees in the bargaining unit want to be represented by the labor organization for purposes of collective bargaining.

(b) No labor organization will be recognized as representing any employee, by any other means.

(c) The election will be held by secret ballot. The ballot will be on a form substantially similar to the form utilized by the National Labor Relations Board for conducting union elections.

(d) The election will be conducted by either the Federal Mediation Conciliation Service or by the Missouri Department of Labor (or their designee). In the event that both the Federal Mediation and Conciliation Service and the Missouri Department of Labor decline to conduct the election, the board of aldermen will select an arbitrator to conduct the election by requesting a panel of five (5) arbitrators from the Federal Mediation and Conciliation Service and then selecting one (1) of the arbitrators from the list to conduct the election.

(e) After the election has concluded, the person conducting the election will immediately and publicly count the ballots and issue a report on election indicating how many ballots were cast for representation by the labor organization and how many votes were cast against representation.

(f) Any disputes concerning the election must be referred for decision to the board of aldermen for consideration within seven (7) days of the election. The decision of the board of aldermen on such disputes will be final and binding.

City of Bellefontaine Neighbors -- QuickCode

(g) If there is no dispute concerning the election, then the results of the election will become final seven (7) days after the report on election is issued.

(h) After the results of the election becoming final, if a majority of the members of the bargaining unit voted to be represented by the labor organization, the board of aldermen will recognize the labor organization as representing the employees of the bargaining unit.

(i) No labor organization may seek to represent any bargaining unit (or portion of any bargaining unit) by secret ballot election more than once in any consecutive, twelve (12) month period.

(j) In the event that the majority of the employees in a designated bargaining unit determine that they no longer wish to be represented by a recognized labor organization, they may revoke their designation of the labor organization by tendering a signed and dated petition for revocation to the board of aldermen. Upon receipt of such a petition, the board of aldermen will designate a three (3) person committee (made up of members of the board) to investigate the veracity of the petition. If the personnel committee determines that the petition to revoke representation is authentic, they will so report to the board of aldermen, which shall then revoke recognition of the labor organization.
(Ord. No. 2103 §2, 5-13-09)

Sec. 2-305. Collective bargaining.

In the event that the majority of members of the bargaining unit vote to be represented by the labor organization for purposes of collective bargaining, the department affected will meet with the labor organization to confer and discuss wages, benefits and other terms and conditions of employment with the goal of reaching a mutual satisfactory proposed collective bargaining agreement to be submitted to the board of aldermen for approval.

(a) If the department and the labor organization reach agreement on a proposed collective bargaining agreement, the proposal agreement will be submitted to the board of aldermen as an agenda item for consideration on their next scheduled meeting. At that meeting, the board of aldermen will approve, reject or hold the proposed collective bargaining agreement open for further discussion.

(b) If the department and the labor organization cannot reach an agreement on the terms of a proposed collective bargaining agreement after substantial negotiations, the department representative may unilaterally submit its proposed collective bargaining agreement to the board of aldermen for consideration as set forth above.

(c) The decision of the board of aldermen with regard to approving or rejecting a proposed collective bargaining agreement shall be final and binding.
(Ord. No. 2103 §3, 5-13-09)

Sec. 2-306. Legal compliance.

In accordance with section 105.530, RSMo., strikes and other unlawful conduct by any

City of Bellefontaine Neighbors -- QuickCode

employee, whether individually or in concert with others (including sympathy, unfair labor practice or wildcat strikes), sit downs, slow downs, work stoppages, boycotts, any acts honoring a picket line, or any other acts that interfere with the city's operations shall be prohibited.

(Ord. No. 2103 §4, 5-13-09)

Chapter 3 -- ALCOHOLIC BEVERAGES

Cross references—*Health and sanitation, Ch. 13; licenses and miscellaneous business regulations, Ch 15; revocation of licenses, § 15-250 et seq.*

State law references—*Alcoholic beverages, RSMo. §§311.010 to 312.510.*

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

By the drink. Such term, except as to malt liquor in the original package, is defined to be any quantity of intoxicating liquor less than fifty (50) milliliters, whether in the original package or otherwise.

State law reference—*Similar provisions, RSMo. § 311.100.*

Intoxicating liquor. 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 three and two-tenths (3.2) percent of alcohol by weight.

Manufacturing, distillation and brewing. All methods and processes used or employed in the manufacture, distillation, brewing or rectifying of intoxicating liquor or nonintoxicating beer by any person maintaining and carrying on any such business in the city.

Nonintoxicating beer. Any beer manufactured from pure hops or pure extract of hops, pure barley malt or other wholesome grains or cereals, wholesome yeast and pure water, free from all harmful substances, preservatives and adulterants and having an alcoholic content of more than one-half (½) of one (1) percent by volume and not exceeding three and two-tenths (3.2) percent by weight.

Original package. Any package containing three (3), twelve (12) or twenty-four (24) small standard beer bottles, and any package containing three (3), six (6) or twelve (12) large standard beer bottles, when such bottles contain nonintoxicating beer.

City of Bellefontaine Neighbors -- QuickCode

Premises. The entire building in which the licensee under this article has his place of business and any additional building used in connection therewith, and the entire lot or parcel of land on which such building is situated or which is used in connection with such building.

Transportation company. Any person engaged in the business of transportation for hire of goods and merchandise by use or means of any vessel, railroad car, motor vehicle, airplane or other means of conveyance whatsoever, to whom any of the provisions of this article may apply.

Wholesaler and distributor. All persons who maintain an established place of business or office in the city, at or from which orders are received and solicited, or where a supply of intoxicating liquor is kept for sale in the original package for sale to other persons licensed to sell intoxicating liquor at retail. (Code 1964, § 4-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

State law references—Definitions, RSMo. §§ 311.020, 311.030, 311.290, 311.300, 312.010.

Sec. 3-2. Coin-operated dispensing machines prohibited.

No person licensed by the city shall use or permit to be used upon his liquor licensed premises, as described in this chapter, any self-service, coin-operated, mechanical devices for the purpose of selling or dispensing intoxicating liquor or nonintoxicating beer. (Code 1964, § 4-2)

Cross reference—Shuffleboards and coin-operated machines generally, § 15-176 et seq.

Sec. 3-3. Purchase or possession by minors prohibited.

Any person under the age of twenty-one (21) years who purchases or attempts to purchase or has in his/her possession any intoxicating liquor or nonintoxicating beer, as defined in this chapter, is guilty of a violation under this Code of Ordinances.

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 (21) years of age, a manufacturer-sealed container describing that there is intoxicating liquor or nonintoxicating beer therein need not be opened or the contents therein tested to verify that there is intoxicating liquor or nonintoxicating beer in such container. The alleged violator may allege that there was not intoxicating liquor or nonintoxicating beer 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 or nonintoxicating beer therein contains intoxicating liquor or nonintoxicating beer. (Code 1964, § 4-3; Ord. No. 1813, § 1, 4-15-99)

Cross reference—Minors generally, Ch. 16.

State law references—Purchase or possession of intoxicating liquor by minors, RSMo. § 311.325; purchase or possession of nonintoxicating beer by minors, RSMo. § 312.407; similar provisions, RSMo. § 311.300.

Sec. 3-4. Persons eighteen years of age or older may sell or handle liquor or beer, when.

(a) Except as provided in paragraphs (b) and (c) of this section, no person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer.

(b) In any place of business licensed in accordance with RSMo., Section 311.200 or Section 312.040, where at least fifty (50) percent of the gross sales made consist of goods, merchandise, or commodities other than intoxicating liquor or nonintoxicating beer in the original package, persons at least eighteen (18) years of age may stock, arrange displays, accept payment for, and sack for carrying intoxicating liquor or nonintoxicating beer. Delivery of intoxicating liquor or nonintoxicating beer away from the licensed business premises cannot be performed by anyone under the age of twenty-one (21) years.

(c) In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor or nonintoxicating beer but which does not sell intoxicating liquor or nonintoxicating beer at retail, persons at least eighteen (18) years of age may be employed and their duties may include the handling of intoxicating liquor or nonintoxicating beer for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail.

(d) Persons eighteen (18) years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor or intoxicating beer in places of business which sell food for consumption on the premises if at least fifty (50) percent of all sales in those places consist of food; provided that, nothing in this section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar intoxicating beverages or nonintoxicating beer.
(Code 1964, §§ 4-30, 4-58)

Cross reference—Minors generally, Ch. 16.

State law reference—Similar provisions, RSMo. § 311.300.

Sec. 3-5. Furnishing false identification to minors prohibited.

It shall be unlawful for any person to give, lend, sell or otherwise provide any person under the age of twenty-one (21) years any falsified identification or the identification of another person for the purpose of establishing the age of such person as being twenty-one (21) years of age or older.

(Code 1964, § 4-4)

Cross reference—Minors generally Ch. 16.

State law references—Misrepresentation of age by minor in order to obtain intoxicating liquor, RSMo. § 311.320; misrepresentation of age by minor in order to obtain nonintoxicating beer, RSMo. § 312.405.

Sec. 3-6. Consumption and possession of alcoholic beverages prohibited in certain public places.

It shall be unlawful for any person to:

- (1) Drink or consume any alcoholic beverage while in or upon any street, highway, thoroughfare, alley, sidewalk, parking lot or other public way;
- (2) Appear or be present in or upon any street, highway, thoroughfare, alley, sidewalk, parking lot or other public way while in an intoxicated condition;
- (3) Possess or have under one's control any unsealed glass, bottle, can or other open container of any type containing any alcoholic beverage while in or upon any street, highway, thoroughfare, alley, sidewalk, parking lot or other public way;
- (4) Possess or have under one's control any unsealed glass, bottle, can or other open container of any type containing any alcoholic beverage while within or on any motor vehicle while the same is being operated upon or parked or standing in or upon any street, highway, thoroughfare, alley, sidewalk, parking lot or other public way.

(Ord. No. 1614, § 1, 7-7-94)

Sec. 3-7. Consumption and possession of alcoholic beverages in city parks.

It shall be unlawful for any person to consume any alcoholic beverage, or to have in one's possession or control any unsealed glass, bottle, can or other open container of any type of alcoholic beverage, while in any public park owned or operated by the city; except, however, that beer may be possessed and/or consumed by persons using sites or facilities within such parks pursuant to a facility permit duly issued by the department of parks and recreation.

(Ord. No. 1614, § 1, 7-7-94)

Sec. 3-8. Certain acts prohibited in premises licensed to sell at retail intoxicating liquor, wine or beer.

(a) It shall be unlawful for any retail licensee, licensed to sell intoxicating liquor, wine, or beer, or his/her employee to permit in or upon his/her licensed premises:

City of Bellefontaine Neighbors -- QuickCode

- (1) The performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts that are prohibited by law;
- (2) The displaying of any portion of the areola of the female breast;
- (3) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;
- (4) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;
- (5) Any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus; and
- (6) The displaying of films, video or DVD programs or pictures depicting acts, the live performances of which are prohibited by this regulation or by any other law.

(b) In addition to the licensee and/or his/her employee being subject to all penalties contained in this Code, violation of any act or any provision contained herein shall be grounds for the license of the licensee to be suspended or revoked.

(Ord. No. 2018 §5, 12-1-05)

Secs. 3-9—3-20. Reserved.

ARTICLE II. INTOXICATING LIQUOR

State law references—Intoxicating liquor, RSMo. §§311.010 to 311.880.

Sec. 3-21. License for manufacture, distribution or sale—Required; exceptions.

It shall be unlawful for any person to brew, manufacture, distill, rectify, distribute, sell or expose for sale in the city any intoxicating liquor in the original package or for sale by the drink on the premises where sold, without having first applied for and obtained a license therefor from the board of aldermen; provided, that this article shall not apply to the possession by a druggist of intoxicating liquor purchased by him from a licensed vendor under the liquor control law of the state or intoxicating liquor lawfully acquired and transported into the state by him pursuant to such liquor control law, such liquor to be used exclusively in connection with his business as a druggist in compounding medicines, or as a solvent or preservation; nor shall this article apply to the sale of intoxicating liquor by a druggist upon a prescription of a regularly licensed physician.

State law references—Requirements of licenses for manufacture, distribution or sale of intoxicating liquor, RSMo. § 311.050; authority of city to require city licenses, RSMo. § 311.220.

Sec. 3-22. Same—Classes of licenses.

(a) The separate license shall be taken out for each of the following classes of sales of intoxicating liquors in which the licensee desires to engage:

- (1) Sales of all kinds of intoxicating liquors in the original package not to be consumed on the premises where sold.
- (2) Sales of malt liquor containing alcohol in excess of three and two-tenths (3.2) percent by weight and not in excess of five (5) percent by weight by grocers and other merchants and dealers for sale in the original package direct to consumers, but not for resale and not for consumption on the premises where sold.
- (3) Sales of malt liquor and light wines containing not in excess of fourteen (14) percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, which license shall also permit the holder to sell nonintoxicating beer.
- (4) Sale of intoxicating liquor of all kinds at retail by the drink for consumption on the premises where sold, including the sale of intoxicating liquors in the original package.
- (5) Sales of malt liquor containing in excess of three and two-tenths (3.2) percent of alcohol and not in excess of five (5) percent of alcohol by weight as a wholesaler or distributor to persons duly licensed to sell such malt liquor at retail.
- (6) Sale of intoxicating liquor of all kinds by a wholesaler or distributor to persons duly licensed to sell intoxicating liquor at retail.
- (7) To manufacture, distill, brew or rectify intoxicating liquor.
- (8) Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, as well as state law relating thereto, may apply for a Sunday sales license, which license shall authorize sale of intoxicating liquor, as in this chapter defined, on Sundays within those hours permitted by state law. A license for Sunday sales of liquor by the drink at retail may be issued to a "restaurant bar", which is an establishment having a license for sale of liquor of all kinds at retail by the drink as provided in paragraph (4) of this subsection (a) having a restaurant or similar facility on the premises and which derives at least fifty (50) percent of its gross income from the sale of prepared meals or food consumed on such premises. A license for Sunday sales of intoxicating liquor in the original package at retail may be issued to an establishment having an appropriate city license for liquor sales under other paragraphs of this subsection (a) and licensed to sell intoxicating liquor in the original package at retail under RSMo., section 311.200.

(b) Each of the above described licenses shall apply only to the particular class for which it is

City of Bellefontaine Neighbors -- QuickCode

issued and to the particular premises described, and it shall be unlawful to sell, expose for sale, brew, distill, manufacture, rectify or distribute any intoxicating liquor by any person, except from the premises and in the manner described in each such license.

(Code 1964, § 4-6; Ord. No. 804, § 1, 10-21-71; Ord. No. 1551, § 1, 6-3-93; Ord. No. 1723, § 1, 12-19-96)

State law references—Similar provisions, RSMo. §§ 311.097, 311.180(7), (9), 311.200(3), 311.293.

Sec. 3-23. Same—Separate license required for each place of business.

A separate license shall be required for each place of business licensed under this article.
(Code 1964, § 4-7)

State law reference—Issuance of more than three (3) licenses to any one (1) party prohibited, RSMo. § 311.260.

Sec. 3-24. Same—Application.

Any person desiring a license as a manufacturer, distiller, brewer, wholesaler or distributor of intoxicating liquor in the city shall make written application therefor to the city collector, on forms furnished by the city collector, stating specifically the particular type or form of business to be carried on under such license; a description of the real estate and the improvements thereon, with the street or office address thereof; the name and address of the individual, or if a partnership, the names of all persons comprising the partnership and the residence address of each, and if a corporation, the names and addresses of all officers and the name and address of the officer having charge of the business proposed to be operated within the city; and a statement in detail of the nature of the business proposed to be transacted within the city. The application shall be accompanied by the surety bond as required by section 3-34. Such application shall be signed and sworn to by the applicant.
(Code 1964, § 4-8)

Sec. 3-25. Same—Qualifications of applicants.

No person shall be granted a license under this article unless such person is of good moral character and a qualified legal voter and taxpaying citizen of the state. No person shall be granted a license or permit under this article 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 the violations of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs or has employed in his business, as such dealer, any person whose license has been revoked or who has been convicted of violating the provisions of any such: law since the date aforesaid.
(Code 1964, § 4-9)

Sec. 3-26. Same—Fees.

(a) The following are the annual license fees for each of the licenses prescribed under this article, which shall be paid by the applicant at the time the application is made:

- (1) For every license for the sale of malt liquor containing alcohol in excess of three and two-tenths (3.2) percent and not in excess of five (5) percent of alcohol by weight, for sale by grocers and other merchants and dealers, in the original package, direct to consumers but not for resale, twenty-two dollars and fifty cents (\$22.50) per year.
- (2) For every license to sell malt liquor containing in excess of three and two-tenths (3.2) percent of alcohol and not in excess of five (5) percent by weight as a wholesaler or distributor, to persons duly licensed to sell such malt liquor at retail, seventy-five dollars (\$75.00) per year.
- (3) For every license to sell intoxicating liquor at retail, in the original package, not to be consumed upon the premises where sold, one hundred fifty dollars (\$150.00) per year.
- (4) For every license issued for the sale of malt liquor and light wines containing not in excess of fourteen (14) percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, which license shall also permit the holder to sell nonintoxicating beer, fifty-two dollars and fifty cents (\$52.50) per year.
- (5) For every license issued for the sale of all kinds of intoxicating liquor of alcoholic content in excess of three and two-tenths (3.2) percent by weight at retail for consumption on the premises of the licensee, including five (5) percent beer, when such sale has been authorized at an election as provided in the laws of the state, or otherwise by law, four hundred fifty dollars (\$450.00) per year.
- (6) For every license to sell intoxicating liquor of all kinds by a wholesaler or distributor to persons duly licensed to sell such intoxicating liquor at retail, three hundred seventy-five dollars (\$375.00) per year.
- (7) For every license to manufacture, distill, brew or rectify intoxicating liquors of all kinds, three hundred dollars (\$300.00) per year.
- (8) For every license to manufacture, distill, brew or rectify intoxicating liquors containing not in excess of twenty-two (22) percent of alcohol by weight, one hundred fifty dollars (\$150.00) per year.
- (9) For every license to manufacture or brew malt liquor of the alcohol content defined in this article, three hundred dollars (\$300.00) per year.
- (10) For every license to sell intoxicating liquor containing not in excess of twenty-two (22)

City of Bellefontaine Neighbors -- QuickCode

percent of alcohol by weight by a wholesaler or distributor to persons duly licensed to sell such intoxicating liquor at retail, one hundred fifty dollars (\$150.00) per year.

(11) For every Sunday sales license for the sale of intoxicating liquors of all kinds at retail by the drink or for the sale of intoxicating liquor of all kinds in the original package at retail under the provisions of section 3-22(a)(8) of this Code, the licensee shall pay to the city collector the sum of fifty dollars (\$50.00).

(b) All payments made under this article shall be made payable to the city collector.

(c) All fee collected by the city collector pursuant to the provisions of this article shall be accounted for and paid into the city treasury as other funds collected by the city collector are accounted for and paid.

(d) In the sole and unlimited discretion of the board of aldermen, the fees established by this section, and any other sections of this chapter, may be waived for applicants whose principal endeavor is charitable, religious, educational or eleemosynary and who seek licensure under this chapter solely in conjunction with activities carried on for such purposes.

(Code 1964, § 4-10; Ord. No. 804, § 3, 10-21-71; Ord. No. 1551, § 2, 6-3-93; Ord. No. 1704, § 1, 8-1-96; Ord. No. 1723, § 2, 12-19-96)

State law references—Similar provisions, RSMo. §§ 311.180(1)—(3), (6)—(8), 311.200(1)—(4), 311.293.

Sec. 3-27. Same—Applications to be presented to board of aldermen; approval of application by board.

The city collector shall present all applications for licenses under this article to the board of aldermen. Upon approval of an application by a majority of the board of aldermen and the payment of all license taxes required by this article, a license shall be issued to the applicant.

(Code 1964, § 4-11)

Sec. 3-28. Same—Board of aldermen may stipulate conditions in license.

The board of aldermen may, at the time of granting any license under this article and as a condition thereof, require the applicant to observe such reasonable requirements in the conduct of the business thereunder, at the location named, as may be necessary, in the opinion of the board of aldermen, to properly and adequately protect the traveling public in the use of the public street on which such business abuts or fronts and to avert traffic hazards arising in connection therewith.

(Code 1964, § 4-12)

Sec. 3-29. Same—Not to be issued near libraries, schools, churches, etc.

City of Bellefontaine Neighbors -- QuickCode

No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within three hundred (300) feet of any school, church or other building regularly used as a place of worship nor at any other location prohibited by this code or other ordinances of the city. The relevant distance shall be measured from the nearest point on the lot on which the licensed premises is to be located to the nearest point of the lot upon which the church or school is located (lot line to lot line). Provided however, that this limitation shall not apply to a license applied for by a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of Federal income taxes as provided in Sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(29) or 501(d) of the United States Internal Revenue Code or licenses of the same character as those issued by the State of Missouri pursuant to Sections 311.218 or 311.482, RSMo. Provided further, however, that:

(1) When a school, church or place of worship shall hereafter be established within three hundred (300) feet of any business previously licensed to sell intoxicating liquor, the license shall not be denied for this reason; and

(2) That the lot-line-to-lot-line distance measurement specified above shall not be applicable to any lot upon which a licensed facility is located as of February 1, 2006, and that the distance measurement to be utilized as to lots with such an existing facility shall be from the nearest point on the lot where the licensed facility is located to the nearest point of the building in which the school, church or other use is located.

(Code 1964, § 4-13; Ord. No. 2024 §1, 2-16-06)

State law references—Similar provisions, RSMo. § 311.180(1); authority, § 311.180(2).

Sec. 3-30. Same—Expiration date; prorating of fees.

All licenses issued pursuant to this article shall expire by limitation on December thirty-first of the year of their issuance. For all licenses issued after the thirty-first day of March, there shall be paid three-fourths of the annual license fee provided for in this article; for all licenses issued after thirtieth day of June, there shall be paid one-half of the annual license fee provided for in this article.

(Code 1964, § 4-14)

Sec. 3-31. Same—Contents; nontransferable.

Every license issued under the provisions of this article shall particularly describe the premises in which intoxicating liquor may be sold thereunder and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein. No license issued under this article shall be transferable or assignable.

(Code 1964, § 4-15)

Sec. 3-32. Same—Posting.

All licenses issued pursuant to the provisions of this article shall be kept conspicuously posted in the place for which such license was issued.
(Code 1964, § 4-16)

Sec. 3-33. Same—Revocation.

Whenever it is shown to the board of aldermen that a person licensed under this article has not at all times kept an orderly place or house, or has violated any of the provisions of this article or of the liquor control law of the state (RSMo., section 311.010 et seq.), or has no license from the state supervisor of liquor control, or has made a false affidavit in applying for a license or has failed to furnish additional sureties on his bond after demand therefor by the board of aldermen, or when other valid grounds shall be found to exist therefor, the board of aldermen, after hearing thereon, may revoke the license of such person, giving ten (10) days' notice in writing thereof prior to the hearing thereon to such person or to any person in charge of or employed on the licensed premises, stating the time, place, purpose and grounds of complaint, at which public hearing the licensee shall be permitted to have counsel and to produce witnesses on his behalf.
(Code 1964, § 4-17)

Sec. 3-34. Bond required.

(a) Each application for a license under this article shall be accompanied by a bond to be given to the city in the principal sum of two thousand dollars (\$2,000.00), with a surety company authorized to do business in the state as surety, conditioned that the person obtaining such license shall keep at all times an orderly house and that he will not sell, give away or otherwise dispose of, or suffer the same to be done on or about his premises, any intoxicating liquor in any quantity to any minor and that he will not violate any of the provisions of this article or of the liquor control law of the state (RSMo., section 311.010 et seq.), that he will pay all taxes and license fees provided for in this article, together with all fines, penalties and forfeitures which may be adjudged against him under the provisions of this article. Additional sureties on such bond may be required by the board of aldermen at any time during the life of such license, if, in its discretion, it deems the surety of the bond to be insufficient or impaired, and such bond shall provide that the adding of additional sureties thereto, with or without notice to the existing sureties, shall in no way impair the liability of the sureties.

(b) Such bond may be sued on in the name of the city for the collection of any taxes, penalties, fines or license fees, and in the name of the city for the use and benefit of any person damaged by the breach of any of the other conditions of such bond or this article. (Code 1964, § 4-18)

State law reference—Bond, RSMo. § 311.230.

Sec. 3-35. Conditions for sale at retail in original package for off-premises consumption.

City of Bellefontaine Neighbors -- QuickCode

(a) Intoxicating liquor may be sold at retail in the original package, not to be consumed on the premises where sold, pursuant to a license granted by the board of aldermen. Such license shall be subject to all other provisions of this article and shall be issued only upon the following conditions:

- (1) No license shall be issued except to a person engaged in and whose principal business is that of a drugstore, cigar and tobacco store, grocery store or a general merchandise store, a confectionery store or delicatessen. There shall be on hand at the time of the application and shall be continuously thereafter maintained, a bona fide stock of goods, wares and merchandise, exclusive of fixtures and intoxicating liquors, of not less than one thousand dollars (\$1,000.00) invoice value. No such license shall be issued in any event to any person engaged in or who expects or intends to engage principally in the sale of such intoxicating liquors in what is commonly known as "liquor stores". No such license shall be issued to any person engaged in or who expects or intends to engage in the sale of gasoline or other fuels for the operation of motor vehicles unless the applicant conforms to the following minimum requirements:
 - (i) The business shall contain no less than six hundred and fifty (650) square feet of sales display area, exclusive of storage rooms and walk-in refrigeration coolers; and
 - (ii) The business shall keep and maintain a stock of no less than fifty (50) separate and distinguishable products for sale, exclusive of alcoholic beverages, tobacco products, automotive parts and supplies and gasoline; and
 - (iii) The business must have and keep a stock of goods having a value, according to invoices, of at least five thousand dollars (\$5,000.00) exclusive of alcoholic beverages, tobacco products, automotive parts and supplies and gasoline.
- (2) No person shall, after having obtained such license, cause or permit any intoxicating liquor so sold in its original package to be opened or consumed in or upon any part of the premises of the applicant. There shall be displayed, in full view of the public, an appropriate notice that no sales of intoxicating liquors will be made to minors or on Sundays or at other times when prohibited by law, and that the opening or consumption of the same upon any part of the premises is prohibited. Any violation of this provision shall be sufficient grounds upon which to revoke the license.
- (3) No license for the sale of intoxicating liquor at retail, in the original package not for consumption on the premises where sold, shall be granted or issued after June 18, 1964, when the granting thereof will increase the number of such licenses outstanding and in force at that time to a greater number of such licenses outstanding and then in force than one (1) for each one thousand (1,000) inhabitants residing within the city and a major fraction of such one thousand (1,000) inhabitants as shown by the last decennial census of the United States. Nothing in this subsection shall be construed as requiring the cancellation or invalidation of or as prohibiting the regular annual renewal of any such licenses outstanding as of December 31, 1959, to the present holders thereof, or to any other person who may subsequently acquire the business at the location now operated by the present holders of such licenses, if such purchaser is approved by the board of aldermen.

(b) Such limitation shall not apply to licenses issued for the sale of malt liquor containing alcohol in excess of three and two-tenths (3.2) percent and not in excess of five (5) percent of alcohol by weight for sale by bona fide grocers, drugstores and delicatessens in the original package, not for the consumption on the premises where sold, nor to licenses issued under section 3-36 of this Code.
(Code 1964, § 4-19; Ord. No. 1405, § 1, 1-5-89; Ord. No. 1808, § 1, 3-4-99)

Sec. 3-36. Conditions for sale on premises by the drink.

(a) Intoxicating liquor, including five (5) percent beer, may be sold by the drink at retail for consumption on the premises where sold, pursuant to a license granted by the board of aldermen, but only when authorized by the qualified voters at an election called for that purpose and when the proceedings prescribed by the liquor control law (RSMo., Section 311.010 et seq.) of the state relating to such election and authorization have been fully complied with or until otherwise authorized by state law, subject to all other applicable provisions of this article and the provisions of this section.

(b) No such license shall be granted or issued after June 18, 1964, when the granting thereof will increase the number of such licenses outstanding and in force at that time to a greater number of such licenses outstanding and then in force than one (1) for each seven hundred fifty (750) inhabitants residing within the city and a major fraction of such seven hundred fifty (750) inhabitants as shown by the last decennial census of the United States.
(Code 1964, § 4-20; Ord. No. 1519, § 1, 7-16-92)

Editor's note—On June 9, 1964, in a special election, the voters of the city approved the sale by the drink of intoxicating liquor containing alcohol in excess of five (5) percent by weight. See Ordinance No. 586 calling such election and Ordinance No. 593 declaring the result thereof.

State law reference—Election to determine whether liquor may be sold by the drink, RSMo. § 311.110.

Sec. 3-37. Financial interest in retail business by certain licensees prohibited, exception; sales by drink on premises in promotion of tourism, requirements; certain contracts unenforceable.

(a) Distillers, wholesalers, winemakers, brewers or their employees, officers or agents shall not, under any circumstances, directly or indirectly, have any financial interest in the retail business for sale of intoxicating liquors and shall not, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit for liquors sold to such retail dealers; however, notwithstanding any other provision of this chapter to the contrary, for the purpose of the promotion of tourism, a distiller whose manufacturing establishment is located within this city may apply for and the collector may issue a license to sell intoxicating liquor, as in this chapter defined, by the drink at retail for consumption on the premises where sold; and provided further that the premises so licensed

City of Bellefontaine Neighbors -- QuickCode

shall be in close proximity to the distillery and may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday and between the hours of 11:00 a.m. and 9:00 p.m., Sunday. The authority for the collection of fees by cities and counties as provided in RSMo., Section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of RSMo., Sections 311.085, 311.090 or 311.095.

(b) All contracts entered into between distillers, brewers and winemakers, or their officers or directors, in any way concerning any of their products, obligating such retail dealers to buy or sell only the products of any such distillers, brewers or winemakers or obligating such retail dealers to buy or sell the major part of such products required by such retail vendors from any such distiller, brewer or winemaker shall be void and unenforceable in any court in this state.
(Code 1964, § 4-21)

State law reference—Similar provisions, RSMo. § 311.070.

Sec. 3-38. Sales by manufacturers, distributors and wholesalers to unlicensed persons prohibited.

It shall be unlawful for any manufacturer, distiller, brewer, distributor or wholesale dealers in intoxicating liquor, either directly or indirectly, to sell or deliver intoxicating liquor of any kind to any person in the city not licensed under the provisions of this article to sell intoxicating liquors at retail.
(Code 1964, § 4-22)

Sec. 3-39. Monthly reports by manufacturers, distributors and wholesalers.

It shall be the duty of each holder of a license under this article authorizing the manufacture, distilling, brewing or sale of intoxicating liquors at wholesale, on or before the fifth day of each calendar month, to file in the office of the city collector a sworn statement showing the amount of intoxicating liquor sold and to whom sold by such license during the next preceding calendar month. Every such statement shall be signed and sworn to be the holder of such license, if an individual, or by some authorized official, if such holder is a corporation.
(Code 1964, § 4-23)

Sec. 3-40. Hours of sale restricted.

(a) No person having a license issued pursuant to this Chapter or Chapter 312, RSMo., nor any employee of such person shall sell, give away, 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 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

City of Bellefontaine Neighbors -- QuickCode

and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one (1) room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, 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 RSMo., Section 311.180, to a person licensed to sell the intoxicating liquor at retail. Sunday sales of intoxicating liquor are authorized within those hours permitted by state law. See Sec. 3-22(a)(8).

(b) Any person licensed pursuant to RSMo., Section 311.200, shall not be permitted to sell, give away or otherwise dispose of, or suffer the same to be done upon or about his premises, 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 a.m. Monday.

(Ord. No. 383, § 14, 12-23-59; Code 1964, § 4-25; Ord. No. 689, § 1, 12-7-67; Ord. No. 1180, § 1, 6-17-82; Ord. No. 1367, § 1, 11-19-87; Ord. No. 1954, § 1, 12-18-03)

State law reference—Hours and days when sales prohibited, RSMo. § 311.290.

Sec. 3-41. Sale to minors, intoxicated persons and habitual drunkards.

It shall be unlawful for any person to sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) 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 or her parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one (21) 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 violation of this Code; provided, however, that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one (21) years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician.

(Code 1964, § 4-26)

Cross reference—Minors generally, Ch. 16.

State law reference—Similar provisions, RSMo. § 311.310.

Sec. 3-42. Permitting minors to consume liquor and furnishing minors with ice, glasses, etc., prohibited.

It shall be unlawful for any merchant or keeper of any place of business in the city, subject to

City of Bellefontaine Neighbors -- QuickCode

regulation by the mayor and board of aldermen thereof by ordinance, or the employee of such merchant or keeper, to suffer or permit any minors to drink or consume on the premises on which his business is conducted any intoxicating liquor, however acquired, or to sell, give away, lend, permit the use of or otherwise dispose of any soda water, ginger ale, water, ice, glass, spoon, container or receptacle to any person with the intent or knowledge that the same will be consumed or used in connection with the drinking or consuming by a minor of any such intoxicating liquor on such premises.
(Code 1964, § 4-27)

Cross reference—Minors generally, Ch. 16.

Sec. 3-43. Permitting minors on premises; posting of notice required.

It shall be unlawful for any person under the age of twenty-one (21) years to be and remain or to loiter in any tavern or place of business where intoxicating liquors are sold at retail by the drink for consumption on the premises, unless accompanied by the parent or legal guardian of such minor, and it shall be unlawful for any person licensed to sell intoxicating liquors at retail by the drink for consumption on the premises or his employee to allow any minor under the age of twenty-one (21) years, unless accompanied by the parent or legal guardian of such minor, to be and remain or to loiter in the tavern or place of business of such person so licensed. Each such licensee shall keep at all times conspicuously posted in such tavern or place of business a printed sign displaying in black letters not less than one (1) inch wide on a white background the words "NOTICE—MINORS UNDER THE AGE OF TWENTY-ONE YEARS ARE NOT ALLOWED HERE UNLESS ACCOMPANIED BY PARENT OR LEGAL GUARDIAN". The maintenance of such sign, however, shall not excuse any licensee from a violation of this section.
(Code 1964, § 4-28)

Cross reference—Minors generally, Ch. 16.

Sec. 3-44. Limitations on sales by the drink.

The sale of intoxicating liquor, except malt liquor, in the original package in any quantity less than fifty (50) milliliters shall be deemed sale by the drink, and may be made only by the holder of a retail liquor dealer's license, and, when so made, the container in every case shall be emptied and the contents served as other intoxicating liquors sold by the drink are served.
(Code 1964, § 4-31)

State law reference—Similar provisions, RSMo. § 311.100.

Sec. 3-45. Destruction of containers after use; reuse of containers prohibited.

It shall be unlawful for any person to remove the contents of any container consisting of any of the intoxicating liquors mentioned in this article without destroying such container, or to refill any such container in whole or in part with any of the liquors mentioned in this article.

(Code 1964, § 4-32)

Sec. 3-46. Display of bottles, etc., in show windows prohibited.

It shall be unlawful to display in any street, window or show window any intoxicating liquor or any package bottle or container bearing the label or brand of any intoxicating liquor.

(Code 1964, § 4-33)

State law reference—Similar provisions, RSMo. § 311.350.

Sec. 3-47. Duties of police generally; reports of violations to board of aldermen.

It shall be the duty of the police of the city to see that the provisions of this article and of other ordinances of the city in regard to the sale of intoxicating liquor are obeyed and to report to the chief of police any place where intoxicating liquor is sold at retail, which is not kept in an orderly manner or which is kept in violation of any of the provisions of this article or any person selling intoxicating liquor in the city without a license. It shall be the duty of the chief of police to report all such infractions immediately to the board of aldermen.

(Code 1964, § 4-34; Ord. No. 1874 § 1, 2-15-01)

Sec. 3-48. Wine tastings—Special permit.

Notwithstanding any other provisions of this Chapter to the contrary, any person possessing the qualifications and meeting the requirements of this chapter, who is licensed to sell intoxicating liquor in the original package at retail under Sections 3-22(a)(1) and 3-22(a)(8), may apply for a special permit to conduct wine tastings on the licensed premises; however, nothing in this Section shall be construed to permit the licensee to sell wine for on-premises consumption.

(Ord. No. 1638, § 1, 2-2-95)

Secs. 3-49—3-60. Reserved.

ARTICLE III. NONINTOXICATING BEER

State law reference—Nonintoxicating beer, RSMo. §§ 312.010 to 312.510.

Sec. 3-61. Manufacture, sale, etc., in compliance with article.

Nonintoxicating beer may be lawfully manufactured, sold and consumed in and transported into or out of the city, subject to the provisions of this article.

(Code 1964, § 4-35)

Sec. 3-62. License for manufacture and sale—Required.

It shall be unlawful for any person in the city to manufacture, brew or sell nonintoxicating beer, either at wholesale or at retail, in the original package or by the drink to be consumed on the premises where sold, except as provided in this article, without having first applied for and obtained a license as required in this article authorizing such brewing, manufacture or sale thereof.

(Code 1964, § 4-36)

State law references—State permit required to manufacture or sell nonintoxicating beer, RSMo. § 312.030; authority of city to require license for manufacture or sale of nonintoxicating beer, RSMo. § 312.140.

Sec. 3-63. Same—Issuance; when license not required.

All licenses issued pursuant to the provisions of this article shall be issued by the city collector, but no license shall be issued by the city collector except with the approval of the board of aldermen given at a regular or special meeting of the board, and no license for which license fees are fixed in this article shall be issued except upon the payment of the license fee prescribed in this article; provided that, any person holding a license to sell intoxicating liquors at retail, either in the original package or by the drink to be consumed on the premises where sold, pursuant to the provisions of this chapter regulating the sale of such intoxicating liquors, may sell on the premises described in such license nonintoxicating beer without obtaining the license required by this article.

(Code 1964, § 4-37)

Sec. 3-64. Same—Fees.

Annual fees for licenses authorized by this article shall be as follows:

- (1) For a license authorizing the manufacture or brewing of nonintoxicating beer brewed or manufactured in the city, three hundred seventy-five dollars (\$375.00).
- (2) For a license authorizing the sale in the city by any distributor or wholesaler other than the manufacturer or brewer thereof of nonintoxicating beer, seventy-five dollars (\$75.00).
- (3) For a license authorizing the sale of nonintoxicating beer at retail for consumption on the premises where sold, thirty-seven dollars and fifty cents (\$37.50).
- (4) For a license authorizing the sale of nonintoxicating beer by grocers and other merchants and dealers for sale in the original package direct to the consumer, but not for sale and not to be consumed on the premises where sold, twenty-two dollars and fifty cents (\$22.50).

(Code 1964, § 4-38)

State law references—State permit fees, RSMo. § 312.100; authority of city to levy license fees, RSMo. § 312.140.

Sec. 3-65. Same—When fees payable; proration.

The annual license fees payable under this article shall be due and payable in advance on the first day of January of each year; provided, that licensees who shall commence business after March thirty-first for any year shall apply for and be granted a license for part of a year to the first day of January following and shall pay therefor three-fourths the annual fee, and licensees who shall commence business after June thirtieth for any year shall apply for and be granted a license for part of a year to the first day of January following and shall pay therefor one-half of the annual fee.

(Code 1964, § 4-39)

Sec. 3-66. Same—Nontransferable.

No license issued under this article shall be transferable or assignable.

(Code 1964, § 4-40)

State law reference—Similar provisions, RSMo. § 312.130.

Sec. 3-67. Same—Not to be issued for places used for unlawful purposes.

No license shall be granted pursuant to this article for the sale of nonintoxicating beer at retail by the drink for consumption at the place where sold in a building occupied or used for an immoral or unlawful purpose, nor in any room or portion of a building connected by any entrance, exit or other means of communication with any room or place used for an immoral or unlawful purpose.

(Code 1964, § 4-41)

Sec. 3-68. Same—Effect; posting.

All licenses issued pursuant to the provisions of this article shall authorize the sale of nonintoxicating beer only at the place described in such license, and all such licenses shall be kept conspicuously posted in the place for which license was issued.

(Code 1964, § 4-42)

Sec. 3-69. Same—Suspension and revocation.

(a) Any person holding a license issued pursuant to the provisions of this article and who violates any of the terms of this article shall, in addition to any other penalty imposed, and in the discretion of the

City of Bellefontaine Neighbors -- QuickCode

board of aldermen, suffer the revocation of the license of such person, or the suspension of such license for not exceeding ten (10) days, and whenever any license issued pursuant to the provisions of this article shall be revoked because of any violation of the provisions of this article, no other or additional license shall be issued to the same person on any other premises for a period of one (1) year from the date of the revocation of such license.

(b) Whenever it shall be shown or whenever the chief of police has knowledge that a person licensed under this article has not at all times kept an orderly place or house or has violated any of the provisions of this article, the chief of police shall report the same to the board of aldermen, who shall revoke or, in its discretion, suspend the license of such person.

(c) Before revoking or suspending any license granted under this article, the board of aldermen shall give the licensee at least ten (10) days' written notice of any complaint or charge against him and the nature of such complaint or charge and shall fix the date of the hearing on such complaint or charge, upon which hearing the licensee shall have the right to have counsel and to produce witnesses in his behalf. If the board of aldermen shall, after such hearing, revoke or suspend the license of such licensee, its decision and action shall be final.

(Code 1964, § 4-43; Ord. No. 1874 § 1, 2-15-01)

State law reference—Similar provisions, RSMo. § 312.370.

Sec. 3-70. Manufacturers to sell to distributors or wholesalers only; distributors and wholesalers to sell to licensed retailers only; sales by manufacturers, distributors or wholesalers to consumers prohibited.

A license to brew or manufacture nonintoxicating beer in the city shall be construed to authorize the sale by the holder of such license of such nonintoxicating beer to distributors or wholesalers for resale to retailers only or direct to retailers. A license authorizing any distributor or wholesaler to sell nonintoxicating beer in the city shall be construed to authorize the sale thereof only to persons authorized to sell nonintoxicating beer to consumers not for resale; but no such license, either to manufacture, brew or sell at wholesale, shall be construed to authorize the sale by the holder of any such license of nonintoxicating beer direct to consumers.

(Code 1964, § 4-44)

State law reference—Similar provisions, RSMo. § 312.150.

Sec. 3-71. Possession of intoxicating liquor by retailers prohibited.

No person holding a license issued pursuant to the provisions of this article to sell nonintoxicating beer at retail, either in the original package or for consumption on the premises, shall have, keep or secrete, on or about the premises described and covered by such license, any intoxicating liquor of any kind or character; nor shall any manufacturer or wholesale distributor sell any intoxicating liquor of any character containing alcohol in excess of three and two-tenths (3.2) percent by weight to any person holding a license issued pursuant to the provisions of this article to sell nonintoxicating beer only, either

City of Bellefontaine Neighbors -- QuickCode
in the original package or to be consumed upon the premises where sold.
(Code 1964, § 4-45)

State law reference—Similar provisions, RSMo. § 312.430.

Sec. 3-72. Monthly reports.

It shall be the duty of each holder of a permit authorizing the manufacture and sale, or the sale, of nonintoxicating beer, on or before the fifth day of each calendar month, to file in the office of the supervisor of liquor control a sworn statement showing the amount of nonintoxicating beer manufactured and sold, or sold and to whom sold during the next preceding calendar month, and it shall be the duty of each holder of a permit authorizing the sale of nonintoxicating beer for consumption and not for resale, on or before the fifth day of each month, to file in the office of the supervisor of liquor control a sworn statement showing the amount of nonintoxicating beer purchased and from whom purchased, and the amount of nonintoxicating beer sold, during the next preceding calendar month. Every such statement shall be signed and sworn to by the holder of such permit if an individual, or by some authorized officer of the holder if a corporation.

(Code 1964, § 4-46)

State law reference—Similar provisions, RSMo. § 311.170.

Sec. 3-73. Transportation companies to furnish bills of lading or receipt upon request.

Every railroad company, express company, airplane company, motor transportation company, steamboat company, or other transportation company who shall transport into, out of, or within this city any nonintoxicating beer, whether brewed or manufactured within this city or outside this city, shall, when requested by the city collector, furnish such city collector a duplicate of the bill of lading covering or receipt for such nonintoxicating beer, showing the name of the brewer or manufacturer, and the name and address of the consignor and consignee, and the date and place received, and the destination and quantity of nonintoxicating beer received from such manufacturer, or brewer, or other consignor, for shipment from any point within or without this city, to any point within this city.

(Code 1964, § 4-47)

State law reference—Similar provisions, RSMo. § 311.180(1).

Sec. 3-74. Type of sales permitted by license to sell nonintoxicating beer by the drink.

Any license issued under the provisions of this article authorizing the sale of nonintoxicating beer at retail for consumption on the premises described in such license shall be construed to authorize the sale of such nonintoxicating beer by the bottle, by the glass, on draught and in the original package. (Code 1964, § 4-48)

State law reference—Similar provisions, RSMo. § 312.420.

Sec. 3-75. Sales from unlabeled containers.

Except as otherwise provided in this article, it shall be unlawful for any person to sell or offer for sale in the city any nonintoxicating beer unless the same shall be sold or offered for sale in the original bottle or in the original package containing bottles bearing the original label and full name of the brewer or manufacturer thereof, both upon the label, upon the bottle and upon the cap or cork of such bottle, or, in the case of the sale of nonintoxicating beer on draught, unless the same is drawn from the original keg or barrel having stamped on the ends thereof the full name of the manufacturer or brewer of the nonintoxicating beer contained therein.

(Code 1964, § 4-49)

State law reference—Similar provisions, RSMo. § 312.300.

Sec. 3-76. Limitation on sales where licensees authorized to sell beer in original package only.

It shall be unlawful for any person authorized to sell nonintoxicating beer in the original package to allow such original package to be broken or to allow any of such nonintoxicating beer to be consumed in or upon the premises where sold.

(Code 1964, § 4-50)

State law reference—Similar provisions, RSMo. § 312.390.

Sec. 3-77. Increase of alcoholic content prohibited.

It shall be the duty of every holder of a license to manufacture and sell or sell nonintoxicating beer to use every precaution to prevent any person on the premises described in such license from pouring into, mixing with or adding to such nonintoxicating beer any alcohol or other liquid, any alcohol cubes or other ingredients that will increase or tend to increase the alcoholic content of such nonintoxicating beer.

(Code 1964, § 4-51)

State law reference—Similar provisions, RSMo. § 312.440.

Sec. 3-78. Manufacturers not to have interest in retail businesses.

Brewers or manufacturers of nonintoxicating beer or the employees, officers, agents, subsidiaries or affiliates thereof shall not, under any circumstances, directly or indirectly, have any financial interest in the retail business for the sale of such nonintoxicating beer nor shall they, directly or indirectly, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit, for such nonintoxicating beer sold to such retailers. All contracts entered into between such brewers or manufacturers, or their officers or employees, directors or agents, in any way concerning any of their

City of Bellefontaine Neighbors -- QuickCode

products, obligating any retail dealer or dealers to buy or sell only the products of any such brewers or manufacturers, or obligating any such retail dealer to buy or sell the major part of such products required by such retail dealer from any such brewer or manufacturer shall be void, and proof of the execution of such contract shall be grounds for revoking the license of both the vendor and the vendee.

(Code 1964, § 4-52)

State law reference—Similar provisions, RSMo. § 312.060.

Sec. 3-79. Possession of illegally acquired or unlabeled beer.

No person except a duly licensed manufacturer or wholesaler shall possess nonintoxicating beer within the city unless the same has been originally acquired from some person duly authorized to sell the same, or unless the nonintoxicating beer is had or kept with the written or printed permission of the city collector.

(Code 1964, § 4-53)

State law reference—Similar provisions, RSMo. § 312.160.

Sec. 3-80. Labeling of containers.

It shall be the duty of every manufacturer or brewer manufacturing or brewing nonintoxicating beer in the city and of every manufacturer or brewer, distributor or wholesaler outside of the city shipping any nonintoxicating beer into the city for sale therein at wholesale or retail to cause every bottle, barrel, keg and other container of such nonintoxicating beer to have on the label thereon, in plain letters and figures, "Alcoholic content not in excess of three and two-tenths (3.2) percent by weight" or "Alcoholic content not in excess of four (4) percent volume". Any beer not so labeled shall be deemed to have an alcoholic content in excess of three and two-tenths (3.2) percent by weight, and the sale thereof in the city shall be subject to all the regulations and penalties provided by this chapter for the sale of beer having an alcoholic content in excess of three and two-tenths (3.2) percent by weight.

(Code 1964, § 4-54)

State law reference—Similar provisions, RSMo. § 312.310.

Sec. 3-81. Hours when sales prohibited.

No person licensed under this article shall sell, give away or otherwise dispose of or suffer the same to be done on his premises any nonintoxicating beer in any quantity between the hours of 1:30 a.m. and 6:00 a.m.

(Code 1964, § 4-55)

State law reference—Similar provisions, RSMo. § 312.310.

Sec. 3-82. Sales to habitual drunkards and persons under influence of alcoholic beverages prohibited.

No person or his employee shall sell or supply nonintoxicating beer or permit the same to be sold or supplied to a habitual drunkard or to any person who is under or apparently under the influence of alcoholic beverages.

(Code 1964, § 4-56)

State law reference—*Similar provisions, RSMo. § 312.400.*

Sec. 3-83. Sales, etc., to minors.

Nonintoxicating beer shall not be given, sold or otherwise supplied to any person under the age of twenty-one (21) years, but this shall not apply to the supplying of nonintoxicating beer to a person under such age for medicinal purposes only, or by the parent or guardian of such person or to the administering of such nonintoxicating beer to such person by a physician.

(Code 1964, § 4-57)

Cross reference—*Minors generally, Ch. 16.*

State law reference—*Similar provisions, RSMo. § 312.400.*

Sec. 3-84. Duty of police generally; reports of violations to board of aldermen.

It shall be the duty of the police of the city to see that the provisions of this article are obeyed, and it shall be their duty to report to the chief of police the names of the persons and their addresses and all places where nonintoxicating beer is sold at retail, where such places are not kept in an orderly manner and the same shall, by the chief of police, be transmitted to the board of aldermen.

(Code 1964, § 4-61; Ord. No. 1874 § 1, 2-15-01)

Chapter 4 -- ANIMALS AND FOWL

Cross references—*Health and sanitation, Ch. 13; dead animals on public or private property declared nuisance, §13-62.*

State law reference—*Authority to regulate animals, RSMo. §79.400(2)—(5).*

ARTICLE I. IN GENERAL

Sec. 4-1. Livestock running at large.

It shall be unlawful for any person owning or having charge of any horse, mule, jennet, bull, cow, sheep, hog, goat, chicken, duck, goose or any domesticated or wild fowl of any kind to allow the same to run at large within the city. The doing of any such act shall be deemed a nuisance.
(Code 1964, § 18-19)

Sec. 4-2. Keeping livestock in buildings used for human habitation.

It shall be unlawful for any person to keep any horse, mule, jennet, bull, cow, calf, sheep, hog, goat or domesticated or wild fowl within or under any building used for human habitation within the city. The doing of any such act shall be deemed a nuisance.
(Code 1964, § 18-20)

Sec. 4-3. Animal defecation on public property and private property prohibited.

(a) It is unlawful for any person owning or in control of any animal to allow or permit such animal to defecate upon any public property or private property, unless the person owning or in control of the animal immediately removes and properly disposes of all feces deposited by the animal.

(b) This Section shall not apply to any guide or support dog accompanying any blind or disabled person.

(c) It shall be unlawful for an owner to allow the accumulation of animal feces or manure in any open area, run, cage or yard wherein animals are kept and to fail to remove or dispose of feces or manure on a regular basis to avoid offensive odors or unsanitary conditions creating a nuisance as determined by City staff. It is unlawful for an owner to allow pet waste to be deposited, or cause unsanitary conditions resulting from pet waste, on an adjacent property through stormwater runoff or washing off areas where animals are kept.

(d) It shall be unlawful for the owner or handler of any animal to fail to have in their possession the equipment necessary to remove their animal's fecal matter when accompanied by said animal on public property or public easement or private property of another.
(Ord. No. 2129 §1, 3-18-10)

Secs. 4-4--4-15. Reserved.

ARTICLE II. DOGS AND CATS

State law references—Dogs, RSMo. §§ 273.010—273.180.

DIVISION 1. GENERALLY

Sec. 4-16. Running at large; owner not to allow.

It shall be unlawful for any person owning, controlling, possessing, or having the management or care in whole or in part of any dog or cat to permit such dog or cat to run at large or to go off the premises of the owner or keeper thereof unless such dog or cat is securely tied and led by a line or leash not exceeding five (5) feet in length, so as to effectively prevent the dog or cat from biting, scratching, molesting, being with, or approaching any other animal or any person.
(Ord. No. 970, § 5, 8-7-75)

Sec. 4-17. Impoundment.

It shall be the duty of the health commissioner or chief of police, or any other person designated by them, to take up and impound in a suitable place all dogs or cats found within the city without a license as provided in this article or all dogs or cats which may be found running or being at large or off the premises of the owner or keeper contrary to the provisions of this article. All dogs or cats taken up and impounded because of any violation of this article may be redeemed by the owner or person entitled to the possession thereof by paying the sum of two dollars (\$2.00) to the city or any agent or organization who may be designated by the city as keeper of such compound, provided, however, that no such dog or cat shall be released until it is inoculated as herein provided and the license fee paid and the license securely fastened about the dog's or cat's neck as provided by this article; and provided, further, that no person shall have the right of redemption unless done within three (3) days after the dog's or cat's impounding.
(Ord. No. 970, § 6, 8-7-75; Ord. No. 1874 § 1, 2-15-01)

Sec. 4-18. Destruction of strays where impoundment is not possible.

The health commissioner may order the destruction of any stray dog or cat or other dog or cat running at large if such dog or cat is unable to be captured after all reasonable efforts thereto have been made, and it shall be the duty of the chief of police to execute such order.
(Ord. No. 970, § 7, 8-7-75; Ord. No. 1874 § 1, 2-15-01)

Sec. 4-19. Restriction of numbers.

It shall be unlawful for any person to keep, maintain or allow to remain on any one (1) lot, tract or parcel of land within the city not more than two (2) dogs, cats, or other animals except where especially

City of Bellefontaine Neighbors -- QuickCode

permitted by the zoning ordinance of the city; excluding, however, the litter of such animals under the age of two (2) months; except that three (3) of any such animals may be kept until one of same passes if such person already had three (3) such animals as of August 7, 1975.
(Ord. No. 970, § 15, 8-7-75)

Sec. 4-20. Exemptions.

(a) Those provisions of this article relating to licensing and rabies inoculations shall not apply to dogs or cats under two (2) months of age.

(b) Any owner or keeper of a dog or cat kennel, hospital, or other establishment wherein he treats, raises, or trains dogs or cats shall be bound by the provisions of this article; provided, however, that it shall not be necessary to secure a license from this city for any dog or cat belonging to a non-resident of the city if such dog or cat has been legally and duly licensed under the ordinances of any other municipality or the county.
(Ord. No. 970, §§ 13, 14, 8-7-75)

Sec. 4-21. Penalties.

Any person violating any of the provisions of this article, or any person who interferes with, obstructs, or prevents any official or employee of the city in the performance of his duties hereunder shall, upon conviction thereof, be subject to a fine not exceeding the sum of three hundred dollars (\$300.00) or imprisonment in the city jail not exceeding a period of thirty (30) days, or to both such fine and imprisonment.
(Ord. No 970, § 16, 8-7-75)

Sec. 4-22. Dangerous animals.

- (a) *Definitions.* As used in this section, "dangerous animals" is defined to mean:
- (1) Any animal with the known propensity, tendency or disposition to attack without provocation, to cause injury, or to otherwise threaten the safety of human beings or domestic animals; or
 - (2) Any animal which, without provocation, has attacked or bitten a human being or domestic animal; or
 - (3) Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting; or
 - (4) Any animal which, without provocation, chases or approaches a person upon the streets, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack.

City of Bellefontaine Neighbors -- QuickCode

(5) In addition, in any administrative or judicial proceeding relating to the provisions of this section, there shall be a rebuttable presumption that any of the following are dangerous animals and may only be owned or maintained within the city in strict compliance with all provisions of this section: Any bull terrier breed of a dog, which shall be defined as any Staffordshire bull terrier breed of a dog, and/or any American pit bull terrier breed of a dog; and/or any American Staffordshire terrier breed of dog; and/or any mixed breed of dog which contains, as an element of its breeding, genetic components of the aforementioned bull terrier breed of dog; and/or any dog which has the appearance and characteristics and is known by the owner to be predominantly of the breeds of the bull terriers, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; and/or any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

(b) *Prohibition; exceptions.* It shall be unlawful for any person to own, harbor or have the care or custody of a dangerous animal within the corporate limits of the city, unless said dangerous animal is licensed and registered by the owner with the city as provided herein and is in strict compliance with the limitations, standards, requirements and conditions set forth in subsection (f) of this section.

(c) *Declaring an animal dangerous.* If the chief of police or his designated representative has cause to believe that an animal is dangerous, the chief or designated representative may find and declare that the animal is a dangerous animal and therefore subject to the terms and restrictions of this section.

(d) *Notice of declaring an animal dangerous.* After declaring an animal dangerous, the chief of police or his designated representative shall notify the animal's owner in writing of the declaration. The notice shall identify the requirements and conditions for maintaining a dangerous animal as set forth in this section. If the owner cannot be located, the animal may be immediately impounded and notice shall be posted on the owner's last known address.

(e) *Hearing on dangerous animal declaration.*

(1) The owner of an animal declared dangerous shall have the right to file, within five (5) days after receiving notice, a written request with the chief of police for a hearing to contest the dangerous animal declaration. The mayor shall designate a hearing officer to conduct the hearing and render a decision.

(2) The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross examine witnesses.

(3) The hearing officer shall issue a decision after the close of the hearing and notify the owner in writing of the decision.

(4) If the hearing officer upholds the dangerous animal declaration, the owner shall comply with all of the requirements and conditions for maintaining a dangerous animal as set forth in this section.

(5) Any person aggrieved by the determination of the hearing officer may appeal the decision to the

City of Bellefontaine Neighbors -- QuickCode

Circuit Court of St. Louis County pursuant to the provisions of Chapter 536, RSMo.; provided, however, that any appeal must be filed with the circuit court within five (5) days of the date of the hearing officer's decision.

(f) *Registration: Conditions required to keep.* From and after October 3, 1991, the owner of a dangerous animal may maintain a dangerous animal only subject to the following limitations, requirements and conditions:

- (1) *Registration.* Within ten (10) days of October 3, 1991, or the acquisition of a dangerous animal, every keeper or owner of a dangerous animal in the city shall register said animal with the city clerk of the city on the "dangerous animal" registry. Failure to so register shall constitute a violation of this section. Notice of this requirement shall be given by posting a copy of this section in city hall.
- (2) *Leash and muzzle.* No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four (4) feet in length with a minimum tensile strength of three hundred (300) pounds. No person shall permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash and animal. Such animal may not be leashed to objects such as trees, posts, buildings, etc. In addition, all dangerous animals on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals. The muzzle must not cause injury to the dangerous animal or interfere with its vision or respiration, but must prevent the dangerous animal from biting any human or animal.
- (3) *Confinement.* All dangerous animals shall be securely confined indoors (see below) or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. The pen, kennel or structure must be suitable to prevent the entry of young children and designed to prevent the dangerous animal from escaping. Such pen, kennel or structure must have secure sides and a secure top attached to the sides and must have minimum dimensions of five (5) feet by ten (10) feet. All structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or, if the structure has no bottom secured to the sides, the sides of the pen must be embedded in the ground no less than one (1) foot. All structures erected to house dangerous animals must comply with all zoning and building regulations of the city including, but not limited to, section 5—54(c) of this Code of Ordinances. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. The structure, when occupied by a dangerous animal, shall not be occupied by any other animal. If the dangerous animal is a female with offspring under two (2) months of age, the offspring may occupy the same enclosure as the mother. No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

City of Bellefontaine Neighbors -- QuickCode

- (4) *Signs.* All owners, keepers or harborers of dangerous animals within the city shall display in a prominent place on their premises a sign reading in letters not less than two (2) inches high "Beware of Dangerous Animal" and easily readable by the public. The owner shall also display a sign with a symbol warning children of the presence of a dangerous animal. In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- (5) *Insurance.* All owners, keepers or harborers of dangerous animals must provide proof to the city clerk of public liability insurance in a single incident amount of not less than one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. An effective insurance policy with the coverage and in the amounts specified herein must be maintained by the owner, keeper or harborer at all times. Such insurance policy shall provide that no cancellation, termination or expiration of the policy will be made unless ten (10) days' written notice is first given to the city clerk of the city.
- (6) *Photographs.* All owners, keepers or harborers of dangerous animals must provide to the office of the city clerk two (2) color photographs, in two (2) different positions, clearly showing the color, markings and approximate size of the animal.
- (7) *Reporting requirements.* All owners, keepers or harborers of dangerous animals must, within ten (10) days of any of the following incidents, report said information in writing to the city clerk:
 - a. The removal from the city or death of a dangerous animal;
 - b. The birth of offspring of a dangerous animal;
 - c. The new address of a dangerous animal owner should the owner move from one address within the corporate city limits to another address within the corporate city limits.
- (8) *Loose, unconfined or missing dangerous animal.* The owner, keeper or harborer shall notify the police department immediately if a dangerous animal becomes loose, unconfined or missing, has attacked another animal, or has attacked a human being.
 - (g) *Sale or transfer of ownership.* No person shall sell, barter, or in any other way dispose of a dangerous animal to any person within the city; provided that the owner of a dangerous animal may sell or otherwise dispose of an animal or the offspring of such animal to persons who do not reside within the city.
 - (h) *Offspring of dangerous animals.* All offspring born of dangerous animals within the city must be removed from the city within two (2) months of their birth.
 - (i) *Failure to comply.* It shall be unlawful for the owner, keeper or harborer of a dangerous animal within the city to fail to comply with the limitations, requirements and conditions set forth in this section. Any animal found to be the subject of a violation of this section shall be subject to revocation of the license and/or registration of the animal and immediate seizure and impoundment. The owner shall be

City of Bellefontaine Neighbors -- QuickCode

required to take necessary action to dispose of such dangerous animal and the city clerk is further authorized to dispose of such dangerous animal if necessary action is not taken by the owner.

(j) *Violations and penalties.* Any person violating or permitting the violation of any provision of this section shall, upon conviction in municipal court, be punished as provided in section 1-10 of this Code of Ordinances. In addition, the court shall order the registration of the subject dangerous animal revoked and the animal removed from the city. Should the defendant refuse to remove the animal from the city, the municipal court judge may find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony, necessitated by the enforcement of this section.

(k) *Authority for additional relief.* In addition to any other provisions or penalties established for violations of this section of the Code of Ordinances, the chief of police of the city may, after approval by the board of aldermen, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with the provisions of this section. In such action, the court may grant such legal or equitable relief, including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant.

(Ord. No. 1497, § 1, 10-3-91)

Secs. 4-23—4-35. Reserved.

DIVISION 2. LICENSE

Sec. 4-36. Required.

Every person who owns, controls, manages, harbors or possesses in whole or in part any dog or cat or who permits a dog or cat to come upon or remain in or about any home, place of business, or other premises owned or controlled by such person in the city shall procure a license for each such dog or cat annually. The license fee shall be the sum of two dollars (\$2.00) annually for each such dog or cat and shall be for the calendar year. It shall be paid to the city clerk on or before the first day of July each year. (Ord. No. 970, § 2, 8-7-75; Ord. No. 1311, §§ 1, 2, 6-5-86)

Cross reference—Inoculation for rabies prerequisite to issuance of dog or cat licenses, § 4-52.

Sec. 4-37. Application; tags to be worn on collar; transfer upon transfer of ownership.

Any person required to obtain a license by the provisions of this article shall make application therefor to the city clerk upon such forms and in such manner as may be prescribed by the city clerk.

City of Bellefontaine Neighbors -- QuickCode

Separate applications shall be obtained for each such animal. The license shall be in such form as may be prescribed and shall be securely fastened by means of a collar around the neck of the dog or cat for which such license is issued. In case the ownership, custody, or control of any licensed dog or cat is transferred from the licensee to another person in the city, it shall be the duty of the transferee to report to the city clerk such transfer within ten (10) days thereafter by written notice in such manner as may be prescribed by the city clerk, at which time the transferee shall pay to the city clerk a transfer fee of twenty-five cents (\$0.25).

(Ord. No. 970, § 3, 8-7-75)

Secs. 4-38—4-50. Reserved.

DIVISION 3. RABIES CONTROL

Sec. 4-51. Definitions.

As used in this division:

Affected with rabies shall mean manifesting any of the characteristic symptoms of such disease, as described in any of the standard textbooks relating thereto.

Exposed to rabies shall mean when bitten or scratched by or fought with or has come in contact with a dog or cat showing symptoms of rabies.

Rabies shall mean hydrophobia.

(Ord. No. 970, § 9, 8-7-75)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 4-52. Inoculation required; prerequisite to issuance of dog or cat licenses.

It shall be the duty of all persons to which this article applies to have each dog or cat owned or controlled by him or them inoculated against rabies. No license shall hereafter be issued for any dog or cat unless a certificate is presented with the application for such license, showing that such inoculation has been made by some duly qualified person within six (6) months prior to the date of such application.

(Ord. No. 970, § 4, 8-7-75)

Cross reference—Dog and cat licenses, § 4-36 et seq.

Sec. 4-53. Dogs and cats affected with rabies not to be permitted off owner's property.

No person owning, having custody or control of any dog or cat affected with rabies, commonly

City of Bellefontaine Neighbors -- QuickCode

called "mad dog" or "mad cat" or that has been exposed to rabies or shall show symptoms or indications of having rabies, shall permit such dog or cat to be upon any street, alley, or other public or private property within the city other than the property of the owner thereof or of the person who has the care, custody, control or possession of such dog or cat.

(Ord. No. 970, § 8, 8-7-75)

Sec. 4-54. Areawide quarantine.

The health commissioner of the city shall have power and authority at any time he shall deem it necessary for the protection of the public peace, health, or safety against the disease of rabies to issue an order of quarantine requiring any or all dogs or cats within this city to be restrained and kept under observation, separate and apart from other dogs, cats, and animals and prescribing such other requirements concerning the same as he shall deem necessary; and it shall be the duty of any person who owns, controls, possesses, or has the custody in whole or in part of any dog or cat or other animal to comply strictly with such quarantine order. Such order may include any portion of the city or the whole territory thereof, and notice of such quarantine order shall be given by posting copies thereof in at least ten (10) conspicuous places within the city, provided, however, that the health commissioner shall have power and authority at any time to cancel and recall such quarantine order. If such quarantine order applies to the entire city during the time such quarantine order is in effect, it shall be the duty of the chief of police or other person designated by the health commissioner to destroy all dogs or cats running at large on any street, alley, or other public place or upon any private property other than that of the owner or person having the care, custody, control, or possession of such dogs or cats.

(Ord. No. 970, § 10, 8-7-75; Ord. No. 1874 § 1, 2-15-01)

Sec. 4-55. Destruction of rabid animals restricted; notices to city and county upon destruction; surrender of carcass upon demand.

No person shall destroy any animal suspected of being rabid unless it cannot be confined without undue risk of exposure to the disease. Any person destroying an animal affected with rabies or suspected of being affected with rabies shall immediately notify the health department of the city and county and shall surrender the carcass of such animal upon demand. The owner or custodian of any such destroyed animal shall immediately provide the health department of the city and county with full particulars thereof, including the time, date, locations, and the names and addresses of any persons bitten or scratched by said animal and also the name and address of the owner or person having custody of any animal exposed to the animal destroyed.

(Ord. No. 970, § 11, 8-7-75)

Sec. 4-56. Required reports by physicians.

Every physician shall report immediately to the health department the full name, address, age and such pertinent information as the health commissioner shall require of any person under his care who has been bitten or scratched by any animal suspected of being rabid and likewise every veterinarian shall

City of Bellefontaine Neighbors -- QuickCode

report any and all rabid animals and every dog or cat bite or scratch case coming to or under his care. It shall also be the duty of every person having the care, custody or control of a dog or cat which to his knowledge has bitten or scratched any person to report the same immediately to the police department and health commissioner and to restrain such dog or cat separate and apart from other dogs or cats or animals and permit the police department and health commissioner to keep such dog or cat under observation for such length of time as he shall deem necessary.
(Ord. No. 970, § 12, 8-7-75)

Chapter 5 -- BUILDINGS AND BUILDING REGULATIONS

Cross references—Planning and zoning commission, § 2-186 et seq.; civil defense and disaster, Ch. 6; electricity, Ch. 8; fire prevention and protection, Ch. 10; flood damage prevention and control, Ch. 11; open housing, § 14-16 et seq.; plumbing, Ch. 20; sewers and sewage disposal, Ch. 22; subdivision regulations, Ch. 24; swimming pools, Ch. 25.

ARTICLE I. IN GENERAL

Sec. 5-1. Numbering of buildings.

(a) The city engineer shall establish and designate a numbering system for all buildings within the city and assign official numbers to such buildings. On all north and south streets, such numbers shall be a continuation of the numbering system established by the city, as nearly as possible and practical. On all east and west streets, the numbers shall as nearly as possible be a continuation of the numbers established by the City of St. Louis and the Village of Riverview Gardens on the east and west streets located in such municipalities, and on all such streets which are not a continuation of or do not correspond to streets with either of such municipalities, the numbers shall conform to the same general plan as the numbers established by such municipalities.

(b) Before any building permit is issued for the erection of any building within the city requiring a number, it shall be the duty of the applicant therefor to obtain from the city engineer an official number for such building. It shall be unlawful for any property owner or occupant of any building to change an official number assigned by the city engineer or use any other number on such building, and the official number so assigned by the city engineer shall be displayed on each building so that it may be observed from the abutting public or private street or highway.

(Code 1964, § 5-1)

Sec. 5-2. Inspection of towers, poles, etc.

(a) It shall be the duty of the owner of any mast, flag pole, radio tower, utility telephone tower,

City of Bellefontaine Neighbors -- QuickCode

electric utility tower, gas tank or utility tower, television tower, spectacular sign, cooling tower, smoke stack, water tank, gas tank or utility tower or similar structure exceeding sixty (60) feet in height to have such structure inspected at least once every two (2) years. Such inspection shall be made by a structural engineer licensed under the laws of the state as a registered professional engineer. The engineer shall submit to the owner a report signed by him and bearing his professional engineer's seal stating that an inspection has been made of the structure and its foundation and supports and certifying whether or not, in his professional opinion, the structure and its foundation are in safe and sound condition. Such inspection report shall be delivered by the owner to the city engineer together with a fee of five dollars (\$5.00) to cover the cost of checking and filing.

(b) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof may be punished as provided in section 1-10 of this Code.
(Code 1964, § 5-2.1)

Sec. 5-3. Building inspector.

(a) There is hereby established the employee position of building inspector.

(b) Anyone appointed as building inspector shall serve a probationary period of six (6) months.

(c) The building inspector shall receive a salary as established by the board of aldermen from time to time.

(d) The building inspector shall work at least forty (40) hours per week and shall only earn overtime pay as may be directed and approved by the mayor. However, attendance at planning and zoning commission, board of adjustment, board of aldermen meeting or committee meetings, or attendance at the municipal court (as might be required), of the city shall be considered part of the normal duties of the building inspector and not qualifying for any overtime pay.

(e) The building inspector shall be expected to sign a job description statement covering various requirements associated with this position, in addition to requirements under this section.
(Ord. No. 1253, §§ 2—6, 11-1-84)

Cross references—City engineer, § 2-131 et seq.; assistant electrical inspector, § 8-16 et seq.

Sec. 5-4. Boarding up of structures.

No structure shall be boarded up unless the same shall have been extensively damaged and is awaiting necessary repairs. Any boarding up of a structure must be in strict compliance with the requirements of the city's property maintenance regulations and any conditions established as provided herein.

(Ord. No. 1001, § 1, 10-7-76; Ord. No. 1581, § 1, 11-18-93)

Sec. 5-5. Real estate advertising signs' regulations.

(a) *Residential property.* The dimensions and regulations for signs advertising that real estate in areas zoned residential in the city is for sale or lease shall be as follows:

- (1) Only one (1) such sign may be erected.
- (2) The facing of a sign where advertising is to appear shall not be more than three (3) feet in length and two (2) feet in height with a maximum of two (2) facings. The maximum height of said signs shall not be more than three (3) feet above ground level.
- (3) No sign shall be placed on any easement or public right-of-way but must be on the real property offered for sale or lease only. No such sign shall be placed on any building or structure on such real property.
- (4) One (1) sign indicating that the real property is open for inspection may also be placed on such real property only. The facing of said "Open" sign shall not exceed three (3) feet in length and two (2) feet in height. The maximum height of such sign shall not be more than three (3) feet above ground level.
- (5) Any sign must be removed by the real property owner within one (1) week after the final closing of the deal for the sale or lease of such real property.
- (6) No sign, banner or appendage to another sign shall be displayed indicating that the real property on which same is located has been sold; and further, the name of any agent shall not be attached or displayed with any such real estate sign. Further, no such real estate sign shall have any sign or cover attached to same. Any sign found to be in violation of the provisions of this subsection may be removed by the city.

(b) *Commercial industrial property.* The dimensions and regulations for signs advertising that real estate in areas zoned commercial, industrial and multiple dwelling in the city is for sale or lease shall be as follows:

- (1) Only one (1) such sign may be erected.
- (2) The facing of a sign where advertising is to appear shall not be more than five (5) feet in length and four (4) feet in height with a maximum of two (2) facings. The maximum height of said signs shall not be more than five (5) feet above ground level.
- (3) No sign shall be placed on any easement or public right-of-way but must be on the real property offered for sale or lease only. One (1) such sign may be placed on any building or structure on such real property and may be attached to the front of the main building on such real property.
- (4) One (1) sign indicating that the real property is open for inspection may also be placed on such

City of Bellefontaine Neighbors -- QuickCode

real property only. The facing of said "Open" sign shall not exceed three (3) feet in length and two (2) feet in height. The maximum height of said sign shall not be more than three (3) feet above ground level.

- (5) Any such sign must be removed by the real property owner within one (1) week after the final closing of the deal for the sale or lease of such real property.
- (6) No sign, banner or appendage to another sign shall be displayed indicating that the real property on which the same is located has been sold; and further, the name of any agent shall not be attached or displayed with any such real estate sign. Further, no such real estate sign shall have any sign or cover attached to same. Any sign found to be in violation of the provisions of this subsection may be removed by the city.

(c) *Penalty.* Any person, firm, company, corporation, or organization violating any provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor and subject to a fine not exceeding three hundred dollars (\$300.00).

(Ord. No. 1362, §§ 2, 3, 5, 10-1-87; Ord. No. 1376, § 1, 5-19-88)

Editor's note—Section 1, Ord. No. 1362, adopted Oct. 1, 1987, repealed Ord. No. 1304, adopted Mar. 20, 1986, §§ 2 and 3 of which were codified as § 5-5(a) and (b). Sections 2, 3 and 5 of Ord. No. 1362 enacted similar new regulations for real estate advertising signs, which have been included herein as § 5-5(a)—(c) at the discretion of the editor.

Cross reference—Signs in residential districts, § 15-36.

Sec. 5-6. Grading permits.

(a) Except as otherwise provided herein, no person shall, without first obtaining a grading permit from the city engineer, alter or cause to be altered the present surface of the ground:

- (1) By any cut or fill within ten (10) feet of a property line; or
- (2) By any cut or fill that would permanently divert one (1) or more drainage areas to another drainage area; or
- (3) By any cut or fill within a property that changes the grade two (2) feet or more.

(b) Each application for a grading permit shall be accompanied by a grading plan showing existing and proposed contours, normally at two (2) foot intervals. Contours at closer intervals may be required by the city engineer if adjacent to a creek or if the topography or scope of the proposed grading dictates. Grading plans for parcels in excess of one (1) acre shall be prepared by and under seal of a professional engineer. Grading plans for parcels in excess of three (3) acres shall show surface water calculations for the drainage area.

City of Bellefontaine Neighbors -- QuickCode

(c) No grading permit shall be issued if the city engineer finds that the proposed work would result in a material change in the amount or pattern of surface water runoff or that the proposed grading is likely to deposit mud or harmful silt or create erosion or damage to adjoining properties.

(d) No grading permit shall be issued for a subdivision development until the city engineer has reviewed and approved the improvement plan for the subdivision showing, at a minimum:

- (1) Contours of the existing ground surface;
- (2) Elevations of the proposed finished grade at each corner of each lot and at intermediate points on lots where the slope of the ground surface changes, or a plan of the proposed finished ground surface showing contours at a maximum of two (2) foot intervals;
- (3) Arrows indicating the direction of drainage;
- (4) Finished grade and elevation of all streets, sanitary sewers, storm sewers and other drainage structures;
- (5) Surface water runoff calculations for the drainage area tributary to and including the property being graded.

(e) No grading permit shall be issued for a commercial development until the city engineer has reviewed and approved plans for such developments showing, at a minimum;

- (1) Contours of the existing ground surface;
- (2) Contours of finished grade at all corners of the parcel of land, at all corners of proposed buildings and at such intermediate points where the slope changes;
- (3) Elevations of the finished first floor;
- (4) Elevations of all adjacent streets;
- (5) Elevations of all sanitary and storm sewers and other drainage facilities;
- (6) Surface water runoff calculations for the drainage area tributary to and including the property being graded.

(f) In reviewing the plans submitted, the city engineer shall approve the issuance of a grading permit if the grading proposed is determined by the city engineer to be consistent with good engineering practices and the health, safety and general welfare of the city and its residents.

(g) All grading shall be carried on with care to avoid the runoff of dirt, mud or silt onto adjoining properties and roadways. If good engineering practices and/or the health, safety and general welfare of the city would be served, the city engineer may require that siltation control measures sufficient to avoid the runoff of dirt, mud or silt as aforesaid be in place before and during grading and for a reasonable

City of Bellefontaine Neighbors -- QuickCode

period of time thereafter to assure the containment of such runoff on the property being graded.

(h) All permits issued in accord with this section shall expire one (1) year after the date of issuance. All grading shall be initiated and pursued with reasonable diligence so as to minimize the period of time during which the earth is exposed, vegetation removed and/or the flow of water altered. The city engineer may, after reasonable notice to the permit holder and a hearing thereon, revoke any permit issued pursuant to this section if the city engineer finds that the work permitted thereby has not been pursued with reasonable diligence.

(Ord. No. 1451, § 1, 2-15-90)

Sec. 5-7. Fees for building department services.

The following user fees are hereby established for the following services provided by the building department:

Type Of Service	Amount Of Fee
New buildings, for the first \$1,000.00	\$ 50.00
For each additional \$1,000.00 or part thereof	\$ 3.75
Additions, for the first \$1,000.00	\$ 50.00
For each additional \$1,000.00 or part thereof	\$ 3.75
Accessory buildings, for the first \$1,000.00	\$ 50.00
For each additional \$1,000.00 or part thereof	\$ 3.75
Residential storage shed, for the first \$1,000.00	\$ 50.00
For each additional \$1,000.00 or part thereof	\$ 3.75
Siding	\$ 50.00
Heating and air conditioning	\$ 50.00
Fences	\$ 35.00
Patio	\$ 35.00
Swimming pool	\$ 30.00
Sidewalks	\$ 35.00
Driveway or parking area	\$ 35.00
Excavation and grading	\$ 50.00
Demolition:	
Principal building--residential	\$100.00

City of Bellefontaine Neighbors -- QuickCode

Type Of Service	Amount Of Fee
Accessory building	\$10.00
Roof	\$ 30.00
Occupancy permit--residential	\$ 30.00
Occupancy permit--commercial	\$100.00
Occupancy permit--update	\$ 15.00
Occupancy inspection:	
Initial inspection and 1 reinspection--residential	\$ 50.00
Initial inspection and 1 reinspection--commercial	\$100.00
Each subsequent inspection--residential	\$30.00
Each subsequent inspection--commercial	\$50.00

(Ord. No. 1936 §1, 2-6-03; Ord. No. 2203 §1, 12-1-11)

Sec. 5-8. Relocation policy.

(a) The city adopts by reference, as if fully set forth herein, sections 523.200 through 523.215, RSMo., 1994, as amended, as the relocation policy for the city.

(b) In the event that property is to be acquired without federal assistance pursuant to chapters 99, 100 and/or 353, RSMo., 1994, as amended, the mayor or his designee is directed to take all necessary steps to identify the special needs of displaced persons and accommodate those needs within the project's relocation plan. Furthermore, the mayor or his designee is directed to develop a program for the referrals of displaced persons and businesses to suitable replacement accommodations in conformity with the requirements of relocation assistance act.

(Ord. No. 1847, §§ 1, 2, 5-4-00)

Secs. 5-9—5-20. Reserved.

ARTICLE II. BUILDING CODE

Cross references—Electrical code, § 8-31 et seq.; plumbing code, § 20-1.

Sec. 5-21. Building codes adopted.

(a) That a certain document, a copy of which is on file in the office of the city clerk of the city of Bellefontaine Neighbors, Missouri, being marked and designated as "The International Building

City of Bellefontaine Neighbors -- QuickCode

Code, 2009 Edition" as published by the International Code Council, including Appendix C--Group U--Agricultural Buildings and Appendix H--Signs, as adopted, amended and modified by St. Louis County, Missouri, pursuant to Ordinance No. 24,444, adopted July 21, 2010, and as further supplemented, amended and revised as provided in this Article, is hereby adopted as the Building Code of the City of Bellefontaine Neighbors for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, conditions and terms of said Building Code are hereby referred to, adopted and made a part hereof as if fully set out in here in full.

(b) That a certain document, a copy of which is on file in the office of the city clerk of the city of Bellefontaine Neighbors, Missouri, being marked and designated as "The International Residential Code for One- and Two-Family Dwellings, 2009 Edition" as published by the International Code Council, including Appendix A--Sizing and Capacity of Gas Piping; Appendix B--Sizing of Venting Systems Serving Appliances Equipped with Draft Hoods, Category I Appliances, and Appliances Listed for Use and Type "B" Vents; Appendix C--Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems; Appendix G--Swimming Pools, Spas and Hot Tubs, and Appendix K--Sound Transmission, as adopted, amended and modified by St. Louis County, Missouri, pursuant to Ordinance No. 24,427, adopted July 13, 2010, and as further supplemented, amended and revised as provided in this Article, is hereby adopted as the Residential Code for One- and Two-Family Dwellings of the City of Bellefontaine Neighbors for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, conditions and terms of said code are hereby referred to, adopted and made a part hereof as if fully set out in here in full.

(c) That a certain document, a copy of which is on file in the office of the city clerk of the city of Bellefontaine Neighbors, Missouri, being marked and designated as "The International Existing Building Code, 2009 Edition" as published by the International Code Council, including Appendix A--Guidelines for Seismic Retrofit of Existing Buildings (GSREB) as adopted, amended and modified by St. Louis County, Missouri, pursuant to Ordinance No. 24,444, adopted July 21, 2010, and as further supplemented, amended and revised as provided in this Article, is hereby adopted as the Existing Building Code of the City of Bellefontaine Neighbors for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, conditions and terms of said Existing Building Code are hereby referred to, adopted and made a part hereof as if fully set out in here in full. (Ord. No. 2034 §1, 5-4-06; Ord. No. 2162 §1, 2-3-11)

Sec. 5-22. Amendments and revisions to codes.

The codes adopted by the preceding section are hereby amended, revised and supplemented as follows:

1. County Code Section 1115.030 General Administrative Definitions. Throughout the Code, whenever the term "*jurisdiction*" appears, it shall be deemed to mean "*The City of Bellefontaine Neighbors, Missouri*". The term "*Department of Building Safety*" shall be deemed to mean "*Bellefontaine Neighbors Building Department*". Whenever the terms "*code official*" or "*building official*" appear, they shall be deemed to mean the "*Bellefontaine Neighbors Building Official*". The terms "*code*" or "*this code*" shall mean the codes adopted by the preceding Section.

City of Bellefontaine Neighbors -- QuickCode

2. County Code Section 1115.100 Amendments to the 2009 edition of the International Building Code--Chapter 1, Administration. The following provisions of the County Code are revised:

- a. Section 112, and all subparts thereof, are deleted and a new Section 112 is enacted in lieu thereof, to read as follows:

In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, the members and alternates of the Bellefontaine Neighbors Board of Adjustment shall serve as members and alternates of the Board of Appeals for this code. All appeals shall be filed in writing with the code official not later than thirty (30) days after the code official's decision at issue, and shall be accompanied by a filing fee as for matters before the Board of Adjustment. A majority vote of three (3) members of the Board shall be required to overturn a decision being reviewed. Board procedures shall not require compliance with strict rules of evidence, but only relevant information shall be received. Any person aggrieved by a decision of the Board of Appeals may apply to the Circuit Court of St. Louis County for review of the Board's decision as a contested case pursuant to Chapter 536, RSMo., by filing a petition for administrative review within fifteen (15) days of the Board's decision.

- b. Section 113.4 Penalties is deleted and a new Section 113.4 Penalty is enacted in lieu thereof, to read as follows:

113.4 Violation, Penalties, Enforcement. Penalties for violation shall be as specified elsewhere in this Article of the Bellefontaine Neighbors Code of Ordinances.

3. County Code Section 1115.200 Amendments to the 2009 Edition of the International Building Code--Chapter 2, Definitions. The following provisions of the County Code are revised:

Section 202 Definitions. The following definitions are substituted:

BOARD OF APPEALS: Members and alternates of the Bellefontaine Neighbors Board of Adjustment.

CODE OFFICIAL: The Building Official of the City.

ZONING ORDINANCE: The Zoning Ordinances of the City of Bellefontaine Neighbors.

4. County Code Section 1116.030 General Administrative Definitions. Throughout the Code, whenever the term "*jurisdiction*" appears, it shall be deemed to mean "*The City of Bellefontaine Neighbors, Missouri*". The term "*Department of Building Safety*" shall be deemed to mean "*Bellefontaine Neighbors Building Department*". Whenever the terms "*code official*" or "*building official*" appear, they shall be deemed to mean the "*Bellefontaine Neighbors Building Official*". The terms "*code*" or "*this code*" shall mean the codes adopted by the preceding Section.

5. County Code Section 1116.100 Amendments to the 2009 edition of the International Residential Code for One- and Two-Family Dwellings--Chapter 2, Definitions. The following provisions of the County Code are revised:

City of Bellefontaine Neighbors -- QuickCode

Section 202 Definitions. The following definitions are substituted:

BOARD OF APPEALS: Members and alternates of the Bellefontaine Neighbors Board of Adjustment.

CODE OFFICIAL: The Building Official of the City.

ZONING ORDINANCE: The Zoning Ordinances of the City of Bellefontaine Neighbors.

6. County Code Section 1117.030 General Administrative Definitions. Throughout the Code, whenever the term "*jurisdiction*" appears, it shall be deemed to mean "*The City of Bellefontaine Neighbors, Missouri*". The term "*Department of Building Safety*" shall be deemed to mean "*Bellefontaine Neighbors Building Department*". Whenever the terms "*code official*" or "*building official*" appear, they shall be deemed to mean the "*Bellefontaine Neighbors Building Official*". The terms "*code*" or "*this code*" shall mean the codes adopted by the preceding Section.
7. County Code Section 1117.200A Amendments to the 2009 edition of the International Existing Building Code--Chapter 2, Definitions. The following provisions of the County Code are revised:

Section 202 Definitions. The following definitions are substituted:

BOARD OF APPEALS: Members and alternates of the Bellefontaine Neighbors Board of Adjustment.

CODE OFFICIAL: The Building Official of the City.

ZONING ORDINANCE: The Zoning Ordinances of the City of Bellefontaine Neighbors.

(Ord. No. 2034 §1, 5-4-06; Ord. No. 2162 §1, 2-3-11)

Sec. 5-23. Seismic design.

(a) Any new construction or major structural renovation begun after January 1, 1991, all buildings for which leases are executed by political subdivisions of this state after January 1, 1994, and all buildings for which leases are executed by the state or any institution of higher education after January 1, 1994, shall comply with the standards for seismic design and construction of the building officials and code administrators code or of the uniform building code.

(b) This section shall not apply to any building owned by the state, any institution of higher education, or any political subdivision upon which construction was begun or finished before February 21, 1991, any private structure with less than ten thousand (10,000) square feet in total area, and any single-family or duplex residence.

(c) As used in this section, the term "*major structural renovation*" means any reconstruction, rehabilitation, addition or other improvement of an existing structure, the cost of which equals or exceeds

City of Bellefontaine Neighbors -- QuickCode

fifty percent (50%) of the market value of the structure before the start of construction of the major structural renovation.

(Ord. No. 2034 §1, 5-4-06; Ord. No. 2162 §1, 2-3-11)

Sec. 5-24. Subject to other ordinances.

The codes adopted under this Article are subject to and to be interpreted and applied in conformity with the provisions of: Chapter 29, the Zoning Code of the City of Bellefontaine Neighbors as amended; article III of chapter 15 of this Code regarding advertising and commercial signs; chapter 6 of this Code regarding civil defense and disasters; chapter 8 of this Code regarding electricity; chapter 10 of this Code regarding fire prevention and protection; chapter 20 of this Code regarding plumbing; chapter 22 of this Code regarding sewers and sewage disposal; chapter 24 of this Code regarding subdivisions; chapter 25 of this Code regarding swimming pools; and all other provisions of this chapter. The code adopted under this article is not intended to, nor shall such adoption have the effect of, repeal specific standards or requirements delineated in the other ordinances and/or Code provisions listed herein.

(Ord. No. 2034 §1, 5-4-06; Ord. No. 2162 §1, 2-3-11)

Sec. 5-25. Contracts for enforcement.

(a) The city engineer, with the approval of the board of aldermen, is hereby authorized to contract with other jurisdictions to provide appropriate building code enforcement and, further, to issue and collect fees for applicable permits and inspections issued or made pursuant to such contracts.

(b) Contracts shall be approved by the city engineer and shall be approved as to legal form by the city attorney. No contract shall be entered into until both jurisdictions desiring to contract with each other shall first have duly adopted appropriate legislation authorizing said contract (a certified copy to be attached to and made a part of the contract) and duly adopted a building code identical in substance to this code.

(c) All plans reviewed pursuant to any such contract shall be reviewed and approved by the city and the applicable fire district for compliance with the zoning and other local regulatory ordinances or provisions prior to the submission for processing.

(Ord. No. 2034 §1, 5-4-06; Ord. No. 2162 §1, 2-3-11)

Sec. 5-26. Violations; penalty.

(a) Persons who shall violate any provision of the Codes adopted by this Article, fail to comply with any of the requirements thereof, or erect, install, alter or repair work in violation of the approved construction documents or direction of the code official, or of a permit or certificate issued under the provisions of the Codes adopted by this Article, shall be guilty of an ordinance violation, punishable as provided in Section 1-10 of this Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(b) In addition to any other penalties established for violations of the code adopted under this article, the official of the city responsible for enforcement of provision may, after approval by the board of aldermen, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with the provisions of this Code of Ordinances and any other ordinances adopted by the city. In such action, the court may grant such legal or equitable relief including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant.
(Ord. No. 2034 §1, 5-4-06; Ord. No. 2162 §1, 2-3-11)

Secs. 5-27—5-35. Reserved.

ARTICLE III. CONFORMITY OF ARCHITECTURE

Sec. 5-36. Buildings to be in conformity with other buildings in neighborhood.

Every building erected, reconstructed, moved or structurally altered in the city after April 29, 1960, shall be designed and constructed so as to be in keeping with the character of development of the neighborhood in which such building is located or proposed.
(Code 1964, § 5-13)

Sec. 5-37. Residential buildings.

(a) All applications for building permits, along with the plans and specifications, for residential buildings shall be reviewed by the city engineer.

(b) After review of the applications, plans and specifications for any residential building, a permit may be issued by the city engineer if, in his opinion, the building would not be unsightly, grotesque, unsuitable or incompatible when compared to the surrounding residential buildings or other buildings and consequently would not be detrimental to the stability of values of the surrounding property.

(c) If, after review of the applications, plans and specifications for any residential building, it is the opinion of the city engineer that the building would be unsightly, grotesque, unsuitable or incompatible when compared to the surrounding residential or other buildings, and consequently would be detrimental to the stability of values of the surrounding property, he shall not issue a permit for such building. The city engineer shall forthwith transmit such application along with all plans and specifications to the planning and zoning commission for study and review. The commission shall study the plans and specifications in relation to the proposed site and its surroundings and shall hold at least one hearing thereon, written notice regarding the time, place and purpose of which hearing shall be given or sent to the applicant for the building permit at least five (5) days in advance, at which hearing the applicant shall be afforded an opportunity to be heard.

City of Bellefontaine Neighbors -- QuickCode

(d) Following the study and hearing, the planning and zoning commission may either approve the proposed building or buildings or may make suggestions and recommendations for changes therein to render the construction compatible and acceptable. If the planning and zoning commission approves the application, plans and specifications, the city engineer shall then issue the permit. If the planning and zoning commission returns the application, plans and specifications to the city engineer with disapproval and recommendations for changes, the city engineer may issue the permit only after the applicant agrees to comply with the recommended changes made by the commission and makes appropriate changes to the plans and specifications in accordance therewith.

(Code 1964, § 5-14)

Sec. 5-38. Public buildings.

(a) All applications for building permits, along with the plans and specifications, for any public buildings, including schools, churches, hospitals and the like, as well as any business, commercial and industrial buildings, shall be transmitted by the city engineer to the planning and zoning commission for study and review.

(b) If, after study and review of the application, plans and specifications for any public building by the planning and zoning commission, it is their opinion that the building would not be unsightly, grotesque, unsuitable or incompatible when compared to the surrounding residential buildings or other buildings and consequently would not be detrimental to the stability of values of the surrounding property, the commission may recommend that approval of such plans and specifications be made by the board of aldermen. After approval by the board of aldermen, the city engineer may then issue a permit.

(c) If, after study and review of the application, plans and specifications for any public building by the planning and zoning commission, it is their opinion that the building would be unsightly, grotesque, unsuitable or incompatible when compared to the surrounding residential buildings or other buildings and consequently would be detrimental to the stability of values of the surrounding property, the commission shall hold at least one hearing thereon, written notice regarding the time, place and purpose of which hearing shall be given or sent to the applicant for the building permit at least five (5) days in advance, at which hearing the applicant shall be afforded an opportunity to be heard.

(d) During or after the study and hearing, the planning and zoning commission may make suggestions and recommendations for changes to the plans and specifications in order to render the construction compatible and acceptable. These recommendations for changes shall be given or sent to the applicant for the building permit and the commission shall not recommend that approval of such plans and specifications be made by the board of aldermen until the applicant agrees to comply with the recommended changes and makes appropriate changes to the plans and specifications in accordance therewith.

(e) After recommendation for approval of the plans and specifications is made by the planning and zoning commission and the board of aldermen approves such plans and specifications, the city engineer may then issue a permit.

(Code 1964, § 5-15)

Secs. 5-39—5-50. Reserved.

ARTICLE IV. FENCES AND SIMILAR STRUCTURES

Cross reference—Electric fences prohibited, § 19-56.

Sec. 5-51. Definitions.

As used in this article, the following terms shall have the meanings indicated in this section:

Deck: A structure of wood floor above grade in the rear yard only.

Decorative structure: An ornamental structure of wood, stone or decorative masonry materials with not less than thirty (30) percent open screening and not more than forty-two (42) inches in height above grade.

Dog run or pen: A structure of chain link fencing material designed to retain dogs within a specific area of a rear yard.

Fence: An artificially constructed barrier of any material or combination of materials erected so as to enclose or substantially enclose, or screen from view or access or substantially screen from view or access, areas of land. The presence of passage areas, driveways, gates or other interruptions shall not preclude a barrier from being a fence.

Garden fence: A structure of materials to enclose a piece of land within a rear or side yard designed to provide protection from wildlife or animals which might harm a garden plant.

Patio: An inner open or enclosed court of concrete, masonry or lawn designated for sitting or relaxing in the rear yard only.

Perimeter fences: A structure of wire, iron, wood, posts, rails, boards, palings, stone or any other assemblage of materials forming a barrier at grade, in a rear or side yard only, for the purpose of separating parcels of land or land of different uses to avoid passage from one area to another.

Privacy structure: A structure of wood or decorative materials for the purpose of privacy screening in the rear yard only.

Trellis: An ornamental structure of wood or decorative wrought iron materials which may contain lattice materials or other designs for the purpose of supporting plant life such as roses or vines. (Ord. No. 1238, § 2, 6-21-84; Ord. No. 1544, § 1, 3-18-93)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 5-52. Unlawful acts.

It shall be unlawful to erect any fence or structure as defined herein within the city without first having filed with the city engineer an application for a permit, together with a spot survey or reasonable layout location drawing and recorded thereon shall be all dimensions, type of materials, design and color proposed. An approved permit must be issued before construction begins.

(Ord. No. 1238, § 3, 6-21-84)

Sec. 5-53. Installation.

Specifications for installations of all structures defined herein shall be according to the recommendations of the manufacturer, their agents or association and/or the city engineer and the building code of this city.

(Ord. No. 1238, § 4, 6-21-84)

Sec. 5-54. Regulations of residential, R-1, R-2, R-3 and those residential lots in other zoning area.

(a) *Perimeter fences:* It is the preference and policy of the city that all perimeter fences on residential lots should be of a "chain link" type or vinyl fences having the configuration of traditional wooden board fences with vertical flat "boards" on at least two (2) parallel rails supported by periodic posts.

The construction or installation of a perimeter fence shall require the issuance of a permit by the city engineer. Any person desiring to construct or install on a residential lot any perimeter fence of a type other than chain link or vinyl as described above shall first apply to the city engineer for a permit to do so, which application shall detail the location, materials and installation details as may be required by the city engineer. Any perimeter fence other than a chain link or vinyl as described above shall be constructed of materials as listed in the definition of "perimeter fences" in section 5-51 of this code and be consistent with the general architecture of the neighborhood in the city as determined by the city engineer.

In determining whether or not a proposed fence is consistent with the general architecture of a neighborhood, the city engineer may consider whether there is a predominance of any particular style and/or material commonly used for fences in the neighborhood of the proposed fence and whether the proposed fence, either in its materials, method of construction, color or other physical characteristics, would be unsightly, grotesque, unsuitable or incompatible when compared to fences and buildings in the surrounding area and, consequently, would be detrimental to the stability of values of surrounding properties.

If the proposed fence complies with any applicable subdivision indenture regulations, that fact may also be considered by the city engineer in assessing architectural conformity.

City of Bellefontaine Neighbors -- QuickCode

No permit for construction of a residential perimeter fence other than a "chain link" or vinyl as described above shall be issued prior to the expiration of thirty (30) days from the date the completed application shall have been filed, during which time the city engineer shall investigate and consider the architectural conformity of the proposed fence in accord with this section. The city engineer shall act upon the application within fifteen (15) days after the expiration of the said thirty (30) day period.

- (1) No fences are permitted in the front yard, and no privacy screening or decorative materials may be included as part of a fence.
- (2) The maximum height of all residential fences shall be forty-eight (48) inches above grade.
- (3) Fences shall have not less than thirty percent (30%) open area.
- (4) Appropriate gates shall be installed for adequate ingress and egress to the fenced area. All rails, posts, braces, etc., shall face the owner's side of the fence.

(b) *Dog run or pen:* A dog run or dog pen shall be constructed of chain link fencing material only, not more than six (6) feet in height above grade, except where subdivision restrictions specify otherwise, and shall not enclose an area of more than two hundred (200) square feet in the rear yard only, with the width of same not less than five (5) feet and the length not exceeding forty (40) feet. No dog run shall be closer than ten (10) feet to another parallel fence, property line or structure.

(c) *Garden fence, permanent:* A regular perimeter fence, as provided for in paragraph (a) of this Section, may be constructed permanently with adequate gate for ingress and egress to enclose a specific area of not more than twenty-five percent (25%) of a rear or side yard for the purpose of use as a garden.

(d) *Rear yard privacy structure for wood deck, patio area or in-ground pool:*

- (1) A privacy structure shall be constructed of wood or decorative masonry materials not to exceed six (6) feet in height above the floor of a wood deck or grade of patio area or in-ground pool of which the structure is designed to cause privacy.
- (2) A privacy structure may screen an area in the rear yard not to exceed five hundred (500) square feet of the deck, patio area or in-ground pool.
- (3) A privacy structure shall be constructed at least three (3) feet from a perimeter fence or other parallel structure not to exceed sixteen (16) feet in length per side and not to exceed three (3) sides of area to be screened.
- (4) A privacy structure may be constructed as in subparagraph (d)(3) of this section but may exceed sixteen (16) feet to the full length of a side or rear yard line which is adjacent to a commercial area or an area which may be considered unsightly, as determined by the city engineer.

(e) *Above-ground swimming pools:* All deck fences around an above-ground swimming pool may not exceed thirty-six (36) inches above the basic deck platform.

City of Bellefontaine Neighbors -- QuickCode

(f) *Decorative structures and trellises:* A decorative structure and/or trellis may be constructed of wood, stone, decorative masonry or wrought iron material on a lot in the front, side or rear yard. Such decorative structure may be installed next to a driveway or sidewalk and a minimum of three (3) feet from all property lines and shall allow for adequate ingress and egress of vehicles at the driveway. The type of structure and location shall be subject to that which may be deemed prudent by the city engineer or for safety and with the general architectural conformity in the City. (Ord. No. 1238, § 5, 6-21-84; Ord. No. 1434, § 1, 10-19-89; Ord. No. 2043 §1, 8-3-06)

Sec. 5-55. Regulations for commercial and industrial zoning districts.

(a) It is the preference and policy of the city that all perimeter fences on nonresidential lots should be chainlink type with top and bottom edges knuckled. No fence or enclosure shall be erected or maintained of which any part is charged with or designed to be charged with an electrical current.

(b) Fences functioning as a screen for any purpose shall have an opaque value of seventy (70) percent or greater.

(c) No fence shall exceed six (6) feet in height above the underlying ground, nor may any fence contain barbed wire unless a permit for an extended height and/or barbed wire fence shall have been issued by the city engineer. Any property owner wishing to erect a fence to a height greater than six (6) feet or to utilize barbed wire in conjunction with any fence may request a permit to do so by filing an application with the city engineer stating the reasons why a fence of a height greater than six (6) feet and/or utilizing barbed wire is required. If the city engineer determines from the evidence that aesthetic or security requirements unique to the property would render a six (6) foot fence inadequate or that the use of barbed wire is the only practical method of achieving the level of security reasonably required on the premises, the permit shall be issued. Barbed wire must be so installed that it is no less than seven (7) feet above the underlying ground and restricted to that side of the fence which is towards the property being enclosed. In no event shall razor ribbon wire be permitted in or on any fence.

(d) No fence shall be constructed of cloth, canvas, chicken wire, or other nonpermanent material.

(e) No fence shall impede or divert the flow of surface water or stormwater creeks or channels through any property unless by proper investigation it can be shown to the satisfaction of the city engineer that the fence will not adversely impact any adjoining or downstream property owner and will contribute to an improvement in the overall drainage system.

(f) *Locations:*

(1) *Front yards:* No fence shall be erected, constructed or maintained within the required front yard area of any lot. On corner lots, this restriction shall apply to both required front yard areas. No fences shall be erected, constructed or maintained between the front line of the principal building on a lot and the street on which the lot has frontage.

(2) *Rear yards:* Fences may be erected at any location within the rear of the lot, up to and including

City of Bellefontaine Neighbors -- QuickCode

at or on the rear property line.

- (3) *Side yards:* Subject to the limitations that no fence may extend forward of the front line of the principal building on a lot or within a required additional front yard area for corner lots, fences may be erected at any area along the sides of lots, up to and including at or on the side lot lines.
- (4) *Easements:* No fence may be installed in, upon or across any public right-of-way, dedication or easement or an easement granted for public utility purposes.

(g) In reviewing an application for installation of a fence, the city engineer may reject an application if it is determined that the proposed materials, method of construction, color, size, or other physical characteristics would be unsightly, grotesque, unsuitable or incompatible with surrounding property or would interfere with or adversely impact the peaceful enjoyment or value of nearby property.

(h) All fences erected prior to enactment of this section (March 18, 1993) shall be considered non-conforming and as such shall be allowed to remain in place.

(i) All fences shall be erected in accord with the provisions of the building code. They shall be kept in good repair at all times; and all wood, metal, and/or other approved material shall be protected from the elements against decay, rot or rust by paint or other approved coating, applied in a workmanlike manner.

(Ord. No. 1238, § 6, 6-21-84; Ord. No. 1544, § 2, 3-18-93)

Sec. 5-56. Effect of ordinances.

The provisions of this article are further subject to existing zoning and building requirements of the city.

(Ord. No. 1238, § 7, 6-21-84)

Secs. 5-57—5-70. Reserved.

ARTICLE V. PROPERTY MAINTENANCE CODE

Cross references—Building code, § 5-21 et seq.; electrical code, § 8-31 et seq.; plumbing code, § 20-1.

Editor's Note--Ord. no. 2054 §1, adopted February 1, 2007, repealed sections 5-71--5-72 and enacted new provisions set out herein. Former sections 5-71--5-72 derived from ord. no. 1240 §2, 7-5-84; ord. no. 1592 §1, 2-17-94; ord. no. 1627 §1, 10-6-94; ord. no. 1631 §1, 11-17-94; ord. no. 1632 §1, 12-1-94; ord. no. 1671 §§1, 2, 9-21-95; ord. no. 1781 §1, 7-16-98.

Sec. 5-71. Property maintenance code adopted.

That a certain document, three (3) copies of which are on file in the office of the City Clerk, being marked and designated as "The Property Maintenance Code of the City of Bellefontaine Neighbors, Missouri" and bearing a revisions date of April 5, 2007, which code is based upon and derived from the International Property Maintenance Code, 2003, as published by the International Code Council, Inc., together with certain amendments, revisions, deletions and additions thereto, all as reflected therein, and as further amended by ord. no. 2166 and ord. no. 2201, is hereby adopted as the Property Maintenance Code of the City of Bellefontaine Neighbors, Missouri, for the control of property, buildings and structures as therein provided, and each and all the regulations set out in the code titled as above are hereby referred to, adopted and made a part hereof as if fully set out in this Article. (Ord. No. 2054 §1, 2-1-07; Ord. No. 2057 §1, 4-5-07; Ord. No. 2166 §1, 5-5-11; Ord. No. 2201 §1, 11-17-11)

Sec. 5-72. Violations; penalty.

(a) Persons who shall violate any provision of the code adopted by this article, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or direction of the code official, or of a permit or certificate issued under the provisions of the code adopted by this article, shall be guilty of an ordinance violation, punishable as provided in section 1-10 of this code of ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(b) In addition to any other penalties established for violations of the code adopted under this article, the official of the city responsible for enforcement of provision may, after approval by the board of aldermen, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with the provisions of this code of ordinances and any other ordinances adopted by the city. In such action, the court may grant such legal or equitable relief including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant. (Ord. No. 2054 §1, 2-1-07)

Secs. 5-73 Outside placement or storage of personal property prohibited.

(a) *Definition:* For purposes of this Section, the term "*indoor personal property*" shall mean furniture, furnishings, appliances, utensils, clothing, or personal property of any kind which has not been designed and manufactured primarily for exterior use and exposure to weather and the elements.

(b) *Prohibitions:*

(1) It is lawful for any owner or occupant of real property to store or keep, or permit the storage or keeping, of any indoor personal property at any location on the property other than fully enclosed inside an appropriate structure.

(2) It is unlawful for any owner or occupant of real property to place or deposit any personal property on any street, sidewalk, tree lawn or public right-of-way at any time; provided however, that this limitation shall not apply to (i) landscaping features; (ii) fixtures to realty, or (iii) permitted solid waste, recycling materials and authorized solid waste and recycling containers placed for collection in accord with the provisions of Chapter 12 of this Code of Ordinances or such alternative or successor regulations pertaining to the storage and collection of waste, as may be in force from time to time.

(Ord. No. 2246 §1, 4-4-13)

Secs. 5-74—5-80. Reserved.

ARTICLE VI. TECHNICAL CODES RELATIVE TO ELEVATORS

Sec. 5-81. Mechanical code relative to elevators adopted.

Chapter 30 of the "BOCA National Building Code, Twelfth Edition, 1993", adopted by the Building Officials and Code Administrators International, Inc., as adopted, amended and revised by St. Louis County, Missouri, pursuant to St. Louis County Ordinance No. 16,912 on March 17, 1994, and the "Mechanical Code" as published by the Building Officials and Code Administrators International, Inc., as it applies to periodic mechanical inspections and as adopted, amended and revised by St. Louis County, Missouri, pursuant to St. Louis County Ordinance No. 20694 on November 14, 2001, is hereby adopted as the mechanical code relative to elevators, manlifts and moving stairways for the City of Bellefontaine Neighbors, Missouri, as if fully set forth herein.

(Ord. No. 1663, § 1, 8-3-95; Ord. No. 1971, § 1, 6-17-04)

Editor's note—Ord. No. 1663, § 1, adopted August 3, 1995, repealed former § 5-81 which adopted the county mechanical code and was derived from Ord. No. 1407, § 1, adopted February 2, 1989, and enacted similar new provisions in lieu thereof to read as set out in § 5-81.

Sec. 5-82. Building code relative to elevators adopted.

The building code adopted by the County of St. Louis on or about December 21, 2000 as Ordinance No. 20,311 (1999 BOCA National Building Code with code amendments), is hereby adopted as the building code of the city of Bellefontaine Neighbors relative to elevators, manlifts and moving stairways as if set forth here in full.

(Ord. No. 1759, § 2, 11-6-97; Ord. No. 1888 §1, 7-5-01)

Secs. 5-83—5-90. Reserved.

ARTICLE VII. ALARM CODE

Editor's note—Section 1 of Ord. No. 1522, adopted Sept. 17, 1992, added a div. 2 to art. I of this chapter, §§ 5-10—5-14. Rather than dividing the first article in the chapter, the editor has included the provisions as art. VII, §§ 5-91—5-95.

Sec. 5-91. Short title.

This article may be designated and/or cited as The Alarm Systems Code of the City of Bellefontaine Neighbors.
(Ord. No. 1522, § 1, 9-17-92)

Sec. 5-92. Definitions.

As used in this article, the following terms shall have the meaning and definitions hereinafter provided:

(a) *Alarm system* means any mechanical or electrical device which is designed to be actuated manually or automatically upon the detection of an unauthorized entry, intrusion, or other emergency in or on any building, structure, facility or premises through the emission of a sound or transmission of a signal or message.

(b) *Alarm user* means a person who uses an alarm system to protect any building, structure, facility or premises.

(c) *Audible alarm* means an alarm system equipped with an exterior sound-producing device such as a gong, buzzer, siren, bell or horn.

(d) *Automatic dialing device* means an alarm system which automatically dials a specific telephone number and transmits an emergency message by recording over regular telephone lines when actuated.

(e) *Chief of police* means the Chief of the Bellefontaine Neighbors Police Department and includes his duly authorized agents.

(f) *Department* means the Bellefontaine Neighbors Police Department.

(g) *Direct signal alarm system* means an alarm system which provides for a special telephone line that is directly connected to a police department and has an outlet at the department which emits a sound or transmits a signal, or both, when actuated.

(h) *False alarm* means any activation of an alarm system intentionally or by inadvertence,

City of Bellefontaine Neighbors -- QuickCode

negligence or unintentional act to which police department personnel respond, including activation caused by the malfunction of the alarm system, except that the following circumstances shall not be considered false alarms:

- (1) When the chief of police determines that an alarm has been caused by damage, testing or repair of telephone equipment or lines by a telephone company, provided that such incidents are promptly reported by the company which caused them.
- (2) When an alarm is caused by an attempted and unauthorized or illegal entry of which there is visible evidence.
- (3) When an alarm is intentionally caused by a person at the premises acting under a reasonable belief that a need for calling emergency or police personnel.
- (4) When an alarm is followed by notice to the police department canceling the alarm by giving proper information, prior to the arrival of police or emergency personnel at the source of the alarm.
- (5) When the alarm is caused by an act of God, such as earthquake, flood, windstorm, thunder or lightning.

(Ord. No. 1522, § 1, 9-17-92; Ord. No. 1874 § 1, 2-15-01)

Sec. 5-93. Charges for false alarms.

(a) All false alarms to which the police department responds shall result in the following charges to the alarm user:

- (1) For the first false alarm in a calendar year there shall be no charge, but a warning shall be issued.
- (2) A fifteen-dollar (\$15.00) service charge for the second false alarm at a premises in any calendar year.
- (3) A twenty-dollar (\$20.00) service charge for the third false alarm at a premises in any calendar year.
- (4) A twenty-five-dollar (\$25.00) service charge for the fourth and any subsequent false alarm at a premises in any calendar year.

(b) Upon determination by the police department that a false alarm has occurred, the police department shall send a notice to the alarm user notifying the alarm user of the determination and directing the payment within ten (10) days of any service charge that may be due.

(c) The police department shall cancel any notice or service charge upon satisfactory proof by the alarm user that a particular alarm falls within the exceptions enumerated in section 5-92(c)(1) through

(5), above.

(d) Refusal to pay such a service charge within ten (10) days of such notice shall constitute a violation of this section.

(Ord. No. 1522, § 1, 9-17-92)

Sec. 5-94. Direct signal alarm system.

(a) All direct signal alarm systems which connect to the police department are prohibited, except for federal institutions which are required to have such an alarm system under federal law.

(b) Any federal institution which is permitted to have a direct signal alarm system shall be required to pay for all costs for the installation, maintenance and repair of the alarm system.

(Ord. No. 1522, § 1, 9-17-92)

Sec. 5-95. Audible alarms.

(a) No person shall install or use an audible alarm without a fifteen (15) minute timer.

(b) On or after January 1, 1993, any alarm user having an audible alarm shall be required to have and be responsible for equipping such an alarm with a fifteen (15) minute timer.

(Ord. No. 1522, § 1, 9-17-92)

Secs. 5-96—5-99. Reserved

**ARTICLE VIII. REGISTRATION OF VACANT RESIDENTIAL
STRUCTURES**

Sec. 5-100. Purpose and scope.

It is the purpose of this Article to provide for effective monitoring and routine inspection of vacant buildings and structures that, due to housing code violations, may endanger the life, limb, health, property, safety or welfare of the general public, and this Article shall apply to all residential structures that have been vacant for more than six (6) months and that are subject to housing code violations.

(Ord. No. 1933 §1, 12-19-02)

Sec. 5-110. Definitions.

The following words and phrases when used in this Article shall mean:

City of Bellefontaine Neighbors -- QuickCode

Housing code. A local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings.

Residential structure. A structure devoted primarily to residential use, whether classified as residential or commercial, and regardless of the number of dwelling units contained within such structure.
(Ord. No. 1933 §1, 12-19-02)

Sec. 5-120. Registration requirement.

Every parcel of residential property improved by a residential structure or commercial property improved by a structure containing multiple dwelling units, that is vacant, and has been vacant for at least six (6) months, and is characterized by violations of the housing code shall be registered as a vacant residential structure and shall be subject to the registration fee.
(Ord. No. 1933 §1, 12-19-02)

Sec. 5-130. Designation of vacant residential structures.

(a) *Registration.* The City Engineer for the City of Bellefontaine Neighbors, Missouri, or his designee, shall investigate any property that may be subject to registration. Based upon his findings, the City Engineer may register property as a vacant residential structure subject to this Article.

(b) *Notice of registration.* Within five (5) business days of such registration, the City Clerk shall notify the owners of the registered property by mail at their last known address according to the records of the City and St. Louis County. Such notice shall state:

- (1) A description of the property registered;
- (2) A description of the housing code violations found on the property;
- (3) The fact that a semi-annual registration fee has been levied on the property; and
- (4) The amount of the semi-annual registration fee.

(c) *Time to cure--reconsideration.* Within thirty (30) days of the date of notification, the property owner may complete any improvements to the property that may be necessary to remove the property from registration under this Article and may

City of Bellefontaine Neighbors -- QuickCode

request a reinspection of the property and reconsideration of the levy of the registration fee. Upon receipt of a written request for reconsideration of the levy of the registration fee which sets out the reasons claimed by the property owner as why the registration fee should be waived, the City Engineer may waive levy of the registration fee following timely compliance.

(d) *Appeal of registration and/or reconsideration to municipal court.* Within thirty (30) days of the date of such notification or within thirty (30) days of the date of reconsideration by the Building Commissioner, the property owner may appeal the decision to the office of the Municipal Court for the City of Bellefontaine Neighbors.
(Ord. No. 1933 §1, 12-19-02)

Section 5-140. Registration fee.

(a) *Amount of fee.* There is hereby established and assessed a semi-annual fee in the amount of two hundred dollars (\$200.00) imposed on all owners of property registered under this Article.

(b) *Owner responsible.* It shall be the joint and several responsibility of each owner of property registered pursuant to this Article to pay the semi-annual registration fee.

(c) *Accrual of fee.* The registration fee shall begin to accrue on the beginning of the second (2nd) calendar quarter after registration by the City Engineer or reconsideration by the City Engineer; however, in the event that an appeal is filed with the municipal court, the registration fee shall begin to accrue on the beginning of the second (2nd) calendar quarter after the final decision of the municipal judge or court of competent jurisdiction.

(d) *Billing procedures--late penalties.* The City Clerk shall cause to be mailed to the owner of property registered under this Article, at his or her last known address, a bill for the semi-annual registration fee. The fee shall be due and payable within thirty (30) days of mailing. In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property within thirty (30) days of the date of mailing, a late payment fee of twenty-five dollars (\$25.00) per month shall be assessed for each month during which the fee remains unpaid.

(e) *Failure to pay fee unlawful.* It shall be unlawful for any owner of property registered pursuant to this Article to fail to pay the registration fee imposed for such property. Any person found guilty of failing to pay any required fee shall be punished as provided in Section 1-10 of the Code of Ordinances.

(f) *Collection of delinquent fees--lien on property and other effects of delinquent fees--foreclosure proceedings.*

(1) *Action to recover.* In addition to any other penalties provided by law, the City may initiate and pursue an action in a court of competent jurisdiction to recover any unpaid fees, interest and penalties from any person liable therefore and, in addition, may recover the cost of such action, including reasonable attorney fees.

(2) *Lien on property.* Any unpaid or delinquent fees, interest and/or penalties, whether or not

City of Bellefontaine Neighbors -- QuickCode

reduced to judgment, shall constitute a lien against the property for which the fee was originally assessed until the same shall be fully satisfied. The City Clerk is authorized to take all steps necessary to file and perfect such liens as may be required or directed by the City Engineer from time to time.

(3) *Obtaining permits prohibited.* In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property, including any late payment fee subsequently imposed, within sixty (60) days of the date of mailing of the initial bill, said owner shall not be permitted to apply for, obtain or renew any City license or permit of any kind until such delinquency has been satisfied.

(4) *Foreclosure.* Any registration fees which are delinquent for a period of one (1) year shall be subject to foreclosure proceedings in the same manner as delinquent real property taxes. The owner of the property against which the assessment was originally made shall be able to redeem the property only by presenting evidence that the violations of the applicable housing code cited by the City Engineer have been cured and presenting payment of all registration fees and penalties.

(5) *Sale of property.* Upon bona fide sale of the property to an unrelated party, the lien on such property for the registration fees shall be considered released and the delinquent registration fee forgiven.

(Ord. No. 1933 §1, 12-19-02; Ord. No. 1940 §1, 5-1-03)

ARTICLE IX. MECHANICAL CODE

Sec. 5-141. Mechanical Code.

(a) That a certain document, a copy of which has been on file in the office of the City Clerk of the City of Bellefontaine Neighbors for at least ninety (90) days, being marked and designated as the International Mechanical Code, 2009 edition, as published by the International Code Council, and as further adopted, amended and modified by St. Louis County, Missouri, pursuant to Ordinance No. 24,438, adopted on July 14, 2010, and as further supplemented, amended and revised as provided in this Article, be and is hereby adopted as the Mechanical Code of the City of Bellefontaine Neighbors for the regulation of mechanical equipment as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of said Mechanical Code are hereby referenced to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes prescribed in this Article.

(b) The city engineer, with the approval of the board of aldermen, is hereby authorized to contract with other jurisdictions to provide appropriate mechanical code enforcement and, further, to issue and collect fees for applicable permits and inspections issued or made pursuant to such contracts.

(c) Contracts shall be approved by the city engineer and shall be approved as to legal form by the city attorney. No contract shall be entered into until both jurisdictions desiring to contract with each other shall first have duly adopted appropriate legislation authorizing said contract (a certified copy to be attached to and made a part of the contract) and duly adopted a mechanical code identical in

City of Bellefontaine Neighbors -- QuickCode

substance to this code.

(d) All plans reviewed pursuant to any such contract shall be reviewed and approved by the city and the applicable fire district for compliance with the zoning and other local regulatory ordinances or provisions prior to the submission for processing.

(Ord. No. 1971, § 1, 6-17-04; Ord. No. 2036 §1, 5-4-06; Ord. No. 2161 §1, 2-3-11)

Sec. 5-142. Violations; penalty.

(a) Persons who shall violate any provision of the Codes adopted by this Article, fail to comply with any of the requirements thereof, or erect, install, alter or repair work in violation of the approved construction documents or direction of the code official, or of a permit or certificate issued under the provisions of the Codes adopted by this Article, shall be guilty of an ordinance violation, punishable as provided in Section 1-10 of this Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(b) In addition to any other penalties established for violations of the code adopted under this article, the official of the city responsible for enforcement of provision may, after approval by the board of aldermen, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with the provisions of this Code of Ordinances and any other ordinances adopted by the city. In such action, the court may grant such legal or equitable relief including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant.

(Ord. No. 2036 §1, 5-4-06; Ord. No. 2161 §1, 2-3-11)

Secs. 5-143--5-199. Reserved.

ARTICLE X. INTERNATIONAL ENERGY CONSERVATION CODE

Sec. 5-200. International energy conservation code adopted.

That a certain document, three (3) copies of which have been on file in the office of the city clerk of the city of Bellefontaine Neighbors for at least ninety (90) days, being marked and designated as the International Energy Conservation Code, 2003 edition, together with all appendices and details and tables therein, as published by the International Code Council, be and is hereby adopted as the Energy Conservation Code of the city of Bellefontaine Neighbors for regulating and governing efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of said Energy Conservation Code are hereby referenced to, adopted and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes prescribed in this article.

(Ord. No. 2033 §1, 5-4-06)

Sec. 5-210. Amendments and revisions to code.

The International Energy Conservation Code, 2003 Edition, adopted by this article is hereby amended, revised and supplemented as follows:

Section 101.1 Title is hereby amended by inserting the name "City of Bellefontaine Neighbors, Missouri", therein.

(Ord. No. 2033 §1, 5-4-06)

Sec. 5-220. Violations; Penalty.

Persons who shall violate any provision of the code adopted by this article, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or direction of the code official or of a permit or certificate issued under the provisions of the code adopted by this article shall be guilty of an ordinance violation punishable as provided in Section 1-10 of this Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 2033 §1, 5-4-06)

Secs. 5-221--5-249. Reserved.

ARTICLE XI. LAND DISTURBANCE CODE

Sec. 5-250. Scope.

(a) *Title.* These regulations shall be known as the "Land Disturbance Code" of Bellefontaine Neighbors, Missouri, hereinafter referred to as "this Code".

(b) *Introduction.* On construction or land disturbance sites, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Deposits of eroded soil also necessitate maintenance of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. Construction activities also utilize materials and generate wastes, which if not properly controlled can pollute receiving waters.

(c) *Purpose.* The purpose of this Code is to safeguard persons, protect property and prevent damage to the environment in Bellefontaine Neighbors. This Code will also promote the public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in

City of Bellefontaine Neighbors -- QuickCode

Bellefontaine Neighbors.

(d) *Scope.* This Code provides for the safety, health and welfare of the public by regulating and controlling the design, construction, use and maintenance of any development or other activity that disturbs land surfaces or results in the movement of earth in Bellefontaine Neighbors, Missouri.

(e) *Definitions.* For the purpose of this Code, the following terms, phrases, words and their derivations shall have the meanings given herein. Where terms are not defined by this Section, such terms shall have ordinarily accepted meanings such as the context implies.

Best management practices or BMP: Practices, procedures or a schedule of activities to reduce the amount of sediment and other pollutants in stormwater discharges associated with construction and land disturbance activities.

City engineer: The Bellefontaine Neighbors City Engineer and Director of Public Works and/or his/her designee.

Clearing: Any activity that removes the vegetative surface cover.

Code or this code: The "Land Disturbance Code" of Bellefontaine Neighbors, Missouri.

County: St. Louis County, Missouri.

Construction site or land disturbance site: A parcel or contiguous parcels where land disturbance activities are performed as part of a proposed development.

Drainage way: Any channel that conveys surface runoff through a site.

Erosion: The wearing away of land surface through the action of wind or water.

Erosion control: Any Best Management Practices (BMP) that prevents or minimizes erosion.

Grading: Reshaping the ground surface through excavation and/or fill of material.

Land disturbance activities: Clearing, grading or any related work which results in removal of the natural site vegetation and destruction of the root zone or otherwise results in leaving the ground surface exposed to soil erosion through the action of wind or water.

Land disturbance, major: Any land disturbance activity involving one (1) acre or more of land or a site involving less than one (1) acre that is part of a proposed development that will ultimately disturb one (1) acre or more.

Land disturbance, ordinary: Any land disturbance activity involving less than one (1) acre of land.

Land disturbance permit: A permit issued by the authority having jurisdiction authorizing a land

City of Bellefontaine Neighbors -- QuickCode

disturbance activity at a specific site subject to conditions stated in the permit. A permit may be for either Major or Ordinary Land Disturbance Activities.

Perimeter control: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing: Clearing a parcel of land in distinct stages, with the stabilization of each phase substantially completed before the clearing of the next.

Qualified professional: A Missouri licensed professional engineer or other person or firm knowledgeable in the principles and practices of erosion and sediment control, including the Best Management Practices described in this Code.

Runoff coefficient: The fraction of total rainfall that exits at the outfalls from a site.

Sediment control: Any Best Management Practices (BMP) that prevents eroded sediment from leaving a site.

Stabilization: The use of Best Management Practices (BMP) that prevent exposed soil from eroding from a land disturbance site.

Start of construction: The first land disturbance activity associated with a development.

Storm water pollution prevention plan (SWPPP): A management plan, the purpose of which is to ensure the design, implementation, management and maintenance of Best Management Practices (BMP) in order to reduce the amount of sediment and other pollutants in stormwater discharges associated with Land Disturbance Activities, comply with the standards of the county and ensure compliance with the terms and conditions of the applicable state permits, including adherence to the land disturbance program contained in Missouri MS4 NPDES permits.

Watercourse: A natural or artificial channel or body of water including, but not limited to, lakes, ponds, rivers, streams, ditches and other open conveyances that carry surface runoff water either continuously or intermittently.
(Ord. No. 2079 §1, 3-6-08)

Sec. 5-260. Applicability.

The provisions of this Code shall not be deemed to nullify any provisions of city, county, state or federal law.
(Ord. No. 2079 §1, 3-6-08)

Sec. 5-270. Enforcement.

The City Engineer shall have the authority and responsibility to administer and enforce the

requirements of this Code.
(Ord. No. 2079 §1, 3-6-08)

Sec. 5-280. Violations.

(a) *Unlawful acts.* It shall be unlawful for any person, firm or corporation to perform any land disturbance activities or cause or allow same to be done in conflict with or in violation of any of the provisions of this Code.

(b) *Notices of violations.* When the City Engineer determines that a violation of this Code exists, he shall notify the violator. The notification shall be in writing and shall be delivered to the violator or his/her legally authorized representative or mailed to his last known address via first class mail postage prepaid. Any person having been notified that a violation exists and who fails to abate the violation within ten (10) days after notification shall be subject to the penalties enumerated herein.

(c) *Prosecution of violation.* If the violator does not abate the violation promptly, the City Engineer shall request the City legal counsel to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation.

(d) *Violation, penalties.* Any person, firm or corporation who shall violate any provision of this Code or who shall fail to comply with any of the requirements thereof or who shall perform work in violation of the approved construction documents or the Storm Water Pollution Prevention Plan or any directive of the City Engineer or of a permit or certificate issued under the provisions of this Code or shall start any work requiring a permit without first obtaining a permit therefore or who shall continue any work in or about a structure after having been served a stop work order, except for such work which that person, firm or corporation has been directed to perform to remove a violation or unsafe conditions, or any owner of a property or any other person who commits, takes part or assists in any violation of this Code or who maintains any property on which such violation shall exist shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

(1) *No-permit penalty.* In addition to the penalties set out above, the following procedure shall be followed where City Engineer determines that work has been started prior to the acquisition of a permit required by this Code:

(a) The City Engineer shall issue a stop work order.

(b) The City Engineer shall notify the violator of his/her assessment regarding the appropriate penalty amount to be assessed against the violator, which shall not exceed one thousand dollars (\$1,000.00) for each day that work occurs without a permit. In making the assessment, the City Engineer shall consider whether the violator has previously violated this Code and whether the occupation or experience of the violator indicates that he/she knew or should have known that a permit was required. In no case will a no-permit penalty be assessed against a property owner unless he/she actually performed the work involved.

City of Bellefontaine Neighbors -- QuickCode

- (c) At the violator's option, he/she may deposit the assessed penalty amount in escrow (certified check or cash only) with the City, in which case the violator's right to a hearing will be preserved.
 - (d) No-permit penalties are appealable to the Board of Adjustment in the same manner as other code enforcement decisions of the City Engineer.
 - (e) At the hearing the City Engineer and the alleged violator shall have an opportunity to present any evidence or make any statements they wish to have considered.
 - (f) Following the hearing the Board of Adjustment shall determine whether a permit was required:
 - (i) If the Board determines that a permit was required, an appropriate penalty amount shall be assessed, taking into account the same considerations as noted above. The stop work order shall remain in full force and effect until such time as the penalty and the violator has complied with all other regulations pertaining to the issuance of permits.
 - (ii) If the Board determines that no permit was required, the City Engineer shall immediately cancel the stop work order.
- (2) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the City from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal use of a property or to stop an illegal act.
- (3) *Permit suspension or revocation.* When a land disturbance activity is conducted in violation of the requirements of this Code or the terms of the permit in such a manner as to materially adversely affect the safety, health or welfare of persons or materially be detrimental or injurious to property or improvements, the City Engineer may suspend or revoke such permit.
- (4) *Stop work order.* Upon notice from the City Engineer that work on any property is being prosecuted contrary to the provisions of this Code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume.
- (a) *Unlawful continuance.* Whenever the City Engineer finds that any land disturbance activity is being prosecuted contrary to the provisions of this Code or in an unsafe and dangerous manner, the owner or the person performing such activity shall immediately stop such activity. The stop work order shall be in writing and shall be given to the owner of the property involved or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume. Any person who shall continue any work in or about the property after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as specified in this Code.

(Ord. No. 2079 §1, 3-6-08)

Sec. 5-290. Appeals.

(a) *Application for appeal.* Any person shall have the right to appeal a decision of the City Engineer to the Board of Adjustment. An application for appeal shall be based on a claim that the intent of this Code or the rules or regulations adopted hereunder have been incorrectly interpreted or the provisions of this Code do not apply.

(1) *Filing procedure.* All appeals shall be filed in writing with the Department of Public Works. All appeals shall be filed within thirty (30) days after the decision to be appealed is rendered by the departments identified in this Section.

(2) *Filing fee.* All appeals must be accompanied by a fee in the amount specified by the Board of Aldermen from time to time.

(b) *Notice of meeting.* The Board of Adjustment shall meet upon notice from the Chairman within ten days of the filing of an appeal or at stated periodic meetings.

(c) *Open hearing.* All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the enforcement officer and any person whose interests are affected shall be given an opportunity to be heard.

(d) *Procedure.* The Board may adopt procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.

(e) *Board decision.* Decisions by the Board to reverse or modify a decision by the City Engineer requires a minimum vote of three (3) members.

(1) *Resolution.* The decision of the Board shall be in writing. Copies shall be furnished to the appellant and to the City Engineer.

(2) *Court review.* A party adversely affected by a decision of the Board may appeal to Circuit Court of St. Louis County from such decision. Application for review shall be made in the manner and time required by law following the filing of the decision.

(Ord. No. 2079 §1, 3-6-08)

Sec. 5-300. Land disturbance permits required.

(a) *Permit required.* Any person who intends to conduct any land disturbance activity must obtain a permit prior to beginning the activity. The type of permit shall be as required by Subsections (1) or (2) in this Section.

Exception: Activities that do not require permits under Subsection (c) of this Section.

City of Bellefontaine Neighbors -- QuickCode

- (1) *Major land disturbance permit.* No person shall perform any major land disturbance activity prior to receipt of a major land disturbance permit. Applications for major land disturbance Permits shall be filed with the City Engineer. In addition, land disturbance activity over one (1) acre must comply with the Missouri Department of Natural Resources land disturbance permitting requirements.

Exception: Activities that do not require permits under Subsection (c) of this Section.

- (2) *Ordinary land disturbance permit.* No person shall perform any ordinary land disturbance activity prior to receipt of an ordinary land disturbance permit. Applications for ordinary land disturbance permits shall be filed with the City Engineer.

Exception: Activities that do not require permits under Subsection (c) of this Section.

- (a) *Building permit and related ordinary land disturbance activities.* The City Engineer may include ordinary land disturbance activities associated with the construction of a building, structure or parking lot authorized by a permit issued under the building code as an integrated permit for the proposed construction.

(b) *Limitation on transfer of land disturbance permits.* Any person who buys land from a person who has been issued a land disturbance permit under Subsections (a)(1) or (a)(2) of this Section must obtain a separate land disturbance permit.

Exceptions:

- (1) Major land disturbance permits may be transferred to a new land owner provided the original permit holder obtains the approval of the City Engineer to retain responsibility for the land disturbance activities on such property.
- (2) Ordinary land disturbance permits may be transferred to a new land owner provided the original permit holder obtains the approval of the City Engineer to retain responsibility for the land disturbance activities on such property.

(c) *Exceptions--land disturbance permits not required.* Land disturbance permits are not required for the activities identified as items (i) and (viii) in this Section, nor are such permits required for the activities identified in items (ii--vii), provided the activity does not alter or cause to be altered the present surface of the ground:

- (1) By any cut or fill at the property line;
- (2) By any cut or fill that would permanently divert one drainage area to another drainage area;
- (3) By any cut or fill which would deposit mud or harmful silt or create erosion or damage to adjoining properties; or
- (4) By any cut or fill that would block or affect an existing swale or drainage path in a manner to cause damming and ponding.

City of Bellefontaine Neighbors -- QuickCode

- (i) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.
- (ii) Existing farming, nursery and agricultural operations conducted as a permitted or accessory use.
- (iii) Excavation or fill of less than thirty (30) cubic yards provided the land disturbance activity is for the improvement of the property. Erosion and sediment control measures shall be provided, when necessary, until grass or other vegetation is established or other approved means of ground cover means are used.
- (iv) Land disturbance activities associated with additions to and accessory structures for one- and two-family dwellings.
- (v) Land disturbance activities less than two thousand (2,000) square feet in area.
- (vi) Removal of existing or dying grass or similar vegetation by disturbing not more than ten thousand (10,000) square feet and resodding or reseeded with new landscaping to include preparation of the seed bed; provided erosion and sediment control measures are provided until the grass or other vegetation is established. Any cut or fill in conjunction with the preparation of the seed bed shall not exceed thirty (30) cubic yards.
- (vii) Gardening and similar activities on property occupied by one- or two-family dwellings.
- (viii) Land disturbance activities by any public utility for the installation, inspection, repair or replacement of any of its equipment or for its collection or distribution lines or piping systems; provided erosion and sediment control measures are provided until grass or other vegetation is established or other approved ground cover means are used. This exception does not apply to any land disturbance activity associated with work that requires a building permit.

(d) *State of Missouri permits required.* The permit applicant must obtain a land disturbance permit from the State of Missouri Department of Natural Resources for any site where one (1) acre or more of land will be disturbed before beginning any site work authorized by a City permit. This requirement applies to sites of less than one (1) acre that are part of a proposed development that will ultimately disturb one (1) acre or more.

(Ord. No. 2079 §1, 3-6-08)

Sec. 5-310. Land disturbance permit applications.

(a) *Permit applications.* Applications for land disturbance permits required by this Code shall be in the form prescribed by and accompanied by the site plans and documents determined necessary by the City Engineer.

(b) *Storm Water Pollution Prevention Plan Required (SWPPP) for major land disturbance permits.* All applications for major land disturbance permits shall be accompanied by a Storm Water

City of Bellefontaine Neighbors -- QuickCode

Pollution Prevention Plan prepared for the specific site by or under the direction of a qualified professional. The application shall contain a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the Storm Water Pollution Prevention Plan and the applicant will assume and acknowledge responsibility for compliance with this Code and the Storm Water Pollution Prevention Plan at the site of the permitted activity.

(c) *Required site development escrows for major land disturbance permits.* Applicants for major land disturbance permits shall file a site development escrow in the form of a letter of credit or other improvement security in an amount deemed sufficient by the City Engineer to cover all costs of improvements, landscaping and maintenance of improvements for such period as specified by the City Engineer. The site development escrow shall include engineering and inspection costs sufficient to cover the cost of failure or repair of improvements installed on the site.

(1) *Release of escrows--project closure.* Any site development escrow will not be fully released to the property owner, site operator or permit holder until all of the following have been completed:

(a) All temporary storm water control Best Management Practices (BMP) have been removed and the site has been fully stabilized.

(b) All permanent stormwater control Best Management Practices (BMP) have been completed.

(c) All final inspections/certifications have been completed by each of the government jurisdictions involved in authorizing the project.

(Ord. No. 2079 §1, 3-6-08)

Sec. 5-320. Fees.

Issuance of permits. Land disturbance permits shall not be issued until the fees associated with the permit are paid as specified by the Board of Aldermen from time to time.

(Ord. No. 2079 §1, 3-6-08)

Sec. 5-330. Storm Water Pollution Prevention Plan (SWPPP).

(a) *Content--Storm Water Pollution Prevention Plan (SWPPP).* The design requirements of this Code shall be complied with when developing the Storm Water Pollution Prevention Plan and the plan shall include the following:

(1) Name, address and telephone number of the site owner and the name, address and telephone number of the individual who will be in overall responsible charge of construction/development activities at the site.

(2) Site address or location description and parcel identification number(s).

(3) A site map showing the outlines of the total project area, the areas to be disturbed, existing

City of Bellefontaine Neighbors -- QuickCode

land uses, locations and names of surface water bodies, locations of floodplains, locations of temporary and permanent Best Management Practices (BMP) and such other information as may be required by the City Engineer.

- (4) Existing contours of the site and adjoining strips of off-site property and proposed contours after completion of the proposed land disturbance and development, based on United States Geological Survey datum, with established elevations at buildings, walks, drives, street and roads; and information on necessary clearing and grubbing, removal of existing structures, excavating, filling, spreading and compacting.
- (5) A natural resources map identifying soils, forest cover and resources protected under other provisions of City ordinances.
- (6) An estimate of the runoff coefficient of the site prior to disturbance and the runoff coefficient after the construction addressed in the permit application is completed.
- (7) Estimated quantity of land to be disturbed.
- (8) Details of the site drainage pattern both before and after major land disturbance activities.
- (9) Access to construction site.
- (10) Description of Best Management Practices (BMP) to be utilized to control erosion and sedimentation during the period of land disturbance.
- (11) Description of Best Management Practices (BMP) to be utilized to prevent other potential pollutants such as construction wastes, toxic or hazardous substances, petroleum products, pesticides, herbicides, site litter, sanitary wastes and other pollutants from entering the natural drainage ways during the period of construction and land disturbance.
- (12) Description of Best Management Practices (BMP) that will be installed during land disturbance to control pollutants in stormwater discharges that will occur after land disturbance activity has been completed.
- (13) Location of temporary off-street parking and wash-down area for related vehicles.
- (14) Sources of off-site borrow material or spoil sites and all information relative to haul routes, trucks and equipment.
- (15) The anticipated sequence of construction and land disturbance activities, including installation of Best Management Practices (BMP), removal of temporary Best Management Practices (BMP), stripping and clearing; rough grading; construction utilities, infrastructure and buildings; and final grading and landscaping. Sequencing shall identify the expected date(s) on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures and establishment of permanent vegetation.
- (16) All erosion and sediment control measures necessary to meet the objectives of this Code throughout all phases of construction and after completion of site development. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the

City of Bellefontaine Neighbors -- QuickCode

close of each season.

- (17) Seeding mixtures and rates, types of sod, method of seed bed preparation, expected seeding dates, type and rate of lime and fertilizer application and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- (18) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.
- (19) Plans for responding to any loss of contained sediment to include the immediate actions the permit holder will take in case of a containment failure. This plan must include documentation of actions and mandatory reporting to the City Engineer.
- (20) Schedules and procedures for routine inspections of an structures provided to prevent pollution of stormwater or to remove pollutants from stormwater and of the site in general to ensure all Best Management Practices (BMP) are continually implemented and are effective.

(b) *Required plan amendments--Storm Water Pollution Prevention Plan (SWPPP).* The permit holder shall amend the Storm Water Pollution Prevention Plan whenever:

- (1) Design, operation or maintenance of Best Management Practices (BMP) is changed;
- (2) Design of the construction project is changed that could significantly affect the quality of the stormwater discharges;
- (3) Site operator's inspections indicate deficiencies in the Storm Water Pollution Prevention Plan (SWPPP) or any Best Management Practices (BMP);
- (4) Inspections by City or by the Missouri Department of Natural Resources indicate deficiencies in the Storm Water Pollution Prevention Plan (SWPPP) or any Best Management Practices (BMP);
- (5) The Storm Water Pollution Prevention Plan (SWPPP) is determined to be ineffective in significantly minimizing or controlling erosion or excessive sediment deposits in streams or lakes;
- (6) The Storm Water Pollution Prevention Plan (SWPPP) is determined to be ineffective in preventing pollution of waterways from construction wastes, chemicals, fueling facilities, concrete truck washouts, toxic or hazardous materials, site litter or other substances or wastes likely to have an adverse impact on water quality;
- (7) Total settleable solids from a stormwater outfall exceeds 0.5 mi/L/hr if the discharge is within the prescribed proximity of a "Valuable Resource Water" as defined by the Missouri Department of Natural Resources;
- (8) Total settleable solids from a stormwater outfall exceeds 2.5 ml/L/hr for any other outfall; or
- (9) The City or the Missouri Department of Natural Resources determines violations of water quality standards may occur or have occurred.

City of Bellefontaine Neighbors -- QuickCode

(c) *Permit-holder responsibilities for administration of Storm Water Pollution Prevention Plan (SWPPP).* The permit holder shall:

- (1) Notify all contractors and other entities (including utility crews or their agents) that will perform work at the site of the existence of the Storm Water Pollution Prevention Plan (SWPPP) and what actions or precautions shall be taken while on site to minimize the potential for erosion and the potential for damaging any Best Management Practices (BMP);
- (2) Determine the need for and establish training programs to ensure that all site workers have been trained, at a minimum, in erosion control, material handling and storage and housekeeping;
- (3) Provide copies of the Storm Water Pollution Prevention Plan (SWPPP) to all parties who are responsible for installation, operation or maintenance of any Best Management Practices (BMP); and
- (4) Maintain a current copy of the Storm Water Pollution Prevention Plan (SWPPP) on the site at all times.

(Ord. No. 2079 §1, 3-6-08)

Sec. 5-340. Design requirements--general.

(a) *Design.* The design of erosion and settlement controls required for land disturbance activities shall comply with the following minimum requirements:

- (1) Land disturbance, erosion and sediment control practices and watercourse crossings shall be adequate to prevent transportation of sediment from the site.
- (2) Materials brought to any site or property under a permit issued under this Code, where said material is intended to be utilized as fill material at the site for land disturbance, erosion or sediment control, shall consist of clean uncontaminated earth, soil, dirt, sand, rocks, gravel or masonry materials only.
- (3) Cut and fill slopes shall be no greater than 3:1 except as approved by the City Engineer to meet other community or environmental objectives.
- (4) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other ordinances.
- (5) Clearing techniques that retain existing vegetation to the maximum extent practicable shall be used and the time period for disturbed areas to be without vegetative cover shall be minimized to the extent practical.
- (6) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- (7) Phasing shall be required on all sites disturbing greater than thirty (30) acres of land. The size of each phase will be established by the City Engineer at the time of plan review for the

City of Bellefontaine Neighbors -- QuickCode
issuance of a major land disturbance permit.

- (b) *Erosion control design.* Erosion control requirements shall include the following:
- (1) Soil stabilization shall be completed within five (5) days of clearing or inactivity in construction.
 - (2) If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks or the site shall be reseeded or a non-vegetative option employed.
 - (3) Techniques shall be employed to ensure stabilization on steep slopes and in drainage ways.
 - (4) Soil stockpiles must be stabilized or covered at the end of each workday or perimeter controls must be in place to prevent silt from the stockpile from leaving the site.
 - (5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
 - (6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - (7) Techniques shall be employed to divert upland runoff past disturbed slopes.
- (c) *Sediment control design.* Sediment control requirements shall include:
- (1) Settling basins, sediment traps or tanks and perimeter controls.
 - (2) Settling basins shall be provided for each drainage area within ten (10) or more acres disturbed at one time and shall be sized to contain one-half (0.5) inch of sediment from the drainage area and be able to contain a 2-year, 24-hour storm. If the provision of a basin of this size is impractical, other similarly effective Best Management Practices (BMP), as evaluated and specified in the Storm Water Pollution Prevention Plan (SWPPP), shall be provided.
 - (3) Settling basins shall be designed in a manner that allows adaptation to provide long-term storm water management as required by the City Engineer.
 - (4) Settling basins shall have stabilized spillways to minimize the potential for erosion of the spillway or basin embankment.
 - (5) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- (d) *Watercourse design.* Watercourse protection requirements shall include:
- (1) Encroachment into or crossings of active watercourses/riparian areas and wetlands shall be avoided to the maximum extent practicable. All city, state and federal permits and approvals shall be obtained by a permit holder prior to beginning work authorized by a land disturbance permit.
 - (2) Stabilization of any watercourse channels before, during and after any in-channel work.

City of Bellefontaine Neighbors -- QuickCode

- (3) If a defined watercourse is to be realigned or reconfigured, clearing and grubbing activities within fifty (50) feet of the watercourse shall not begin until all materials and equipment necessary to protect the watercourse and complete the work are on site. Once started, work shall be completed as soon as possible. Areas within fifty (50) feet of the watercourse shall be recontoured and revegetated, seeded or otherwise protected within five (5) working days after land disturbance activities have ceased.
- (4) All stormwater conveyances shall be designed according to the criteria of the St. Louis Metropolitan Sewer District (MSD) and the necessary MSD permits obtained.
- (5) Stabilization adequate to prevent erosion shall be provided at the outlets of all pipes and paved channels.

(e) *Construction site access design.* Construction site access requirements for major land disturbance activities shall include:

- (1) A temporary access road provided at all land disturbance sites including a wash-down area supporting all active sites.
- (2) The City Engineer may require other measures to ensure that construction vehicles do not track sediment onto public streets or be washed with wash effluent channeled directly into storm drains.

(f) *Control of construction materials and waste.* Control requirements for construction materials, construction wastes and other wastes generated on site at land disturbance sites shall include provisions, satisfactory to the City Engineer:

- (1) Spill prevention and control facilities for materials such as paint, solvents, petroleum products, chemicals, toxic or hazardous substances, substances regulated under the Resource Conservation and Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and any wastes generated from the use of such materials and substances, including their containers. Any containment systems employed to meet this requirement shall be constructed of materials compatible with the substances contained and shall be adequate to protect both surface and ground water.
- (2) Collection and disposal of discarded building materials and other construction site wastes, including those listed in Subsection (1) above.
- (3) Litter control.
- (4) Control of concrete truck washouts.
- (5) Assurance that on-site fueling facilities will adhere to applicable federal and state regulations concerning storage and dispensers.
- (6) Provision of sufficient temporary toilet facilities to serve the number of workers on major land disturbance sites.

(Ord. No. 2079 §1, 3-6-08)

Sec. 5-350. Inspections--general.

(a) *City Engineer--general.* The City Engineer shall make inspections as herein required and shall either approve that portion of the work completed or shall notify the permit holder wherein the work fails to comply with the land disturbance, erosion and sediment control plan as approved. Plans for land disturbance, stripping, excavating and filling work bearing the stamp of approval of the department issuing the permit shall be maintained at the site during the progress of the work. To obtain inspections, a permit holder shall notify the City Engineer at least two (2) working days before the following:

- (1) Start of construction.
- (2) Installation of sediment and erosion measures.
- (3) Completion of site clearing.
- (4) Completion of rough grading.
- (5) Completion of final grading.
- (6) Close of the construction season.
- (7) Completion of final landscaping.

(b) *Extra inspections.* In addition to the inspections otherwise required, the City Engineer is authorized to perform and charge fees for extra inspections or reinspections which in his judgment are reasonably necessary due to non-compliance with the requirements of this Code or work not ready or accessible for inspection when requested.

(c) *Permit holder inspection and report responsibilities--major land disturbances.* The holder of a major land disturbance permit or his/her agent shall cause regular inspections of land disturbance sites, including all erosion and sediment and other pollutant control measures, outfalls and off-site receiving waters, in accordance with the inspection schedule outlined in the approved Storm Water Pollution Prevention Plan (SWPPP). Inspections must be scheduled at least once per week and no later than seventy-two (72) hours after heavy rain. The purpose of such inspections will be to ensure proper installation, operation and maintenance of Best Management Practices (BMP) and to determine the overall effectiveness of the Storm Water Pollution Prevention Plan (SWPPP) and the need for additional control measures. All inspections shall be documented in written form on weekly reports with copies submitted to the City Engineer at the time interval specified in the permit. Permit holder inspection reports must include the following minimum information:

- (1) Inspector's name and signature;
- (2) Date of inspection;
- (3) Observations relative to the effectiveness of the Best Management Practices (BMP);

City of Bellefontaine Neighbors -- QuickCode

- (4) Actions taken or necessary to correct deficiencies; and
- (5) A listing of areas where land disturbance operations have permanently or temporarily stopped.

The permit holder shall notify the site contractor(s) responsible for any deficiencies identified so that deficiencies can be corrected within seven (7) calendar days of the weekly inspection report.

(d) *Verification of permit holder's reports.* The City Engineer may make extra inspections as deemed necessary to ensure the validity of the reports filed under this Code or to otherwise ensure proper installation, operation and maintenance of stormwater Best Management Practices (BMP) and to determine the overall effectiveness of the Storm Water Pollution Prevention Plan (SWPPP) and the need for additional control measures.

(Ord. No. 2079 §1, 3-6-08)

ARTICLE XII. STREAM BUFFER PROTECTION

Sec. 5-351. Title.

This Article shall be known as the "City of Bellefontaine Neighbors, Missouri, Stream Buffer Protection Ordinance".

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-352. Findings and purposes.

(a) *Findings.* The Board of Aldermen of the City of Bellefontaine Neighbors, Missouri, finds that buffers adjacent to streams provide numerous benefits including:

- (1) Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources.
- (2) Removing pollutants delivered in urban stormwater.
- (3) Reducing erosion and controlling sedimentation.
- (4) Protecting and stabilizing stream banks.
- (5) Providing for infiltration of stormwater runoff.
- (6) Maintaining base flow of streams.
- (7) Contributing organic matter that is a source of food and energy for the aquatic ecosystem.
- (8) Providing tree canopy to shade streams and promote desirable aquatic habitat.

City of Bellefontaine Neighbors -- QuickCode

(9) Providing riparian wildlife habitat.

(10) Furnishing scenic value and recreational opportunity.

(11) Providing opportunities for the protection and restoration of green space.

(b) *Purposes.* The purpose of this Article is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:

(1) Create buffer zones along the streams of City of Bellefontaine Neighbors for the protection of water resources; and

(2) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-353. Definitions.

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

Buffer: With respect to a stream, a natural or enhanced vegetated area lying adjacent to the stream.

Floodplain: Any land area susceptible to flooding, which would have at least a one percent (1%) probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.

Impervious cover: Any manmade paved, hardened or structural surface regardless of material. Impervious cover includes, but is not limited to, rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.

Land development: Any land change including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

Land development activity: Those actions or activities which comprise, facilitate or result in land development.

Land disturbance: Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

Land disturbance activity: Those actions or activities which comprise, facilitate or result in land disturbance.

City of Bellefontaine Neighbors -- QuickCode

Parcel: Any plot, lot or acreage shown as a unit on the latest county tax assessment records.

Permit: The permit issued by the City of Bellefontaine Neighbors required for undertaking any land development activity.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

Protection area or stream protection area: With respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

Riparian: Belonging or related to the bank of a river, stream, lake, pond or impoundment.

Setback: With respect to a stream, the area established pursuant to these regulations extending beyond any buffer applicable to the stream.

Stream: Any stream, beginning at:

- (1) All natural watercourses depicted by a solid or dashed blue line on the most current United States Geological Survey (U.S.G.S.) 7.5 Minute Series (Topographic) Maps for Missouri; or
- (2) A point in the stream channel with a drainage area of twenty-five (25) acres or more.

Stream bank: The sloping land that contains the stream channel and the normal flows of the stream. Where no established top-of-bank can be determined, the stream bank will be the "ordinary high water mark" as defined by the Corps of Engineers in Title 33 of the Code of Federal Regulation, Part 328.3.

Stream channel: The portion of a watercourse that contains the base flow of the stream.
(Ord. No. 2081 §1, 3-20-08)

Sec. 5-354. Applicability.

This Article shall apply to all land development activity on property containing a stream protection area as defined in Section 5-353 of this Article. These requirements are in addition to and do not replace or supersede any other applicable buffer or floodplain requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

- (a) *Grandfather provisions.* This Article shall not apply to the following activities:
 - (1) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this Article.

City of Bellefontaine Neighbors -- QuickCode

- (2) Existing development and ongoing land disturbance activities including, but not limited to, existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
- (3) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this Article.
- (4) Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two (2) years of the effective date of this Article.

(b) *Exemptions.* The following specific activities are exempt from this Article. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

- (1) Activities for the purpose of building one (1) of the following:
 - (i) A stream crossing by a driveway, transportation route or utility line;
 - (ii) Public water supply intake or public wastewater structures or stormwater outfalls;
 - (iii) Intrusions necessary to provide access to a property;
 - (iv) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - (v) Unpaved foot trails and paths;
 - (vi) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
- (2) *Public sewer line easements.* This includes such impervious cover as is necessary for the operation and maintenance of the utility including, but not limited to, manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in Subsection (b)(1) above.
- (3) Land development activities within a right-of-way existing at the time this Article takes effect or approved under the terms of this Article.
- (4) Within an easement of any utility existing at the time this Article takes effect or approved under the terms of this Article, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility including, but not limited to, manholes, vents and valve structures.
- (5) Emergency work necessary to preserve life or property. However, when emergency work is performed under this Section, the person performing it shall report such work to the City Engineer on the next business day after commencement of the work. Within ten (10) days

City of Bellefontaine Neighbors -- QuickCode

thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the City Engineer to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

- (6) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three (3) years after the end of the activities that intruded on the buffer.
- (7) Any activities approved under a 404 permit issued by the Corps of Engineers and 401 water quality certification issued by the Missouri Department of Natural Resources.

After the effective date of this Article, it shall apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to these regulations.

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-355. Land development requirements.

(a) *Buffer and setback requirements.* All land development activity subject to this Article shall meet the following requirements:

- (1) For streams depicted as a solid blue line on the U.S.G.S. map, an undisturbed natural vegetative buffer shall be maintained for fifty (50) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. For all other streams subject to this Article, an undisturbed natural vegetative buffer shall be maintained for twenty-five (25) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.
- (2) An additional setback shall be maintained for twenty-five (25) feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.
- (3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

(b) *Variance procedures.* Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

- (1) Where a parcel was platted prior to the effective date of this Article and its shape, topography or other existing physical condition prevents land development consistent with this Article and the City Engineer finds and determines that the requirements of this Article prohibit the otherwise lawful use of the property by the owner, the Board of Adjustment of

City of Bellefontaine Neighbors -- QuickCode

City of Bellefontaine Neighbors may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.

- (2) Except as provided above, the Board of Adjustment of City of Bellefontaine Neighbors shall grant no variance from any provision of this Article without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Board of Adjustment. The City of Bellefontaine Neighbors shall give public notice of each such public hearing in a newspaper of general circulation within City of Bellefontaine Neighbors.

Variations will be considered only in the following cases:

- (i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this Article prevents land development unless a buffer variance is granted.
- (ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the Article would create an extreme hardship.

Variations will not be considered when, following adoption of this Article, actions of any property owner of a given property have created conditions of a hardship on that property.

- (3) At a minimum, a variance request shall include the following information:

- (i) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features as determined by field survey;
- (ii) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- (iii) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
- (iv) Documentation of unusual hardship should the buffer be maintained;
- (v) At least one (1) alternative plan, which does not include a buffer or setback intrusion or an explanation of why such a site plan is not possible;
- (vi) A calculation of the total area and length of the proposed intrusion;
- (vii) A stormwater management site plan, if applicable; and
- (viii) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

- (4) The following factors will be considered in determining whether to issue a variance:

- (i) The shape, size, topography, slope, soils, vegetation and other physical characteristics of

City of Bellefontaine Neighbors -- QuickCode

the property;

- (ii) The locations of all streams on the property, including along property boundaries;
- (iii) The location and extent of the proposed buffer or setback intrusion;
- (iv) Whether alternative designs are possible which require less intrusion or no intrusion;
- (v) The long-term and construction water-quality impacts of the proposed variance; and
- (vi) Whether issuance of the variance is at least as protective of natural resources and the environment.

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-356. Compatibility with other regulations and requirements.

This Article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this Article should be considered minimum requirements and where any provision of this Article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-357. Additional information requirements for development on buffer zone properties.

(a) *Site plan information.* Any permit applications for property requiring buffers and setbacks hereunder must include the following:

- (1) A site plan showing:
 - (i) The location of all streams on the property;
 - (ii) Limits of required stream buffers and setbacks on the property;
 - (iii) Buffer zone topography with contour lines at no greater than five (5) foot contour intervals;
 - (iv) Delineation of forested and open areas in the buffer zone; and
 - (v) Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
- (2) A description of all proposed land development within the buffer and setback; and,
- (3) Any other documentation that the City may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.

City of Bellefontaine Neighbors -- QuickCode

All buffer and setback areas must be recorded on the final plat of the property following plan approval. A note to reference the vegetated buffer shall state: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by Stream Buffer Protection Ordinance of the City of Bellefontaine Neighbors".

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-358. Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof nor with the provisions of this Article shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon City of Bellefontaine Neighbors, its officers or employees for injury or damage to persons or property.

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-359. Inspection.

(a) The City may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the City in making such inspections. The City of Bellefontaine Neighbors shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Article and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.

(b) No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-360. Violations, enforcement and penalties.

Any action or inaction which violates the provisions of this Article or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(a) *Notice of violation.* If the City determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this Article, it shall issue a written notice of violation to such applicant or other responsible person.

City of Bellefontaine Neighbors -- QuickCode

Where a person is engaged in activity covered by this Article without having first secured the appropriate permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this Article and the date for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
- (6) A statement that the determination of violation may be appealed to the City Engineer by filing a written notice of appeal within thirty (30) days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient).

(b) *Penalties.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one (1) or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City shall first notify the applicant or other responsible person in writing of its intended action and shall provide a reasonable opportunity of not less than ten (10) days (except that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City may take any one (1) or more of the following actions or impose any one (1) or more of the following penalties.

- (1) *Stop work order.* The City may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
- (2) *Withhold certificate of occupancy.* The City may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (3) *Suspension, revocation or modification of permit.* The City may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified

City of Bellefontaine Neighbors -- QuickCode

permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

- (4) *Civil penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days (or such greater period as the City shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours' notice shall be sufficient) after the City has taken one (1) or more of the actions described above, the City may impose a penalty not to exceed one thousand dollars (\$1,000.00) (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (5) *Criminal penalties.* For intentional and flagrant violations of this Article, the citation may be issued by the City Bellefontaine Neighbors to the applicant or other responsible person, requiring such person to appear in City of Bellefontaine Neighbors municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 2081 §1, 3-20-08)

Sec. 5-361. Administrative appeal and judicial review.

(a) *Administrative appeal.* Any person aggrieved by a decision or order of the City's enforcement personnel may appeal in writing filed with the City Clerk within ten (10) days after the issuance of such decision or order for a hearing before the Board of Adjustment of City of Bellefontaine Neighbors.

(b) *Judicial review.* Any person aggrieved by a decision or order of Board of Adjustment, after exhausting all administrative remedies, shall have the right to seek review in the Circuit Court of St. Louis County pursuant to the provision of Chapter 536, RSMo., by filing for judicial review within fifteen (15) days of the decision for which review is sought

(Ord. No. 2081 §1, 3-20-08)

Secs. 5-362—5-399. Reserved.

ARTICLE XIII. STORMWATER CONSIDERATION IN SITE DESIGN

Sec. 5-400. Applicability.

City of Bellefontaine Neighbors -- QuickCode

The standards referenced and adopted in this Article shall apply to site design for any project which includes alteration of site drainage or floodplain areas, connection to storm sewer systems or open stormwater channels and all land disturbance projects encompassing more than one (1) acre.
(Ord. No. 2128 §1, 3-18-10)

Sec. 5-410. MSD Approval Required.

All private and public projects to which this Article is applicable must be reviewed and approved for stormwater issues by the Metropolitan St. Louis Sewer District in accord with the rules, regulations, standards and procedures of that body prior to the issuance by the City of any permits for land disturbance or construction.
(Ord. No. 2128 §1, 3-18-10)

Sec. 5-420. Submittal requirements

Applicants for any development, redevelopment, land disturbance, construction or other undertaking to which this Article is applicable shall be required to provide any and all information necessary to enable the Metropolitan St. Louis Sewer District ("MSD"), the City and City plan review personnel to assess and apply the standards and criteria promulgated by MSD entitled "Site Design Guidance--Tools for Incorporating Post-Construction Stormwater Quality Protection into Concept Plans and Land Disturbance Permitting" as such standards and criteria may be promulgated by MSD from time to time.
(Ord. No. 2128 §1, 3-18-10)

Chapter 6 -- CIVIL DEFENSE AND DISASTER

Cross references—Administration generally, Ch. 2; fire prevention and protection, Ch. 10; flood damage prevention and control, Ch. 11; health and sanitation, Ch. 13; motor vehicles and traffic, Ch. 17; plumbing, Ch. 20; police, Ch. 21.

State law reference—Civil defense generally, RSMo. Ch. 44.

Sec. 6-1. Civil defense organization—Created; purpose.

There is hereby created the civil defense organization of the city for the preparation and the carrying out of all the emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by enemy attack in accordance with chapter 44 of the Revised Statutes of Missouri, or upon the occurrence of any disastrous emergency which may be declared an emergency by the mayor.
(Code 1964, § 6-1)

State law reference—Authority of city to establish civil defense organization, RSMo. § 44.080.

Sec. 6-2. Same—Composition.

The civil defense organization of the city shall consist of the director and other additional members to be selected by the director.
(Code 1964, § 6-2)

Sec. 6-3. Same—Duties generally.

The civil defense organization of the city shall perform such civil defense functions within the city as shall be prescribed in and by the state civil defense plan and program prepared by the governor and such orders, rules and regulations as may be promulgated by the governor and, in addition, shall perform such duties outside the city as may be required pursuant to any mutual aid agreement with any other political subdivision, municipality or quasi-municipality entered into as provided by chapter 44 of the Revised Statutes of Missouri.
(Code 1964, § 6-3)

Sec. 6-4. Same—Office space.

The mayor is authorized to designate space in the city hall or elsewhere, as may be provided for by the board of aldermen, for the civil defense organization of the city as its office.
(Code 1964, § 6-4)

Sec. 6-5. Director of civil defense organization—Appointment; responsibility for organization; absence or inability to serve.

(a) The director of the civil defense organization of the city shall be appointed by the mayor upon the approval of the board of aldermen and shall serve until removed by the same.

(b) The director shall have direct responsibility for the organization, administration and operation of the civil defense organization subject to the direction and control of the mayor and board of aldermen, as provided by statute.

(c) In the event of the absence or inability to serve of the director, the mayor or any person designated by him shall act as director.
(Code 1964, § 6-5)

State law reference—Appointment of director of civil defense organization, RSMo. § 44.080.

Sec. 6-6. Same—Powers generally.

The director of the civil defense organization shall have the power to appoint and provide, without compensation, and/or remove air raid wardens, rescue teams, auxiliary fire and police personnel and other civil defense teams, units and personnel.

(Code 1964, § 6-6)

Sec. 6-7. Oath of office of persons serving in organization.

Every person appointed to serve in any capacity in the civil defense organization of the city shall, before entering upon his duties, subscribe to the following oath, which shall be filed with the director:

"I _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Missouri, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the Government of the United States or this state by force or violence; and that during such time as I am affiliated with the civil defense organization of the City of Bellefontaine Neighbors, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence."

(Code 1964, § 6-8)

Sec. 6-8. Mobile support units.

The director of the civil defense organization shall form mobile support units as provided for in chapter 44 of the Revised Statutes of Missouri and shall designate the leaders thereof. Any member of a mobile support team who is a municipal employee or officer while serving on call to duty by the governor or the state director of civil defense shall receive the compensation and have the powers, duties, rights and immunities incident to such employment or office.

(Code 1964, § 6-7)

Sec. 6-9. Mutual-aid agreements.

(a) The mayor, with the approval of the governor, may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the state for reciprocal emergency aid. Such arrangements or agreements shall be consistent with the state disaster plan and program. In time of emergency it shall be the duty of the civil defense organization to render assistance in accordance

City of Bellefontaine Neighbors -- QuickCode
with the provisions of such mutual-aid arrangements or agreements.

(b) The director of the civil defense organization may assist in the negotiation of reciprocal mutual-aid agreements between the city organization and other public and private agencies and between the governor and the adjoining states or political subdivisions thereof and shall carry out arrangements or agreements relating to the city unit.
(Code 1964, § 6-9)

State law reference—Mutual-aid agreements, RSMo. § 44.090.

Sec. 6-10. Utilization of services, equipment, etc., of existing departments and agencies; cooperation with state officials.

In carrying out the emergency powers under the provisions of this chapter, the mayor and board of aldermen shall utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the city to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies shall cooperate with and extend such services and facilities to the governor and to the civil defense organization of the state upon request.
(Code 1964, § 6-10)

State law reference—Similar provisions, RSMo. § 44.110.

Sec. 6-11. Acceptance of equipment, materials, funds, etc., from federal or state governments.

Whenever the federal government, the state government or any officer or agency thereof shall offer to the city services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of civil defense, the city, acting with the consent of the governor and through the mayor, may accept such offer and, upon acceptance, the mayor may authorize any officer of the city to receive such services, equipment, supplies, materials or funds on behalf of the city, subject to the terms of the offer.
(Code 1964, § 6-11)

Sec. 6-12. Waiver of certain procedures and formalities in event of enemy attack.

In the event of enemy attack, the city may waive any time-consuming procedures and formalities otherwise required by statute or ordinance pertaining to the advertisement for bids for the performance of public work or entering into contracts.
(Code 1964, § 6-12)

Chapter 7 -- ELECTIONS

Cross reference—Administration generally, Ch. 2.

State law reference—Elections generally, RSMo., chs. 111 to 129

Sec. 7-1. General city elections; authority to call special elections.

A general city election for the election of a mayor of the city shall be held on the general municipal election day, as prescribed by state law, to coincide with the end of the term of office for mayor, which term shall be four (4) years. On the general municipal election day in April 2003, as prescribed by state law, one (1) alderman shall be elected from each of the wards in the city for a term of three (3) years to succeed the alderman whose term expires at such time. Beginning in April 2004, on the general municipal election day, as prescribed by state law, of each year in which a term will expire, one (1) aldermen shall be elected from each of the wards in the city for a term of four (4) years to succeed the alderman whose term expires at such time. Special elections for any lawful purpose may be called by the board of aldermen at any time.

(Code 1964, § 9-1; Ord. No. 1747, § 1, 8-7-97; Ord. No. 1874 §1, 2-15-01; Ord. No. 1904 §1, 1-17-02; Ord. No. 1905 §4, 1-17-02)

State law references—Elective officials of fourth class cities, RSMo. § 79.050; city to be divided into wards, election of aldermen, § 79.060.

Editor's Note—On November 7, 2000, a proposition was submitted to and approved by the voters of the city to provide for the appointment of the chief of police and the city collector. On April 2, 2002, a proposition was submitted to and approved by the voters of the city to provide for a four (4) year term for aldermen.

Sec. 7-2. Elections to be held in compliance with state law; duties of judges and clerks of election.

All city elections shall be held under the provisions of the Revised Statutes of Missouri and amendments thereto.

(Code 1964, § 9-2)

Sec. 7-3. Special election to fill vacancy in office.

If a vacancy occurs in any elective office, the mayor or the person exercising the duties of the mayor shall cause a special meeting of the board of aldermen to convene where a successor to the vacant office shall be selected. The successor shall serve until the next regular election. If a vacancy occurs in any office not elected, the mayor shall appoint a suitable person to discharge the duties of such office until the first regular meeting of the board of aldermen thereafter, at which time such vacancy shall be permanently filled.

(Code 1964, § 9-8)

Sec. 7-4. Declaration of candidacy; when and where filed; city clerk to provide notice of elections.

For all elections for offices of the city, the opening of filing for filing a declaration of candidacy shall be 8:00 A.M. on the fifteenth Tuesday prior to the election. The filing period shall close at 5:00 P.M. on the eleventh Tuesday before the election. All declarations of candidacy shall be filed with the city clerk at the clerk's office in city hall. The city clerk shall provide notice of the election as provided by law on or before the fifteenth Tuesday prior to the election, which notice shall include the offices for which an election shall be held, the opening date and time for filing declarations of candidacy, the proper place for filing such declarations and the closing date and time of the filing period. Such notification may be accomplished by legal notice published in at least one newspaper of general circulation in the city. (Ord. No. 1397, § 1, 9-15-88; Ord. No. 1432, § 1, 9-21-89; Ord. No. 1709, § 1, 9-5-96)

Chapter 8 -- ELECTRICITY

Cross references—Buildings and building regulations, Ch. 5; civil defense and disaster, Ch. 6; fire prevention and protection, Ch. 10; flood damage prevention and control, Ch. 11; plumbing, Ch. 20; sewers and sewage disposal, Ch. 22; subdivision regulations, Ch. 24; swimming pools, Ch. 25.

ARTICLE I. IN GENERAL

Sec. 8-1. City engineer designated official in charge.

The city engineer shall be the person vested with executive authority to see that all provisions of this chapter are carried out.

(Ord. No. 993, § 4, 6-3-76; Ord. No. 1347, § 4, 4-16-87)

Cross reference—City engineer generally, § 2-131 et seq.

Sec. 8-2. Penalty for violation of chapter.

Any person violating any of the provisions of this chapter and the regulations adopted thereunder shall, upon conviction, be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment.

(Ord. No. 1347, § 8, 4-16-87; Ord. No. 1743, § 1, 7-17-97)

Editor's note—Ord. No. 1347, adopted Apr. 16, 1987, did not specifically amend this Code; § 8 of the ordinance, therefore, has been included as § 8-2 at the discretion of the editor.

Secs. 8-3—8-15. Reserved.

ARTICLE II. ASSISTANT ELECTRICAL INSPECTOR

Cross reference—Building inspector, § 5-3.

Sec. 8-16. Office created.

There is hereby created the office of assistant electrical inspector in the city.
(Code 1964, § 10-10)

Sec. 8-17. Appointment; qualifications.

The assistant electrical inspector shall be appointed by the mayor with the approval of a majority of the members of the board of aldermen and shall be a duly licensed electrical contractor, or a duly licensed electrical engineer, or a journeyman electrician in the state at least five (5) years prior to such appointment as assistant electrical inspector, or have qualifications of similar background and training.
(Code 1964, § 10-11)

Sec. 8-18. Powers and duties; reports.

(a) The assistant electrical inspector shall serve directly under the supervision of the city engineer, and the assistant electrical inspector shall have responsibility for making all electrical inspections, issuing electrical permits and performing all work and functions that may be necessary or required for the proper implementation of the electrical code and other ordinances of the city. The assistant electrical inspector may be overruled or his orders countermanded by the city engineer.

(b) The assistant electrical inspector shall make such reports to the mayor and board of aldermen or other officials of the city as may be directed by the mayor or board of aldermen.
(Code 1964, § 10-12)

Sec. 8-19. Salary.

The assistant electrical inspector shall receive a monthly salary as established by the board of

aldermen from time to time.

(Code 1964, § 10-13; Ord. No. 1214, § 8, 7-5-84)

Secs. 8-20—8-30. Reserved.

ARTICLE III. CODE

Cross references—Building code, § 5-21 et seq.; property maintenance code, § 5-71 et seq.; mechanical code, § 5-81; plumbing code, § 20-1.

Sec. 8-31. Adopted.

(a) That a certain document, a copy of which has been on file in the office of the City Clerk of the City of Bellefontaine Neighbors for at least ninety (90) days, being marked and designated as the National Electrical Code, 2008 edition, as published by the National Fire Protection Association, and as further adopted, amended and modified by St. Louis County, Missouri, pursuant to Ordinance No. 24,439 as approved on July 14, 2010, and as further supplemented, amended and revised as provided in this Article, be and is hereby adopted as the Electrical Code of the City of Bellefontaine Neighbors for the regulation of electrical equipment as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of said Electrical Code are hereby referenced to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes prescribed in this Article.

(b) The city engineer, with the approval of the board of aldermen, is hereby authorized to contract with other jurisdictions to provide appropriate electrical code enforcement and, further, to issue and collect fees for applicable permits and inspections issued or made pursuant to such contracts.

(c) Contracts shall be approved by the city engineer and shall be approved as to legal form by the city attorney. No contract shall be entered into until both jurisdictions desiring to contract with each other shall first have duly adopted appropriate legislation authorizing said contract (a certified copy to be attached to and made a part of the contract) and duly adopted an electrical code identical in substance to this code.

(d) All plans reviewed pursuant to any such contract shall be reviewed and approved by the city and the applicable fire district for compliance with the zoning and other local regulatory ordinances or provisions prior to the submission for processing.

(Ord. No. 2037 §1, 5-4-06; Ord. No. 2154 §1, 1-6-11)

Sec. 8-32. Violations; Penalty.

Persons who shall violate any provision of the Code adopted by this Article, fail to comply with any of

City of Bellefontaine Neighbors -- QuickCode

the requirements thereof, or erect, install, alter or repair work in violation of the approved construction documents or direction of the applicable code official, or of a permit or certificate issued under the provisions of the Code adopted by this Article, shall be guilty of an ordinance violation, punishable as provided in Section 1-10 of this Code of Ordinances. Each day that a violation continues shall be deemed a separate offense.

(Ord. No. 2037 §1, 5-4-06; Ord. No. 2154 §1, 1-6-11)

Secs. 8-33—8-45. Reserved.

ARTICLE IV. LICENSES

Cross reference—Licenses, permits and miscellaneous business regulations, Ch. 15.

Sec. 8-46. Required.

(a) No person shall engage in the business of making or maintaining electrical installations or install any electrical material, apparatus, or equipment of any kind without first having been examined and licensed to do same by St. Louis County, and as may be required by the city.

(b) It shall be unlawful for any person to engage in the business of electrical or communication work, without having been duly licensed as required by law.

(Ord. No. 993, § 10, 6-3-76; Ord. No. 1347, §§ 7, 10, 4-16-87)

Sec. 8-47. Use of licensee's name by another.

No person licensed by law to do electrical work under the provisions of this chapter shall allow his name to be used by another person, either for the purpose of obtaining permits, or for doing business or work under the license. Every person licensed shall notify the office of the city engineer as well as any other official in charge of electrical inspections the address of his place of business and the name under which such business is carried on, and shall give immediate notice to the office of the city engineer as well as any other official in charge of electrical inspections hereunder of any change in either.

(Ord. No. 993, § 11, 6-3-76; Ord. No. 1347, § 11, 4-16-87)

Sec. 8-48. Contract with county.

The mayor, upon confirmation by the board of aldermen, is hereby authorized to contract with the county to provide electrical inspection service for the city, and to issue, collect for and disburse receipts to the city for electrical permits and inspections. Such contract may provide for disbursement to the city of up to one-third () of all permit and inspection fees collected by St. Louis County under said contract. However, in the event the board of aldermen decided not to have St. Louis County provide the electrical

City of Bellefontaine Neighbors -- QuickCode

inspections service as aforesaid, the city may have its own electrical inspector make such electrical inspections, or contract with another municipality to make such electrical inspections.

(Ord. No. 993, § 12, 6-3-76; Ord. No. 1347, § 12, 4-16-87)

Secs. 8-49—8-60. Reserved.

ARTICLE V. PERMITS AND INSPECTIONS

Cross reference—Licenses, permits and miscellaneous business regulations, Ch. 15.

Sec. 8-61. Permits required.

No person shall begin any work of installing, erecting or altering material, wiring, fixtures, or other apparatus, to be used or in use for generation, transmission, and utilization of electricity for light, heat and power in and on buildings and premises in the territory subject to the provisions of these regulations unless, and until written application shall have been filed in the office of the city engineer for a permit to do the work contemplated at least twenty-four (24) hours before such work shall be commenced; such application shall describe in detail the nature of such work and shall give the location thereof by street and number and shall bear the date of beginning such work and the tentative date of completion thereof. No person shall begin such work unless and until a permit shall have been obtained. In the event of an emergency, work may begin by securing permission from the city engineer upon condition that written application be filed in such office without delay. No permit issued under the provisions of these regulations shall be assignable or transferable or be used to aid or abet any unlicensed person in the performance of electrical work.

(Ord. No. 993, § 6, 6-3-76; Ord. No. 1347, § 6, 4-16-87)

Sec. 8-62. Inspections required.

Upon completion of any electrical installation for which a permit has been issued, the permittee shall notify the office of the city engineer and a final inspection shall be made. The official in charge of electrical inspection shall cause to be made as many interim inspections as he deems necessary. No installation shall be covered or concealed until inspected.

(Ord. No. 993, § 9, 6-3-76; Ord. No. 1347, § 9, 4-16-87)

Sec. 8-63. Permits and inspection fees.

(a) Inspection of buildings and premises, where electrical installations and maintenance are undertaken shall be performed by the official designated by the city. Each applicant for all electrical work permits and inspections shall pay a fee to the city in the amount of twenty-two dollars (\$22.00) as a permit processing fee in addition to the appropriate unit prices as set forth in the schedule of unit prices

City of Bellefontaine Neighbors -- QuickCode

in subsection (b) herein; however, said schedule notwithstanding, the minimum fee for an electrical permit shall be fifty dollars (\$50.00), including permit processing and one (1) inspection, and where plan review is required, the minimum fee for an electric permit shall be seventy-three dollars (\$73.00). When additional or extra inspections are needed they shall be charged at the rate of twenty-eight dollars (\$28.00) per inspection.

(b) *Schedule of unit prices:*

<i>Item Unit</i>	<i>First Unit</i>	<i>Each additional</i>
Cable television		
Head-end station—Per street mile	\$ 4.00	
Power booster	29.00.....	\$29.00
Carnivals—Per each location	35.00.....	35.00
Communications systems		
Amplifiers	8.00.....	8.00
Telephones	8.00.....	8.00
Television Antenna.....	8.00.....	8.00
Burglar Alarm.....	8.00.....	8.00
Electrical heat—Per 10 KW.....	6.00.....	6.00
Electrical outlets	7.00.....	0.60
Elevators		
Per floor.....	6.00.....	0.60
Per car.....	6.00.....	6.00
Motors		
Less than and up to and including 5 h.p.....	6.00.....	0.60
More than 5 h.p.....	6.00.....	0.60
Reinspections		
Union Electric.....	34.00.....	34.00
Disconnected service.....	34.00.....	34.00
Old installations.....	34.00.....	34.00
Residential new construction—Integrated permit		
Residential rewire		
Service installed	34.00.....	34.00
Service not installed.....	34.00.....	34.00
Service equipment and switch boards and panel boards		
Up to and including 200 amperes.....	11.00	11.00
Over 200 and up to and including 400 amperes.....	17.00.....	17.00
Over 400 and up to and including 600 amperes.....	39.00.....	39.00
Over 600 amperes.....	50.00.....	50.00
Transformers.....	8.00.....	4.00
X-rays.....	8.00.....	8.00

(c) *Notes/definitions:* The following terms shall have the following respective meanings when used in this section:

City of Bellefontaine Neighbors -- QuickCode

- (1) *Electrical outlets*—Each and every point on the electrical system where power or light is derived for any purpose whatsoever. In computing outlets for fluorescent fixtures, each fixture shall be counted as an electrical outlet.
- (2) *Panel board switches and switchboard section*—Each and every point on the electrical system where switches or protective devices are mounted in an individual panel or single framework.
- (3) *Reinspections; Disconnected service*—Reinspection of buildings on which service wires have been removed, or in commercial installations, when a change in tenancy has taken place or installations of the "R" use group and which may not have been in use for a period of six (6) months or more. This does not apply to cases of discontinuance of service pending payment of delinquent bills.
- (4) *Reinspections; Old installations*—Inspection of old installations of electrical work, made upon request of the owner, and issuance of certificates thereon.
- (5) *Residential rewire*—Inspection of rewiring, rehabilitation, additions and alterations to existing electrical wiring and equipment installation to residential occupancies of the R-1, R-2 and R-3 use groups.
- (6) *Service equipment*—Each and every point on the electrical system where power is derived from the public utility systems or a private generating plant.
- (7) *Transformers*—Each and every point on the electrical system where the primary voltage is either increased or decreased.
- (8) *X-rays*—Each and every point on the electrical system where an individual x-ray device or machine is served.

(Ord. No. 993, § 5, 6-3-76; Ord. No. 1347, § 5, 4-16-87; Ord. No. 1612, § 2, 7-7-94; Ord. No. 1743, § 3, 7-17-97; Ord. No. 1871 §2, 1-4-01)

Chapter 9 -- EXCAVATIONS

Cross references—*Buildings and building regulations, Ch. 5; civil defense and disaster, Ch. 6; flood damage prevention and control, Ch. 11; plumbing, Ch. 20; street excavations generally, § 23-46 et seq.; subdivision regulations, Ch. 24; swimming pools, Ch. 25.*

State law reference—*Authority to regulate excavations, RSMo. § 79.410*

ARTICLE I. GENERALLY

Sec. 9-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Angle of repose. The angle between the horizontal and the surface of a natural slope that a mass of soil will assume.

Backfill. Earth material placed in a void beneath finish grade.

Bank. The bounding side or inside surface of an excavation; generally very steep or vertical.

Bench. A narrow shelf that breaks the continuity of a bank.

Board of adjustment. The board of adjustment of the city.

Bored tunnels. A horizontal, circular hole excavated exclusively by mechanical means without the entry of persons into the excavation.

Bottom of slope. In mixed vertical and sloped section, the horizontal line at which the upper sloped section meets the lower vertical.

Bracing and shoring. The method of reinforcing the banks of a trench or excavation or the supporting members of sheeting in sheet piling.

City engineer. The city engineer or his duly authorized representative.

Cleated. Securing by means of a piece of wood or metal to provide strength and stability.

Cohesive soils. Soils which have the capacity of sticking or adhering together without depending upon inter-particle friction.

Depth of excavation or height of slope. The vertical distance from the surface where any excavation or slope is started, to the bottom of that excavation or to the toe of slope.

Drilled well. A vertical, circular hole excavated exclusively by mechanical means without the entry of persons into the excavation.

Driving fit. Sheeting or bracing that is placed so tightly so as to require the application of force.

Engineer. The city engineer or his duly authorized representative.

Excavation. A hole formed by boring, cutting, digging or scooping.

City of Bellefontaine Neighbors -- QuickCode

Foundation pier or drilled caisson excavation. An essentially vertical excavation normally made by rotary drilling.

Hard clay. A firm, plastic, fine grained earth.

Hard shale. A fine grained, non-crystalline, amorphous stratum which will when struck cause hand excavating tools to ring audibly.

Large excavation. An excavation whose length and width exceed its average depth.

Non-cohesive soils. Soils which do not have the capacity of sticking together; such soils generally exhibit inter-particle friction.

Scabbled. Fastened to the side by a mechanical means such as bolting or spiking.

Shaft. An excavation having vertical walls with depth its greatest dimension.

Shear strength. The combined shearing resistance imparted by the cohesion and/or friction between soil particles.

Sheeting. The planks driven or placed around the boundary of a proposed excavation; the process of covering the sides of an excavation with planks.

Sheet-piling. The method of reinforcing the sides of a trench or excavation by continuous vertical members to support and exclude running material.

Side-sloped excavation. Excavations where banks are stable as a result of sloping, rather than by bracing.

Slope. An inclined surface of constant inclination.

Solid or sound rocks. Structurally stable, consolidated natural materials that cannot normally be excavated by manual methods alone; i.e., limestone and sandstone.

Stanking. Underground conduit construction at intermediate depths in good, cohesive soils in which at one (1) or more locations holes are opened with undercutting of the banks parallel to the conduit centerline, to support the weight of the existing overburden and surface adjacent to the hole.

Stringers. A horizontal beam supporting sheeting and extending between connecting upright posts in a frame.

Tie rods. Tension members used for anchoring.

Toe of slope. The level surface at the bottom of a slope.

Top of slope. The broad, generally level surface at the uppermost limits of a slope.

Trench. A narrow excavation made below the surface of the ground, the depth of which will be greater than one of the horizontal dimensions. The term shall not include, tunnels, wide trenches, shafts, stanking or undercutting.

Trench shield. A portable metal assembly for shoring and bracing a limited length of trench.

Tunnel. An enclosed excavation which generally runs horizontal beneath the ground surface and whose ends may or may not be directly exposed at ground surface.

Underpinning. Supporting from beneath.

Wide trenches. Those trenches whose depth is equal to or greater than the average depth.
(Code 1964, § 10A-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 9-2. Standards and specifications generally.

All excavations made in the city shall be made in strict compliance with the following rules, regulations, conditions and restrictions and it shall be unlawful for any person to fail to observe and follow such rules, regulations, conditions and restrictions when making an excavation:

- (1) All excavations six (6) feet or more in depth shall be provided with ladders or stairways or ramps to facilitate safe entrance and exit. Such ramps, ladders or stairways shall be sufficient in number and so spread out that no worker in the trench will ever be more than fifty (50) feet from one of them. All ladders shall extend from the bottom of the excavation to at least three (3) feet above the surface of the ground. At least two (2) or more workmen shall be required on the job of making an excavation of six (6) feet in depth or more.
- (2) Hazardous material, such as rock, frozen earth, clods, stumps and the like shall be kept from the sides of the trench to prevent rollbacks. All excavated material and superimposed loads shall be placed at least eighteen (18) inches from the sides of the excavation. When superimposed loads or equipment are within the limiting plane of rupture, bracing shall be increased to withstand the resultant additional pressures.
- (3) Subject to those exceptions specifically set forth in this chapter the sides of all excavations more than six (6) feet deep shall be supported by substantial and adequate sheeting, sheet-piling, bracing and shoring. The design of the supporting system shall be based on calculations of pressures, in which consideration is given to the type and conditions of the material to be retained, surcharges imposed by nearby structures, machinery or stored materials, vibrations from equipment, blasting or traffic, anticipated weather conditions, period of time in which the excavation work is to be completed and any other pertinent factors which would have a bearing on the safety of the excavation work.

City of Bellefontaine Neighbors -- QuickCode

- (4) Sheet piling, sheet-piling, bracing or shoring shall not be required in the following cases:
- a. Excavations for the foundation or basement of any building, structure or swimming pool for which a building permit has been duly issued.
 - b. Utility post holes, test borings, drilled pier foundations, bored tunnels, drilled wells and grave excavations, providing no person will enter them.
 - c. Where the sides of the excavation are completely situated in solid rock, hard clay or hard shale.
 - d. Where the sides of the excavation are sloped to the angle of repose.
 - e. In cohesive soils until the depth of a trench exceeds eight (8) feet, when vertical banks are removed by a distance of eight (8) feet or more from paralleling trench or similar excavations, either active or completed, and no free ground soil moisture is present.
 - f. Where the total depth of the excavation is less than fifteen (15) feet and the sides are cut at an inclination no steeper than one (1) horizontal to one (1) vertical.
 - g. Where the total depth of an excavation exceeds fifteen (15) feet, if the bank inclination is not steeper than one and one-half (1½) horizontal to one (1) vertical.
 - h. Where an excavation extends through sound horizontal (-5 degree) rock. However, any overburden above the rock material shall be braced or sloped as required for excavations with mixed vertical and sloped sections.
 - i. Where the bottom width of a wide trench exceeds the depth of an excavation for uses such as drainage ditches, unlined flood control channels, highway cuts, large excavations, site grading, sewage lagoons, artificial lakes and ponds, rough grading for highway and railroad underpasses, relatively shallow pits for nursery plantings and drainage sumps in large excavations.
 - j. The bracing requirements for vertical or sloped banks steeper than those permitted to be without bracing under this chapter may be waived if all the following conditions are met:
 1. The excavation is for other than trench, shaft or pier purposes.
 2. An extensive subsurface investigation preceded design.
 3. Design is by a registered professional engineer.
 4. The construction is scheduled for a time of year in which inherent soil stability is at its greatest.
 5. A detailed scheduling by the contractor is prepared, which indicates method by which

City of Bellefontaine Neighbors -- QuickCode

all reasonably anticipated occurrences would be met and the specific steps which would be taken in each case.

6. Entire construction period is continuously under the supervision of the city engineer responsible for the investigation and design.
 7. Filing with the city engineer a certificate signed by the initiating registered professional engineer that all the above conditions are met.
- (5) In case of trenches, the support provided for in subparagraph (3) herein, shall be in accordance with the minimum requirements for size and spacing; of sheeting and timbers as set forth in Table A, which table is attached hereto and so designated. These are minimum requirements. Greater factors of safety shall be provided when conditions encountered on a job make them advisable.
 - (6) The bracing for piers and footing shall meet the acceptable minimum requirements as outlined for excavations, with the top of grade being the highest point within three (3) feet of the edge of the excavation.
 - (7) All shafts and tunnels in other than sound rock shall be braced. The permittee shall use detailed bracing plans approved by a registered professional engineer for shafts and tunnels. Bracing is not required for stanking.
 - (8) All trench and foundation excavations shall be cut with vertical walls unless the sides are sloped to no steeper than the stated maximum. Undercutting of earth banks shall not be permitted in trench or foundation excavations except as specifically stated for stanking. Mechanical undercutting at the base of drilled foundation piers is also excluded from this prohibition. Undercutting by hand at the base of foundation piers shall require that the entire length of the pier above the zone of undercutting be braced by the installation of approved sections, and further undercutting by hand shall be permissible only when the soil within the height of the undercutting or belled zone is in sound rock or a plastic soil with a shear strength of at least fifteen hundred (1500) psf.
 - (9) Where soils excavated and to be held at a vertical bank are essentially non-cohesive and where ground water enters the excavation, solid sheeting will be required for all vertical faces, even when the depth of the excavation is less than the mandatory requirements for other considerations.
 - (10) Where the sloping of excavation banks to stated inclinations does not extend to the bottom of the cut, the vertical part of the trench shall be braced as conditions require, with vertical uprights extending not less than two (2) feet above the bottom of the slope. Toe boards to the total height of two (2) feet above the bottom of the slope shall be placed behind all the uprights to prevent material from falling into the vertical portion of the trench.
 - (11) A trench shield or box may be used in lieu of other bracing and shoring in the length of trench in which personnel are working. The shield shall be constructed sturdy enough to withstand

City of Bellefontaine Neighbors -- QuickCode

the pressures from the trench wall cave-in and resist wracking or damage from removal and reuse.

- (12) All materials used for shoring, bracing and sheet-piling shall be sound, straight grained timber equal in strength to Long Leafed Yellow Pine, Douglas Fir or other material of equal strength. All timber shall be free of splits, shakes, large or loose knots and shall be of required dimensions throughout.
 - (13) Where conditions prohibit the use of horizontal cross braces to support the sides of an excavation, substantial and adequate shoring or tie rods shall be provided. Tie rods shall be securely anchored well back of the angle of repose.
 - (14) Cross braces and screw jacks shall be cleated, scabbed or otherwise securely fastened in place. Braces, where screw jacks are not also used, shall be cut and fitted for a "driving" fit. In hand excavated trenches, cleats shall be spiked or bolted to join the ends of braces to stringers to prevent the braces from being knocked out of place.
 - (15) Surface areas adjacent to the sides of excavations shall be well drained.
 - (16) Bracing and shoring shall be inspected daily by the person in charge of making the excavation, and any necessary adjustments shall be made immediately.
 - (17) Backfilling and dismantling of bracing, shoring and sheeting shall be accomplished cautiously, keeping backfill as close to dismantled as possible. Pressure of the jacks or braces shall be released slowly, and in unstable or loose soil, ropes shall be fastened about the jack or braces, personnel shall be cleared from the excavation affected, and the bracing shall be pulled out by the ropes from above.
 - (18) When internal combustion engines are used in or near an excavation, precautions shall be taken to keep exhaust gasses from entering the excavation. Where necessary, ducts shall be attached to the exhaust to conduct the gasses away from the excavation.
 - (19) The location of underground utilities such as electric, telephone, gas, water, and sewer mains shall be determined before excavation begins. If any of these utilities are to be removed or interfered with, the respective utility companies shall first be notified and services shall be disconnected before operations begin.
 - (20) When excavations are made within ten (10) feet of utility poles, suitable precautions shall be taken to prevent movement of the pole and associated guys.
- (Code 1964, § 10A-2)

Sec. 9-3. Protective measures.

When necessary, a fence, railing or barrier shall be erected about the site of the excavation work or a watchman shall be provided to guard the site, by the person responsible for the excavation, so as to

City of Bellefontaine Neighbors -- QuickCode

prevent danger to members of the public, and such protective barriers shall be maintained until the work shall be completed or the danger removed. One (1) hour before sunset there shall be placed upon such place of excavation and upon any excavated materials or structures, suitable and sufficient lights which shall be kept burning throughout the nights during the maintenance of such obstructions. It shall be unlawful for anyone to tamper with, remove or tear down any of the protective railings, fences, barriers or lights provided there for the protection of the public.

(Code 1964, § 10A-3)

Sec. 9-4. Enforcement of chapter; procedure upon finding violation.

(a) The city engineer is the person vested with executive authority to see that all provisions of this chapter are carried out.

(b) If upon inspection by the city engineer, a violation of this chapter is found to exist, the city engineer may require that all excavation work shall immediately cease until the violation is corrected.

(Code 1964, § 10A-4)

Sec. 9-5. Inspections.

Any authorized representative of the city engineer may, at any and all times, go upon and inspect any premises or property where excavation operations are being conducted, for the purpose of making any investigations to ascertain whether the provisions of this chapter are being complied with, and shall make a due and timely report to the city engineer of any violation thereof. It shall be unlawful for any person to interfere with the making of inspections as provided for by this chapter.

(Code 1964, § 10A-5)

Sec. 9-6. Appeals.

(a) Any person aggrieved by any action or decision of the city engineer connected with any subject matter covered by this chapter may file an appeal with the board of adjustment within thirty (30) days of such decision or action, and the board of adjustment shall fix a time and place for a hearing, in accordance with the zoning ordinance of the city. The complainant shall have the right to counsel at such hearing and to produce witnesses and other evidence in his behalf. For the purpose of such hearing the board of adjustment is empowered to issue subpoenas and all necessary processes, administer oaths and take testimony.

(b) The decision of the board of adjustment at the hearing shall be made in writing and a copy thereof shall be forwarded to the complainant. The decision shall be reviewable in a court of competent jurisdiction upon petition filed by the complainant so affected within thirty (30) days after such decision has been filed in the office of the board of adjustment in accordance with the zoning ordinance of the city.

(Code 1964, § 10A-6)

Sec. 9-7. Penalties for violations.

Any person violating any provision of this chapter shall, upon conviction, be subject to punishment as provided in section 1-10 of this Code. In addition to the penalties prescribed herein, the city may take such other action, either at law or equity, that it deems necessary in order to execute and enforce the provisions of this chapter.

(Code 1964, § 10A-7)

TABLE 1 MINIMUM RECOMMENDATIONS FOR TRENCH TIMBERING OR SLOPE ANGLE							
TRENCHES NOT MORE THAN 42" WIDE							
Depth of Trench in Feet	Uprights			Stringers	Cross Bracing**	Horizontal Spacing	Slope Hor.:Vert.
	Size	Horizontal Spacing	Size	Vertical Spacing	Size		
<i>HARD AND SOLID SOILS</i>							
6—10	2" x 6"	6 c-c		None	2-4" x 4" up to 7 3-4" x 4" up to 10	6 c-c	1:1
10—15	2" x 6"	4 c-c		None	3-4" x 4" to 13 4-4" x 4" to 15	4" c-c	1:1
Over 15	2" x 6"	Close Tight	4" x 12"	4 c-c	4" x 12"	6" c-c	1½:1
<i>SOIL LIKELY TO CRACK AND CRUMBLE</i>							
6—10	2" x 6"	3 c-c	2" x 6"	Top and Bottom	2-4" x 4" to 7 3-4" x 4" up to 10	6 c-c	1:1
10—15	2" x 6"	3 c-c	2" x 6"	3 in. height	3-4" x 4" - 13 4-4" x 4" - 15	6" c-c	1:1
Over 15	2" x 6"	Close Tight	4" x 12"	4 c-c	4"x12"	6 c-c	1½:1
<i>SOFT, SANDY, UNCONTROLLED FILLED, LOOSE OR WATER BEARING SOILS</i>							
6—10	2" x 6"	Close Tight	4" x 6"	2 up to 7 3 up to 10	4" x 6"	6 c-c	1:1
10—15	2" x 6"	Close Tight	4" x 6"	3 up to 13 4 up to 15	4" x 6"	6 c-c	1½:1
Over 15	2" x 6"	Close Tight	4" x 12"	4 c-c	4" x 12"	6 c-c	1½:1
* Sheet Steel Piling may be used in place of tongue and groove piling. The greater dimension of the stringers should be at right angle to the sheeting.							
** Screw type trench jacks may be used for cross bracing.							

TABLE 1 (CONT)
MINIMUM RECOMMENDATIONS FOR TRENCH TIMBERING OR SLOPE ANGLE

City of Bellefontaine Neighbors -- QuickCode

TRENCHES MORE THAN 42" IN WIDTH							
Depth of Trench in Feet	Uprights			Stringers	Cross Bracing**		
	Size	Horizontal Spacing	Size	Vertical Spacing	Size	Horizontal Spacing	Slope Hor.:Vert.
<i>HARD AND SOLID SOILS (EXCEPT AS NOTED)</i>							
6—10	2" x 6"	6 c-c	4" x 6"	4 c-c	4" x 6"	6 c-c	
10—20	2" x 6"	Close	6" x 6"	4 c-c	6" x 6"	6 c-c	All Soils
Over 20	2" x 6"	Close	6" x 8"	4 c-c	6" x 8"	6 c-c	All Soils
<i>SOIL LIKELY TO CRACK OR CRUMBLE</i>							
6—10	2" x 6"	3 c-c	4" x 6"	4 c-c	4" x 6"	6 c-c	
<i>SOFT, SANDY, UNCONTROLLED FILLED, LOOSE OR WATER BEARING SOILS</i>							
6—10	2" x 6"	Close	4" x 6"	2 up to 7 3 up to 10	4" x 6"	6 c-c	
* Sheet Steel Piling may be used in place of tongue and groove piling. The greater dimension of the stringers should be at right angle to the sheeting.							
** Screw type trench jacks may be used for cross bracing.							

TABLE 1 (CONT)							
MINIMUM RECOMMENDATIONS FOR TRENCH TIMBERING OR SLOPE ANGLE							
TRENCHES OF ANY WIDTH							
Depth of Trench in Feet	Uprights			Stringers	Cross Bracing**		
	Size	Horizontal Spacing	Size	Vertical Spacing	Size	Horizontal Spacing	Slope Hor.:Vert.
<i>SOIL HAVING HYDROSTATIC PRESSURE</i>							
Not over 8	2" x 6" *T&G	Tight Close	6" x 8"	4 c-c	6" x 8"	6 c-c	2:1
Over 8	3" x 6" *T&G	Tight Close	8" x 10"	4 c-c	6" x 8"	6 c-c	2:1
* Sheet Steel Piling may be used in place of tongue and groove piling. The greater dimension of the stringers should be at right angle to the sheeting.							
** Screw type trench jacks may be used for cross bracing.							

ARTICLE II. PUBLIC RIGHTS-OF-WAY

Sec. 9-8. Definitions.

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

City of Bellefontaine Neighbors -- QuickCode

City facilities. Any facilities located within the public rights-of-way and owned by the City.

Director. The City's Public Works Director or such other person designated to administer and enforce this Article.

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

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

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

Person(s) having facilities within the rights-of-way. Any person having ownership or control of facilities located within the rights-of-way.

Rights-of-way or row. Unless otherwise restricted herein, the surface, the air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, public easement or sidewalk in which the City now or hereafter holds any interest which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining facilities. "Rights-of-way" shall not include (i) City facilities or the City's property other than ROW, such as city-owned or operated buildings, parks or other similar property, (ii) airwaves used for cellular, non-wire telecommunications or broadcast services, (iii) easements obtained by ROW users on private property, (iv) railroad rights-of-way or ground used or acquired for railroads, or (v) facilities owned and used by the City for the transmission of one (1) or more services. No reference herein to "rights-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for the delivery of service.

Rights-of-way (or "row") permit. A permit granted by the City to a ROW user for ROW work.

Rights-of-way (or "row") user. A person performing ROW work within the rights-of-way. A ROW user shall not include ordinary vehicular or pedestrian use.

Rights-of-way (or "row") work. Action by a ROW User to (i) install, change, replace, relocate, remove, maintain or repair facilities within the rights-of-way, or (ii) to conduct work of any kind within or adjacent to the rights-of-way that results in an excavation, obstruction, disruption, damage or physical invasion or impact of any kind to the rights-of-way or the use thereof. The routine inspection of facilities shall not be considered ROW work unless the inspection requires the conduct of any of the activities or

City of Bellefontaine Neighbors -- QuickCode

actions noted herein.

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

Within. In, along, under, over or across rights-of-way.
(Ord. No. 2069 §3, 10-4-07)

Sec. 9-9. ROW permits.

(a) *Application requirements.*

- (1) Any person desiring to perform ROW work must first apply for and obtain a ROW permit in addition to any other building permit, license, easement, franchise or authorization required by law. In the event of a need for emergency ROW work, the person conducting the work shall as soon as practicable notify the City of the location of the work and shall apply for the required ROW permit as soon as practicable following the commencement of the work, not to exceed the third business day thereafter. The Director may design and issue general permits for emergency ROW work for several different locations or throughout the City.
- (2) An application for a ROW permit shall be submitted to the Director. The Director may design and make available standard forms for such applications, requiring such information as allowed by law and as the Director determines in his or her discretion to be necessary and consistent with the provisions of this Article and to accomplish the purposes of this Article. Each application shall at minimum contain the following information for the proposed ROW work, unless otherwise waived by the Director:
 - (i) The name, address and telephone number of a representative whom the City may notify or contact at any time (i.e., twenty-four (24) hours per day, seven (7) days per week) concerning the work;
 - (ii) If different from the applicant, the name, address and telephone number of the person on whose behalf the proposed work is to be performed;
 - (iii) A description of the proposed work, including a conceptual master plan and an engineering site plan or other technical drawing or depiction showing the nature, dimensions, location and description of the applicant's proposed work or facilities, their proximity to other facilities that may be affected by the proposed work and the number of street crossings and their locations and dimensions, if applicable;
 - (iv) Projected commencement and termination dates and anticipated duration of the work or, if such dates are unknown, a representation that the applicant shall provide the Director with reasonable advance notice of such dates once they are determined;

City of Bellefontaine Neighbors -- QuickCode

- (v) Copies of any required certificates of insurance or performance and maintenance bonds.
- (3) The information required by the application may be submitted in the form maintained by the applicant, provided it is responsive to the application's requirements and the applicant shall be allowed a reasonable amount of time to complete the application based on the amount of data or information requested or required.
- (4) Each such application shall be accompanied by the following payments:
 - (i) An application fee approved by the City to cover the cost of processing the application;
 - (ii) Any other amounts due to the City from the applicant, including, but not limited to, prior delinquent fees, costs and any loss, damage or expense suffered by the City because of the applicant's prior work in the rights-of-way or for any emergency actions taken by the City, but the Director may modify this requirement to the extent the Director determines any such fees to be in good faith dispute.
- (5) Applicants shall participate in any joint planning, construction and advance notification of such work, including coordination and consolidation of any excavation of or disturbance to the rights-of-way as directed by the Director. When deemed necessary to accomplish the goals of this Section and to the extent permitted by law, the City reserves the right, when feasible and reasonable, to require the sharing of facilities by ROW users. Applicants shall cooperate with each other and other ROW users and the City for the best, most efficient, least intrusive, most aesthetic and least obtrusive use of the rights-of-way.
- (6) The Director shall establish procedures allowing applicants to ascertain whether existing capacity may be available from other persons utilizing the rights-of-way along the intended path of any proposed work. The Director shall also maintain indexes of all ROW permits issued, both by the ROW user and by the affected rights-of-way.
- (b) *Application review and determination.*
 - (1) The Director shall promptly review each completed application for a ROW permit and shall grant or deny all such applications as provided herein within thirty-one (31) days of receipt thereof. Unless the application is denied, the Director shall issue a ROW permit upon determining that the applicant:
 - (i) Has submitted all necessary information,
 - (ii) Has paid the appropriate fees, and
 - (iii) Is in full compliance with this Article and all other City ordinances. The Director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.
 - (2) It is the intention of the City that interference with, damage to, excavation or disruption of or the placement of facilities within the City's rights-of-way should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Article. When reasonable and necessary to accomplish such purposes, the Director may require as alternatives to the

City of Bellefontaine Neighbors -- QuickCode

- proposed ROW work either less disruptive methods or different locations for facilities, provided that any required alternative:
- (i) Shall not increase expenses by more than ten percent (10%) of the applicant's costs for the work as proposed,
 - (ii) Shall not result in a decline of service quality, and
 - (iii) Shall be competitively neutral and non-discriminatory. The Director shall justify to the applicant that the required alternative is reasonable and necessary.
- (3) Upon receipt of an application, the Director shall determine whether any portion of the rights-of-way will be affected by the proposed work and whether the interference, disruption or placement of facilities will be more than minor in nature. In determining whether the proposed work is more than minor in nature, the Director shall consider the nature and scope of the work, its location and duration and its effect on the rights-of-way, the use thereof and neighboring properties.
- (i) If the applicant can show to the Director's reasonable satisfaction that the work involves no interference, disruption, excavation or damage to or only minor interference with the rights-of-way or that the work does not involve the placement of facilities or involves time-sensitive maintenance, then the Director shall promptly grant the ROW permit.
 - (ii) If the Director determines that the effect on the rights-of-way will be more than minor in nature and no exemption under the above paragraph (c)(i) or any other provision of this Article applies, the Director shall schedule and coordinate the work and grant the ROW permit accordingly. When reasonable and necessary to accomplish the purposes of this Article, the Director may postpone issuance of a ROW permit and may give public notice of the application in an attempt to identify whether other person(s) intend to do work in the same area within a reasonable period of time, so that all ROW work in the area can be coordinated. Due regard shall be accorded applicants that are required by any law, rule, regulation, license or franchise to provide service to the area defined in the application. The Director shall not impose any coordination or scheduling requirements that prevent or unreasonably delay an applicant's access to the ROW or that create a barrier to entry.
- (4) Each ROW permit issued by the Director shall include:
- (i) Projected commencement and termination dates or, if such dates are unknown at the time the permit is issued, a provision requiring the ROW user to provide the Director with reasonable advance notice of such dates once they are determined;
 - (ii) Length of affected rights-of-way, number of road crossings and identification and description of any pavement or curb cuts included in the work;
 - (iii) Information regarding scheduling and coordination of work, if necessary;
 - (iv) The location of any of the applicant's facilities, both those proposed and existing, and the location of any known facilities owned by another person that may be affected by the

City of Bellefontaine Neighbors -- QuickCode
proposed work;

- (v) An acknowledgment and representation by the applicant to comply with the terms and conditions of the ROW permit and this Article; and
 - (vi) Such conditions and requirements as are deemed reasonably necessary by the Director to protect structures and other facilities in the rights-of-way from damage, to restore such rights-of-way and any structures or facilities, to ensure the reasonable continuity and sight lines of pedestrian and vehicular traffic and to protect property values, the aesthetics of adjoining properties and neighborhoods and the public health, safety and welfare.
- (5) The Director may deny an application, if denial is deemed to be in the public interest, for the following reasons:
- (i) Delinquent fees, costs or expenses owed by the applicant;
 - (ii) Failure to provide information required by the application or this Article;
 - (iii) The applicant being in violation of the provisions of this Article or other pertinent and applicable City ordinances;
 - (iv) Failure to return the ROW to its previous condition under previously issued ROW permits or after prior excavations by the applicant;
 - (v) For reasons of environmental, historic or cultural sensitivity as defined by applicable federal, state or local law;
 - (vi) For the applicant's refusal to comply with alternative ROW work methods, locations or other reasonable conditions required by the Director; and
 - (vii) For any other reason to protect the public health, safety and welfare, provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission or interfere with a ROW user's right of eminent domain of private property and, provided further, that such denial is imposed on a competitively neutral and non-discriminatory basis.
- (c) *Permit revocation and ordinance violations.*
- (1) The Director may revoke a ROW permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this Article. Prior to revocation the Director shall provide written notice to the ROW user identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the Director on good cause shown by the ROW user. A substantial breach includes, but is not limited to, the following:
- (i) A material violation of a provision of the ROW permit or this Article;

City of Bellefontaine Neighbors -- QuickCode

- (ii) An evasion or attempt to evade any material provision of the ROW permit or this Article or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its residents;
 - (iii) A material misrepresentation of fact in the ROW permit application;
 - (iv) A failure to complete ROW work by the date specified in the ROW permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the ROW user's control; and
 - (v) A failure to correct, upon reasonable notice and opportunity to cure as specified by the Director, work that does not conform to applicable national safety ordinances, industry construction standards, this Article or any other applicable ordinances, provided that City standards are no more stringent than those of a national safety ordinance.
- (2) Any breach of the terms and conditions of a ROW permit shall also be deemed a violation of this Article and in lieu of revocation the Director may initiate prosecution of the ROW user for such violation.
- (Ord. No. 2069 §3, 10-4-07)

Sec. 9-10. Work in the ROW.

- (a) *Jurisdiction, inspection and stop work orders.*
 - (1) All facilities and ROW work shall be subject to inspection by the City and the supervision of all federal, state and local authorities having jurisdiction in such matters to ensure compliance with all applicable laws, ordinances, departmental rules and regulations and the ROW permit.
 - (2) The Director shall have full access to all portions of the ROW work and may issue stop work orders and corrective orders to prevent unauthorized work or substandard work as established in Subsection (g) hereof. Such orders:
 - (i) May be delivered personally or by certified mail to the address(es) listed on the application for the ROW permit or the person in charge of the construction site at the time of delivery;
 - (ii) Shall state that substandard work or work not authorized by the ROW permit is being carried out, summarize the substandard or unauthorized work and provide a period of not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety; and
 - (iii) May be enforced by equitable action in the Circuit Court of St. Louis County, Missouri, and in such case the person responsible for the substandard or unauthorized work shall be liable for all costs and expenses incurred by the City in enforcing such orders, including reasonable attorney's fees, in addition to any and all penalties established in this Article.

City of Bellefontaine Neighbors -- QuickCode

(b) *Underground facilities.*

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

(c) *Above ground facilities.*

- (1) The Director may designate certain locations or facilities in the ROW to be excluded from use by the applicant for its facilities including, but not limited to:
 - (i) Ornamental or similar specially designed street lights,
 - (ii) Designated historic areas,
 - (iii) Facilities, equipment, structures or locations that do not have electrical service adequate or appropriate for the proposed facilities or cannot safely bear the weight or wind loading thereof,
 - (iv) Facilities, equipment, structures or locations that in the reasonable judgment of the Director are incompatible with the proposed facilities or would be rendered unsafe or unstable by the installation; and
 - (v) Facilities, equipment, structures or locations that have been designated or planned for other use or are not otherwise available for use by the applicant due to engineering, technological, proprietary, legal or other limitations or restrictions.
- (2) Above ground facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities. Facilities shall be located in such a manner as to reduce or eliminate their visibility. A sight proof landscape screen

City of Bellefontaine Neighbors -- QuickCode

- may be required for any authorized above ground facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the Director prior to installation of any facility requiring landscape screening. The person having facilities within the ROW shall be responsible for the installation, repair or replacement of screening materials. Alternative screening or concealment may be approved by the Director to the extent it meets or exceeds the purposes of these requirements.
- (3) Above ground facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise and shall comply with all other applicable regulations and standards established by the City or state or federal law.
 - (4) If the application of this Subsection excludes locations for above-ground facilities to the extent that the exclusion conflicts with the reasonable requirements of the applicant, the Director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but such alternatives may exceed the cost increase limitation established by Section 9-9(b)(2)(i) and the City shall not be required to incur any financial cost or to acquire new locations for the applicant.
- (d) *Relocation of equipment and facilities.*
- (1) In the event of an emergency or where construction equipment or facilities create or are contributing to an imminent danger to health, safety or property, the City may, to the extent allowed by law, remove, re-lay or relocate such construction equipment or the pertinent parts of such facilities without charge to the City for such action or for restoration or repair. The City shall attempt to notify the person having facilities within the ROW prior to taking such action, but the inability to do so shall not prevent same. Thereafter, the City shall notify the person having facilities within the ROW as soon as practicable.
 - (2) At the City's direction, all facilities shall be moved underground and the cost shall be solely the obligation of the person having facilities within the ROW (or as otherwise allowed or required by law).
 - (3) At the City's direction, a person having facilities within the ROW shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.
 - (4) A person having facilities within the ROW shall, on the reasonable request of any person and after reasonable advance written notice, protect, support, disconnect, relocate or remove facilities to accommodate such person and the actual cost, reasonably incurred, of such actions shall be paid by the person requesting such action. The person having facilities within the ROW taking such action may require such payment in advance.
 - (5) Rather than relocate facilities as requested or directed, a ROW user may abandon the facilities if approved by the City as provided in Subsection (f) of this Section.

City of Bellefontaine Neighbors -- QuickCode

- (6) No action hereunder shall be deemed a taking of property and no person shall be entitled to any compensation therefore. No location of any facilities within the rights-of-way shall be a vested interest.
- (e) *Property repair and alterations.*
- (1) During any ROW work, the person doing the work shall protect from damage any and all existing structures and property belonging to the City and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced by the person doing the work or the person on whose behalf the work is being done and such person shall immediately notify the owner of the fact of any damaged property. Such repair or replacement shall be completed within a reasonable time specified by the Director and to the Director's satisfaction.
- (2) Any alteration to the existing water mains, sewerage or drainage system or to any City, State or other public structures or facilities in the rights-of-way required on account of the construction, installation, repair or maintenance of facilities within the rights-of-way shall be made at the sole cost and expense of the owner of such facilities.
- (f) *Removal, abandonment, transfer and relocation of facilities.*
- (1) If a person having facilities within the ROW:
- (i) Installs the facilities within the ROW without having complied with the requirements of this Article; or
- (ii) Abandons the facilities, the City may require the removal of the facilities, remove the facilities at the expense of the person having facilities within the ROW or require the transfer of the facilities as provided herein.
- (2) If the City requires removal of the facilities, the person shall obtain a ROW permit and shall abide by all requirements of this Article. The liability, indemnity, insurance and bonding requirements required herein shall continue in full force and effect during and after the period of removal and restoration and until full compliance by the person with the terms and conditions of the ROW permit and the requirements of this Article.
- (3) If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, have the removal done at the person's expense. Alternatively, the City may permit the abandonment, without removal, of the facilities if the Director determines that abandonment is not likely to prevent or significantly impair the future use, repair, excavation, maintenance or construction of the ROW.
- (4) If the person fails to remove the facilities after having been directed to do so, the City may, to the extent permitted by law, decide that the ownership of the facilities should be transferred to the City or to such person as directed by the City. In either case the owner of the facilities shall submit a written instrument, satisfactory in form to City, transferring to the City, or to such person as directed by the City, ownership of the facilities. The City may sell, assign or transfer all or part of the facilities so transferred.

City of Bellefontaine Neighbors -- QuickCode

- (5) The City shall not remove or seek to possess or transfer the facilities until thirty (30) days have passed following written notice by the Director to the person having facilities within the ROW of the City's intent to so act. The Director may choose not to act on good cause shown by the person having facilities within the ROW.
- (g) *Standards for ROW work.*
 - (1) Except for emergency ROW work as provided in Section 9-9(a)(1), ROW work shall be performed only upon issuance and in accordance with the requirements of a ROW permit. At all times during the work, ROW permits shall be conspicuously displayed at the work site and shall be available for inspection by the Director.
 - (2) If at any time it appears that the duration or scope of the ROW work is or will become materially different from that allowed by the ROW permit, the ROW user shall inform the Director. The Director may issue a waiver, an extension or a revised ROW permit or require that the ROW user reapply for a ROW permit in accordance with all requirements of this Article.
 - (3) ROW users shall not open or encumber more of the rights-of-way than is reasonably necessary to complete the ROW work in the most expeditious manner or allow excavations to remain open longer than is necessary to complete the work.
 - (4) All ROW work that affects vehicular or pedestrian traffic shall be properly signed, barricaded and otherwise protected at the ROW user's expense. The ROW user shall be responsible for providing adequate traffic control to the area surrounding the work as determined by the Director.
 - (5) The ROW user shall perform the ROW work at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood as permitted by the Director. Unless otherwise provided by the Director in the permit, non-emergency ROW work on arterial and collector streets may not be accomplished during the hours of 7:00 A.M. to 8:30 A.M. and 4:00 P.M. to 6:00 P.M. in order to minimize disruption of traffic flow.
 - (6) The ROW user shall notify the City no less than three (3) working days in advance of any ROW work that would require any street closure or would reduce traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of emergency ROW work, no such closure shall take place without notice and prior authorization from the City.
 - (7) All ROW work shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and other federal, state or local laws and regulations that may apply including, without limitation, local health, safety, construction and zoning ordinances and laws and accepted industry practices, all as hereafter may be amended or adopted. In the event of a conflict among ordinances and standards, the most stringent ordinance or standard shall apply (except insofar as that ordinance or standard, if followed, would result in facilities that could not meet requirements of federal,

City of Bellefontaine Neighbors -- QuickCode

state or local law).

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

City of Bellefontaine Neighbors -- QuickCode

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

City of Bellefontaine Neighbors -- QuickCode

shall be completed within a reasonable time, not to exceed thirty (30) calendar days from receipt of the Director's notice unless otherwise permitted by the Director. If a ROW user fails to restore the ROW within the time specified, the City may perform the work and the ROW user shall be responsible for reimbursing the City's reasonable actual restoration costs within thirty (30) days of invoice. The Director may extend the cure period on good cause shown.

- (5) A ROW user shall not be relieved of the obligation to complete the necessary right-of-way restoration and maintenance because of the existence of any performance bond required by this Article.
 - (i) Any person performing ROW work shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work.

(Ord. No. 2069 §3, 10-4-07)

Sec. 9-11. Bonds; insurance; surety; indemnification; penalties.

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

City of Bellefontaine Neighbors -- QuickCode

Rating Guide, Property/Casualty Edition, shall be subject to the approval of the City's attorney and shall contain the following endorsement:

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

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

(b) *Insurance.*

- (1) All ROW users shall maintain, for the duration of any ROW work and, when applicable, for as long as the ROW user has facilities within the rights-of-way, at least the following liability insurance coverage: workers' compensation and employer liability insurance to meet all requirements of Missouri law and commercial general liability insurance with respect to the construction, operation and maintenance of the facilities and the conduct of the ROW user's business in the City in the minimum amounts of:

(i) Two million dollars (\$2,000,000.00) for property damage resulting from any one (1) accident;

(ii) Five million dollars (\$5,000,000.00) for personal bodily injury or death resulting from any one (1) accident; and

(iii) Two million dollars (\$2,000,000.00) for all other types of liability.

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

- (2) All insurance policies shall be with sureties qualified to do business in the state of Missouri with an "A" or better rating of insurance by Best's Key Rating Guide, Property/Casualty Edition and in a form approved by the City.
- (3) All insurance policies shall be available for review by the City and a ROW user having facilities within the rights-of-way shall keep on file with the City current certificates of insurance.
- (4) All general liability insurance policies shall name the City, its officers, boards, board members, commissions, commissioners, agents and employees as additional insureds and shall further provide that any cancellation or reduction in coverage shall not be effective unless thirty (30) days' prior written notice thereof has been given to the Director. A ROW user shall not cancel any required insurance policy without submission of proof that it has obtained alternative insurance that complies with this Article.
- (5) The Director may exempt in writing from these insurance requirements any self-insured ROW user, provided that the ROW user demonstrates to the Director's satisfaction that the

City of Bellefontaine Neighbors -- QuickCode

ROW user's self-insurance plan is commensurate with said requirements and that the ROW user has sufficient resources to meet all potential risks, liabilities and obligations contemplated by the requirements of this Article. The Director may require a security fund or letter of credit as a condition to a self-insured's exemption. The Director shall waive this requirement when the ROW user has twenty-five million dollars (\$25,000,000.00) in net assets and does not have a history of non-compliance with applicable regulatory law.

(c) *Indemnification.*

- (1) Any ROW user granted a ROW permit and any person having facilities within the rights-of-way, as partial consideration for the privilege granted, shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of:
 - (i) Any ROW work including, but not limited to, the construction, maintenance, repair or replacement of the facilities,
 - (ii) The operation of its facilities,
 - (iii) Failure to secure consents from landowners, or
 - (iv) Any actions taken or omissions made by the person pursuant to the authority of this Article.
- (2) The foregoing indemnity provisions include, but are not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding prior to the person assuming such defense. The City shall notify a person of claims and suits within seven (7) business days of its actual knowledge of the existence of such claim, suit or proceeding. Once a person assumes such defense, the City may at its option continue to participate in the defense at its own expense.
- (3) Notwithstanding anything to the contrary contained in this Article, the City shall not be so indemnified or reimbursed in relation to any amounts attributable to:
 - (i) The City's own negligence, willful misconduct, intentional or criminal acts, or
 - (ii) The City acting in a proprietary capacity to deliver service(s) within the City.
- (4) Recovery by the City of any amounts under insurance, a performance bond or otherwise does not limit a person's duty to indemnify the City in any way; nor shall such recovery relieve a person of amounts owed to the City or in any respect prevent the City from exercising any other right or remedy it may have.

(d) *Penalties.* Any person violating any provision of this Article shall, upon conviction by the City's municipal court, be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days or by both such fine and imprisonment. Each day the violation continues may be charged as a separate offense.

(Ord. No. 2069 §3, 10-4-07)

Sec. 9-12. Dispute resolutions, appeals and arbitration.

(a) The Director shall make a final determination as to any matter concerning the grant, denial or revocation of a ROW permit as provided in this Article. On the request of an applicant or a ROW user and within a reasonable period of time, the Director also shall make a final determination as to any other issue relating to the use of the ROW, the imposition of any fee or the application of any provision of this Article, provided, however, that this review shall not apply to matters being prosecuted in the municipal court. Any final determination of the Director shall be subject to review as provided herein.

(b) Any person aggrieved by a final determination of the Director may appeal in writing to the Mayor within five (5) business days thereof. The appeal shall assert specific grounds for review and the Mayor shall render a decision on the appeal within fifteen (15) business days of receipt affirming, reversing or modifying the determination of the Director. The Mayor may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the Director's determination shall be in writing and supported by findings establishing the reasonableness of the decision.

(c) Any person aggrieved by the final determination of the Mayor may file a petition for review pursuant to Chapter 536 of the Revised Statutes of Missouri, as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the Mayor's final determination.

(d) *Arbitration and mediation.*

- (1) On agreement of the parties and in addition to any other remedies, any final decision of the Mayor may be submitted to mediation or binding arbitration.
- (2) In the event of mediation, the Mayor and the applicant or ROW user shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties and each party shall pay its own costs, disbursements and attorney fees.
- (3) In the event of arbitration, the Mayor and the applicant or ROW user shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the Mayor, one (1) arbitrator selected by the applicant or ROW user and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third arbitrator and of the arbitration. Each party shall also pay its own costs, disbursements and attorney fees.

(Ord. No. 2069 §3, 10-4-07)

Sec. 9-13. Miscellaneous.

City of Bellefontaine Neighbors -- QuickCode

(a) After the completion of ROW work the ROW user shall provide to the City as-built drawings, maps or other comparable records as determined by the Director, drawn to scale and certified to the City as reasonably depicting the location of all facilities constructed pursuant to the ROW permit. Such records may be provided to the Director in the form maintained by the ROW user, but when available to the ROW user, shall be submitted in automated formats that are compatible with City systems, as determined by the Director, or in hard copy otherwise.

(b) Upon failure of a ROW user to commence, pursue or complete any ROW work required by law or by the provisions of this Article to be done in any street within the time prescribed and to the reasonable satisfaction of the City, the City may, at its option, after thirty (30) days notice, cause such work to be done and the ROW user shall pay to the City the cost thereof in the itemized amounts reported by the City to the ROW user within thirty (30) days after receipt of such itemized report.

(c) Upon ten (10) days' written notice and with the supervision of the City or as otherwise provided by law, a ROW user shall have the authority to trim trees that overhang rights-of-way of the City so as to prevent the branches of such trees from coming in contact with its facilities, at its own expense subject to the supervision and direction of the City. Nothing in this paragraph shall authorize the trimming of trees on private property without permission of the property owner. All cut materials shall be properly disposed.

(d) During ROW work by a ROW user the City shall have the right to install and to thereafter maintain at its own cost in any excavation to or other applicable disturbance of the ROW any parallel facilities of its own that do not unreasonably interfere with the operations of other facilities.

(e) Nothing in this Article shall be in preference or hindrance to the right of the City and any board, authority, commission or public service corporation of the City to use or occupy the rights-of-way or to perform or carry on any public works or public improvements of any description.
(Ord. No. 2069 §3, 10-4-07)

Chapter 10 -- FIRE PREVENTION AND PROTECTION

Cross references—*Planning and zoning commission, § 2-186 et seq.; buildings and building regulations, Ch. 5; civil defense and disaster, Ch. 6; electricity, Ch. 8; flood damage prevention and control, Ch. 11; health and sanitation, Ch. 13; plumbing, ch. 20; sewers and sewage disposal, Ch. 22; streets and sidewalks, Ch. 23; subdivision regulations, Ch. 24.*

State law reference—*Fire protection generally, RSMo. § 320.010 et seq.*

ARTICLE I. FIREWORKS

Sec. 10-1. Fireworks.

(a) It shall be unlawful for any person to sell, offer for sale, expose for sale or to use, discharge or explode within the city any firecrackers, Roman candles, blank cartridges, toy pistols, toy cannons or canes in which explosives are used, balloons firing from underneath to propel the same, torpedoes, sky rockets, aerial salutes, bombs or other fireworks of any kind whatsoever, except as otherwise provided in this section.

(b) Nothing contained in this section shall prohibit the sale or use of fireworks for pyrotechnic displays given by organizations, amusement parks, the officials in charge of any public park, any civic organization or any group of individuals; provided that, they shall first obtain a permit from the board of aldermen for any such display. No such permit shall be issued except upon application therefor to the board of aldermen and after an investigation from which the board is satisfied that the public safety will not be endangered by such display.

(c) Nothing in this section shall prohibit the sale or use of blank cartridges for theatrical purposes, signalling purposes in athletic contests or sporting events or for the use of police or military organizations, or prohibit any resident wholesaler, dealer or jobber from selling fireworks at wholesale for delivery or shipment directly outside the city.
(Code 1964, § 12-1)

State law reference—Fireworks generally, RSMo. §§ 320.110 to 320.190.

Sec. 10-2--10-99. Reserved.

ARTICLE II. INTERNATIONAL FUEL GAS CODE

Sec. 10-100. International fuel gas code adopted.

That a certain document, three (3) copies of which have been on file in the office of the city clerk of the city of Bellefontaine Neighbors for at least ninety (90) days, being marked and designated as the International Fuel Gas Code, 2003 edition, together with all appendices and details and tables therein, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the city of Bellefontaine Neighbors for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of said Fuel Gas Code are hereby referenced to, adopted and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes prescribed in this article.
(Ord. No. 2035 §1, 5-4-06)

Sec. 10-110. Amendments and revisions to code.

The International Fuel Gas Code, 2003 Edition, adopted by this article is hereby amended, revised and supplemented as follows:

- (1) Section 101.1 Title is hereby amended by inserting the name "*City of Bellefontaine Neighbors, Missouri*" therein.
- (2) Section 106.5.2 Fee Schedule is hereby deleted.
- (3) Section 106.5.3 Fee Refunds is hereby deleted.
- (4) Section 108.4 Violation Penalties is hereby deleted.
- (5) Section 108.5 Stop Work Orders is hereby deleted and a new Section 108.5 is hereby enacted in lieu thereof, to read as follows:

108.5 Stop work orders. Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such works shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue anywhere on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a violation of the ordinances of the city and shall be punished as provided for other violations of this code.

- (6) Section 109.2 Membership of Board and all subparts thereof are hereby deleted and a new Section 109.2 is hereby enacted in lieu thereof, to read as follows:

Section 109.2 Membership of Board. The Board of Appeals shall consist of the members of the Bellefontaine Neighbors Board of Adjustment. The alternate members of the Board of Adjustment shall serve as alternate members of the Board of Appeals.

- (7) Section 109.3 Notice of Meeting is hereby deleted.
- (8) Section 103.4.1 Procedure is hereby deleted and a new Section 109.4.1 is hereby enacted in lieu thereof, to read as follows:

Section 109.4.1 Procedure. Procedures shall not require compliance with strict rules of evidence, but only relevant information shall be received.

- (9) Section 109.7 Court Review is hereby deleted and a new Section 109.7 is hereby enacted in lieu thereof, to read as follows:

Section 109.7 Court review. Any person aggrieved by a decision of the Board of Appeals may apply to the Circuit Court of St. Louis County for review of the Board's decision as a contested case pursuant to Chapter 536, RSMo., by filing a petition for administrative review within fifteen

City of Bellefontaine Neighbors -- QuickCode

(15) days of the Board's decision.

(10)Chapter 2 Definitions is hereby amended by deleting the definition of the term "Code Official" and substituting in lieu thereof the following:

CODE OFFICIAL: The City Engineer of the City of Bellefontaine Neighbors shall be the code official under this Code.

(Ord. No. 2035 §1, 5-4-06)

Section 10-120. Violations; Penalty.

Persons who shall violate any provision of the code adopted by this article, fail to comply with any of the requirements thereof or erect, install, alter or repair work in violation of the approved construction documents or direction of the code official or of a permit or certificate issued under the provisions of the code adopted by this article shall be guilty of an ordinance violation punishable as provided in section 1-10 of this Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 2035 §1, 5-4-06)

Chapter 11 -- FLOOD DAMAGE PREVENTION AND CONTROL

Editor's note—Section 1, Ord. No. 1343, adopted Mar. 5, 1987, repealed Ord. No. 1042, adopted Apr. 20, 1978, Sections 1-12 of which were Codified as Ch. 11, flood damage prevention and control. Sections 1.1—12.0 of Ord. No. 1343 enacted similar provisions which have been included as a new Ch. 11 at the discretion of the editor.

Subsequently, Ord. No. 1982, adopted August 19, 2004, repealed Ch. 11, flood damage prevention and control and set out the new provisions herein. Previous Ch. 11 derived from Ord. No. 1343 §§ 1.1--1.3, 12.0, 2.1--2.7, 2.9, 3.1--3.3, 4.0--11.0, 3-5-87; Ord. No. 1496 § 1, 9-19-91; and Ord. No. 1659 §§ 1--2, 7-6-95.

Cross references—City engineer, § 2-131 et seq.; planning and zoning commission, § 2-186 et seq.; buildings and building regulations, Ch. 5; civil defense and disaster, Ch. 6; electricity, Ch. 8; excavations generally, Ch. 9; fire prevention and protection, Ch. 10; plumbing, Ch. 20; sewers and sewage disposal, Ch. 22; streets and sidewalks, Ch. 23; subdivision regulations, Ch. 24; swimming pools, Ch. 25.

ARTICLE I. IN GENERAL

Sec. 11-1. Statutory authorization.

The legislature of the State of Missouri has in Chapter 89 of the Revised Statutes of the State of Missouri delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the health, safety and general welfare.
(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-2. Findings of fact.

- (a) *Flood losses resulting from periodic inundation.* The flood hazard areas of the city are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) *General causes of flood losses.* The flood losses referred to in paragraph (a) of this section are caused by:
 - (1) The cumulative effects of obstructions in floodways causing increases in flood heights and velocities;
 - (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.
- (c) *Methods used to analyze flood hazards.* This chapter uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps:
 - (1) Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The regulatory flood selected for this chapter is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this chapter. It is in the general order of a flood which could be expected to have a one (1) percent chance of occurrence in any one (1) year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated August 2, 1995, as amended, and any future revisions thereto.
 - (2) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
 - (3) Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
 - (4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
 - (5) Delineation of floodway, fringe, i.e., that area outside the floodway encroachment lines but

City of Bellefontaine Neighbors -- QuickCode
which still is subject to inundation by the regulatory flood.
(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-3. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize those losses described in section 11-2(a), to establish or maintain the community's eligibility for participation in the National Flood Insurance Program as defined in 44 CFR 59.22(a)(3) and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this chapter to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
- (3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- (4) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-4. Definitions.

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

Accessory structure or appurtenant structure means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Actuarial rates or risk premium rates mean those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

Administrator means the Federal Insurance Administrator.

Agency means the Federal Emergency Management Agency (FEMA).

Appeal means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.

City of Bellefontaine Neighbors -- QuickCode

Area of shallow flooding means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base flood or 100-year flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

Building means structure.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

Elevated building means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

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

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

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

City of Bellefontaine Neighbors -- QuickCode

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

Flood elevation study means an examination, evaluation and determination of flood hazards.

Flood fringe means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

Flood insurance study (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood maps:

Flood Boundary and Floodway Map (FBFM) means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

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

Flood Insurance Rate Map (FIRM) means an official map of a community on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

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

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

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

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

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

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

City of Bellefontaine Neighbors -- QuickCode

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

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

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

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

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Market value or fair market value means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

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

City of Bellefontaine Neighbors -- QuickCode

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

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

NFIP means the National Flood Insurance Program.

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

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

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

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

Remedy a violation means to bring the structure or other development into compliance with Federal, State or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Special hazard area means an area having special flood hazards and shown on an FHBM, FIRM, or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

Start of construction includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling,

City of Bellefontaine Neighbors -- QuickCode

floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State coordinating agency means that agency of the State of Missouri or other office designated by the governor of this state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in Missouri.

Structure means, for floodplain management purposes, a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground. "Structure", for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials are within an enclosed building on the premises.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

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

Variance is a grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

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

Water surface elevation means the height, in relation to the national Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

(Ord. No. 1982, § 1, 8-19-04)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 11-5. Lands to which chapter applies.

This chapter shall apply to all lands within the jurisdiction of the city identified on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) as numbered and unnumbered A Zones (including AE, AO and AH Zones), as amended, and within the Zoning Districts FW and FF established in section 11-46 of this chapter. In all areas covered by this chapter no development shall be permitted except upon a floodplain development permit granted by the board of aldermen or its duly designated representative under such safeguards and restrictions as the board of aldermen or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the city and where specifically noted in Sections 11-47, 11-48 and 11-49 of this Code.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-6. Floodplain administrator/enforcement officer.

The city engineer is hereby designated as the board of aldermen's duly designated floodplain administrator and enforcement officer under this chapter. He is also referred to herein as the building official.

(Ord. No. 1982, § 1, 8-19-04)

Cross reference—City engineer generally, § 2-131 et seq.

Sec. 11-7. Rules for interpretation of district boundaries.

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

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-8. Compliance.

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

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-9. Abrogation and greater restrictions.

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

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-10. Interpretation.

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

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-11. Warning and disclaimer of liability.

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

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-12. Appeal.

Where a request for a permit to develop or a variance is denied by the building official, the applicant may appeal such decision and apply for such a permit or file a request for variance from the floodplain management provisions of this Chapter directly to the board of adjustment.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-13. Variance procedures.

- (a) The board of adjustment as established by the city shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (b) The board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or administration of this chapter.

City of Bellefontaine Neighbors -- QuickCode

- (c) Any person aggrieved by the decision of the board of adjustment or any taxpayer may appeal such decision to the Circuit Court of St. Louis County as provided by the Statutes of the State of Missouri.
- (d) In passing upon such applications, the board of adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (e) *Conditions for variances:*
 - (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (2) through (6) below have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.
 - (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places or the local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.
 - (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

City of Bellefontaine Neighbors -- QuickCode

- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (5) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - (6) Any applicant to whom a variance is granted shall be given a written notice that (i) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Chapter.
- (f) *Conditions for approving variances for accessory structures.* Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in subparagraphs (e)(1) through (e)(6) above.
- (1) Use of the accessory structure must be solely for parking or limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
 - (2) For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e. foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with the provisions of this Chapter.
 - (3) The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with the provisions of this Chapter. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
 - (4) Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with the provisions of this Chapter.
 - (5) The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with the provisions of this chapter.
 - (6) The accessory structures must comply with the floodplain management floodway encroachment provisions of the provisions of this chapter. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.

City of Bellefontaine Neighbors -- QuickCode

- (7) Equipment, machinery, or other contents must be protected from any flood damage.
 - (8) No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
 - (9) Any applicant to whom a variance is granted shall be given a written notice that (i) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Chapter.
 - (10) Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.
- (Ord. No. 1982, § 1, 8-19-04)

Sec. 11-14. Non-conforming use.

- (a) A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:
 - (1) If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this chapter. The utility department shall notify the building official in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.
 - (2) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
 - (b) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- (Ord. No. 1982, § 1, 8-19-04)

Sec. 11-15. Amendments.

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in

City of Bellefontaine Neighbors -- QuickCode

the city. At least twenty (20) days shall elapse between the date of publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this chapter are in compliance with the National Flood Insurance Program Regulations. (Ord. No. 1982, § 1, 8-19-04)

Sec. 11-16. Enforcement/penalties for violations.

Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred dollars (\$100.00), and in addition, shall pay all costs and expenses involved in the case.

Except where otherwise provided, each and every day any violation of this chapter continues, it shall constitute a separate offense.

Nothing herein contained shall prevent the city or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. The Floodplain Administrator or Building Official may, on behalf of the City and after approval by the governing board, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to enforce compliance with the provisions of this chapter and any rule, regulation, notice, condition, term or order promulgated by any official of the City under duly vest authority. In such action, the court may grant such legal or equitable relief, including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant. Upon successful prosecution of any such action the City may be awarded by the court reasonable attorney fees as allowed by law.

In addition, past violations of the provisions of this chapter or any rule, regulation, notice, condition, term or order issued by the City hereunder may be considered upon a subsequent applicant for floodplain development permits by the same or related applicant. ("Related Applicant" means (a) a firm, partnership, joint venture, association, organization or entity of any kind in which the applicant holds any stock, title, or other ownership interest of at least twenty percent (20%); (b) a firm, partnership, joint venture, association, organization or entity of any kind which hold any stock, title, or other ownership interest in the applicant of at least twenty percent (20%); or (c) an individual, firm, partnership, joint venture, association, organization or entity of any kind, whose affairs the applicant has the legal or practical ability to direct, either directly or indirectly, whether by contractual agreement, majority ownership interest, any lesser ownership interest, familial relationship or in any other manner. (Ord. No. 1982, § 1, 8-19-04)

Secs. 11-17—11-30. Reserved.

ARTICLE II. FLOODPLAIN DEVELOPMENT PERMIT

Cross references—Grading permit, § 5-6; licenses and miscellaneous business

City of Bellefontaine Neighbors -- QuickCode
regulations, Ch. 15.

Sec. 11-31. Required.

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in all areas to which this Chapter is applicable. No person shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for each structure or other-development.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-32. Application for permit.

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

- (1) Identify and describe the work to be covered by the permit.
- (2) Describe the land on which the proposed work is to be done by lot, block tract and house and street address, or similar description that will readily identify and definitely locate the proposed structure or work.
- (3) Indicate the use or occupancy for which the proposed work is intended.
- (4) Be accompanied by plans and specifications for proposed construction.
- (5) Specify whether development is located in designated flood fringe or floodway.
- (6) Identify the existing base flood elevation and the elevation of the proposed development.
- (7) Indicate the assessed value of the structure and the fair market value of the improvement.
- (8) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- (9) Give such other information as reasonably may be required by the floodplain administrator/building official.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-33. Administration.

- (a) The building official is hereby appointed to administer and implement the provisions of this article.
- (b) Duties of the building official shall include, but not be limited to:
 - (1) Reviewing all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this chapter have been satisfied.

City of Bellefontaine Neighbors -- QuickCode

- (2) Reviewing permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Notifying adjacent communities and the State Emergency Management Agency prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
- (4) Assuring that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished.
- (5) Verifying and recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (6) Verifying, recording and maintaining the record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
- (7) When floodproofing is utilized for a particular structure, the building official shall be presented certification from a registered professional engineer or architect.

(Ord. No. 1982, § 1, 8-19-04)

Secs. 11-34—11-45. Reserved.

ARTICLE III. FLOODWAY OVERLAY AND FLOODWAY FRINGE OVERLAY DISTRICTS

Sec. 11-46. Establishment.

The mapped floodplain areas within the jurisdiction of this chapter are hereby divided into the two (2) following districts: a floodway overlay district (FW) and a floodway fringe overlay district (FF) identified in the Flood Insurance Study (and accompanying map(s)). Within these districts all uses not meeting the standards of this chapter and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones (including AE, AO and AH Zones) as identified on the official FIRM and identified in the Flood Insurance Study provided by the Federal Emergency Management Agency.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-47. Standards generally.

- (a) No permit for floodplain development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO and AH Zones) unless the conditions

City of Bellefontaine Neighbors -- QuickCode

of this section are satisfied.

- (b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. The unnumbered A zones shall be subject to all development provisions of this chapter. If flood insurance study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.
- (c) Until a floodway is designated, no new construction, substantial improvements or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (d) New construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes and other developments shall require:
 - (1) Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) New or replacement water supply systems and/or sanitary sewerage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems be located so as to avoid impairment or contamination;
 - (3) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (4) All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation; and
 - (5) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (i) All such proposals are consistent with the need to minimize flood damage;
 - (ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems, are located and constructed to minimize or eliminate flood damage;
 - (iii) Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (iv) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
- (e) *Storage, material, and equipment.* The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is

City of Bellefontaine Neighbors -- QuickCode

prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

- (f) Recreational vehicles placed on sites within the identified floodplain identified in section 11-46 must either:
 - (1) Be on the site for fewer than one hundred eighty (180) consecutive days, and be fully licensed and ready for highway use (i.e. be on its wheels, or with a jacking system attached to the site only by quick-disconnect type utilities and security devices, and with no permanently attached additions); or
 - (2) Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this section.
- (g) *Accessory structures.* Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet may be constructed at-grade and wet-floodproofed; provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this Chapter; and a floodplain development permit has been issued.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-48. Floodway fringe overlay district (including unnumbered and numbered A zones, AE and AH zones).

- (a) *Permitted uses.* Any use permitted in section 11-49 shall be permitted in the floodway fringe overlay district. No use shall be permitted in the district unless the standards of section 11-47 are met.
- (b) *Standards for the floodway fringe overlay district:*
 - (1) New construction or substantial improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above two (2) feet above the base flood elevation.
 - (2) New construction or substantial improvements of nonresidential structures shall have the lowest floor, including basement, elevated to or above two (2) feet above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below such level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the City's Floodplain Administrator.
 - (3) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic

City of Bellefontaine Neighbors -- QuickCode

flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; the bottom of all openings shall be no higher than one (1) foot above grade; openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

- (4) Within AH Zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- (5) *Manufactured homes.*
- (i) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
1. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home with two (2) additional ties per side at the intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.
 2. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side.
 3. All components of the anchoring system shall be capable of carrying a force of forty-eight hundred (4,800) pounds.
 4. Any additions to manufactured homes shall be similarly anchored.
- (ii) All manufactured homes to be placed on a site outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated at least two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection (b)(5)(i) herein.
- (iii) All manufactured homes to be placed on a site in an existing manufactured home park or subdivision that are not subject to the provisions of subparagraph (ii) above shall be elevated so that either: 1) the lowest floor of the manufactured is at or above two feet above the base flood level; or 2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be

City of Bellefontaine Neighbors -- QuickCode
securely attached to an adequately anchored system in accordance with the provisions of subsection (b)(5)(i) herein.

- (6) AO Zones are located within the areas of special flood hazard. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
- (i) All new construction and substantial improvements of residential structures, including manufactured homes, shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
 - (ii) All new construction and substantial improvements of nonresidential structures shall:
 - 1. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified); or
 - 2. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the City's floodplain administrator.
 - (iii) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-49. Floodway overlay district.

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the floodway district to the extent that they are not prohibited by any other ordinance. All encroachments, including fill, new construction, substantial improvements and other developments, must be prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of sections 11-47 and 11-48. The following are recommended uses for the floodway district:

- (1) Agricultural uses such as general farming, pasture, nurseries, forestry.
- (2) Residential uses such as lawns, gardens, parking and play areas.
- (3) Nonresidential areas such as loading areas, parking, airport landing strips.
- (4) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

City of Bellefontaine Neighbors -- QuickCode

(5) In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through federal, state or other sources or section 11-47(c)(7) of this article in meeting the standards of this section.

(Ord. No. 1982, § 1, 8-19-04)

Sec. 11-50. Recreational vehicles.

All recreational vehicles placed on sites within all unnumbered and numbered A zones, AO, AE, and AH zones on the community's FIRM shall either:

- (a) Be on site for fewer than 180 consecutive days; or
- (b) Be fully licensed and ready for highway use; or
- (c) Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this Chapter.

A recreational vehicle shall be deemed ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(Ord. No. 1982, § 1, 8-19-04)

Secs. 11-51—11-59. Reserved.

ARTICLE IV. SEVERABILITY

Sec. 11-60. Severability.

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

(Ord. No. 1982, § 1, 8-19-04)

Chapter 12 -- GARBAGE, TRASH AND REFUSE

Cross references—*Health and sanitation, Ch. 13; plumbing, Ch. 20; sewers disposal, Ch. 22.*

State law reference—*Authority to provide for garbage and refuse collection and disposal, RSMo, §§ 71.680, 71.690.*

ARTICLE I. IN GENERAL

Secs. 12-1—12-15. Reserved.

ARTICLE II. SOLID WASTE STORAGE, COLLECTION, TRANSPORTATION AND DISPOSAL

Sec. 12-16. Definitions.

For the purposes of this article the following terms shall be deemed to have the meanings indicated below:

Approved incinerator. An incinerator which complies with all current regulations of the responsible local and state air pollution control agencies.

Bulky rubbish. Nonputrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste transportation vehicles by solid waste collectors, with the equipment available therefor.

Collection. Removal of solid waste from its place of storage to the transportation vehicle.

Composting. The controlled biological reduction of organic waste to humus.

Demolition and construction waste. Waste materials from the construction or destruction of residential, industrial or commercial structures.

Director. The director of the solid waste management program of the city shall be the city engineer or his authorized representative.

Disposable solid waste container. Disposable plastic or paper sacks with a capacity of twenty (20) to thirty-five (35) gallons specifically designed for storage of solid waste.

Dwelling unit. Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

Garbage. Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food.

Hazardous wastes. Including, but not limited to, pathological wastes, explosive wastes, pesticides,

City of Bellefontaine Neighbors -- QuickCode

pesticide containers, toxic or radioactive materials.

Multiple housing facility. A housing facility containing more than one dwelling unit under one roof.

Occupant. Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as tenant.

Processing. Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

Recyclable materials. Recyclable materials shall mean newspapers, beverage cans, glass, aluminum and plastic containers for food and beverages and other materials which may be designated for recycling by the director and/or a hauler licensed for recyclable matter collection by the city.

Refuse. Solid waste.

Scavenging. Scavenging shall mean and include the physical examination of solid waste and recyclable materials in a solid waste container, or any container which may be used for the storage and collection of recyclable materials, or the removal or disturbance of items placed for collection by a solid waste hauler or a recyclable material hauler by persons other than the adjacent owner, lessee or occupant, agents of appropriate public agencies and persons authorized under this chapter to collect and remove solid waste and recyclable materials.

Solid waste. Unwanted or discarded waste materials in a solid or semi-solid state, including, but not limited to, garbage, ashes, street refuse, rubbish, dead animals, animal or agricultural wastes, yard wastes, discarded appliances, special wastes, industrial wastes, and demolition and construction wastes. Recyclable materials retained by an occupant or placed at curbside for collection shall be considered to be solid waste.

- (1) *Commercial solid waste.* Solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, and multiple housing facilities with more than two (2) dwelling units.
- (2) *Residential solid waste.* Solid waste resulting from the maintenance and operation of dwelling units, excluding multiple housing facilities with more than two (2) dwelling units.

Solid waste container. Receptacle used by any person to store solid waste during the interval between solid waste collections.

Solid waste disposal. The process of discarding or getting rid of unwanted material. In particular, the final disposition of solid waste by man.

Solid waste management. The entire solid waste system of storage, collection, transportation, processing and disposal.

Storage. Keeping, maintaining or storing solid waste from the time of its production until the time of

its collection.

Transportation. The transporting of solid waste from the place of collection or processing to a solid waste processing facility or solid waste disposal area.

Yard wastes. Grass clippings, leaves, tree trimmings.
(Ord. No. 984, § 1, 3-4-76; Ord. No. 1436, § 1, 10-19-89; Ord. No. 1516, § 1, 5-21-92; Ord. No. 1541, § 1, 2-18-92)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 12-17. Permits or licenses.

(a) *Required; exceptions.* No person shall engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the city without first obtaining an annual permit or license therefor from the city; provided, however, that this provision shall not be deemed to apply to employees of the holder of any such permit or license.

(b) *Application; contents.* Each applicant for any permit or license required by this section shall state in his application therefor:

- (1) The nature of the permit or license, as to collect, transport, process or dispose of solid waste or any combination thereof;
- (2) The characteristics of solid waste to be collected, transported, processed or disposed;
- (3) The number of solid waste transportation vehicles to be operated thereunder;
- (4) The precise location or locations of solid waste processing or disposal facilities to be used;
- (5) Boundaries of the collection area; and
- (6) Such other information as required by the director.

(c) *Insurance prerequisite to issuance.* No such permit or license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the director evidence of a satisfactory public liability insurance policy, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than one hundred thousand dollars (\$100,000.00) for each person injured or killed, and in the amount of not less than two hundred thousand dollars (\$200,000.00) in the event of injury or death of two (2) or more persons in any single accident, and in the amount of not less than fifty thousand dollars (\$50,000.00) for damage to property. Such policy may be written to allow the first one hundred dollars (\$100.00) of liability for damage to property to be deductible. Should any such policy be cancelled, the director shall be notified of such cancellation by the insurance carrier in writing not less than ten (10) days prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in

City of Bellefontaine Neighbors -- QuickCode

such policy, which shall also place upon the company writing such policy the duty to give such notice.

(d) *Denial; reapplication.* If the application does not clearly show that the collection, transportation, processing or disposal of solid wastes will create no public health hazard or be without harmful effects on the environment, the application shall be denied and the applicant notified by the director, in writing, stating the reason for such denial. Nothing in this section shall prejudice the right of the applicant to reapply after the rejection of his application; provided that all aspects of the reapplication comply with the provisions of this article.

(e) *Renewal.* The annual permit or license may be renewed simply upon payment of the fee or fees as designated if the business has not been modified. If modifications have been made, the applicant shall reapply for a permit or license as set forth in paragraph (b) and (c) of this section. No permit authorized by this article shall be transferable from person to person.

(f) *Suspension or revocation.* In all cases, when corrective measures have not been taken within the time specified in section 12-18 of this article, the director shall suspend or revoke the permit or license or permits or licenses involved in the violation; however, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one (1) extension of time not to exceed the original time period may be given.

(g) *Contracts for disposal.* The city shall have authority to, from time to time, enter into contracts for the exclusive right to collect and dispose of residential waste and recyclable materials within the city. Any person, firm or corporation awarded such a contract shall be subject to the foregoing requirements of this section. If such an exclusive contract is awarded or in force, the city may refuse to license any other person, firm or corporation from engaging in the business of collecting, transporting or disposing of residential solid waste or recyclable materials within the city.

(Ord. No. 984, §§ 6.1—6.5, 6.7, 3-4-76; Ord. No. 1541, § 2, 2-18-93)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 12-18. Inspections; violation notices.

In order to insure compliance with the laws of this state, this article and the rules and regulations authorized in this article, the director is authorized to inspect all phases of solid waste management within the city. In all instances where such inspections reveal violation of this article, the rules and regulations authorized in this article for the storage, collection, transportation, processing or disposal of solid waste or of the laws of the state, the director shall issue notice for each such violation stating therein the violation or violations found, the time and date and the corrective measure to be taken, together with the time in which such corrections shall be made.

(Ord. No. 984, § 6.6, 3-9-76)

Sec. 12-19. Storage.

(a) The occupant of every dwelling unit and of every institutional, commercial or business,

City of Bellefontaine Neighbors -- QuickCode

industrial or agricultural establishment producing solid waste within the corporate limits of the city shall provide sufficient and adequate containers for the storage of all solid waste, except bulky rubbish and demolition and construction waste, to serve each such dwelling unit and/or establishment; and to maintain such solid waste containers at all times in good repair.

(b) The occupant of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste to be collected in proper solid waste containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times.

(c) Residential solid waste shall be stored in containers that are leakproof, waterproof, fitted with a fly-tight lid, secure against animals and properly covered at all times except when depositing waste therein or removing the contents thereof. Containers shall be of a type originally manufactured for residential solid waste, with tapered sides for easy emptying. They shall be of light weight and sturdy construction. Galvanized metal containers or rubber, fiberglass or plastic containers which do not become brittle in cold weather, or containers provided by a licensed residential solid waste collection company may be used. Plastic bags or biodegradable yard waste bags may not be used for storage of any waste materials other than yard waste, but such bags may be used to place waste material at the curbside for collection. Recyclable materials may be stored in containers provided for that purpose by a licensed residential recyclable collection company.

(d) Commercial solid waste shall be stored in solid waste containers as approved by the director. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein or removing the contents thereof; and shall meet all requirements as set forth by section 12-23. Commercial establishments may use dumpsters not exceeding forty-two (42) cubic yards, and each dumpster must have a sticker on the same stating that dumpster must be securely covered at all times except when being filled or emptied.

(e) Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle shall not exceed seventy-five (75) pounds.

(f) Yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights-of-way. The weight of any individual container and contents shall not exceed seventy-five (75) pounds.

(g) Waste containers which are in violation of the requirements of this article may be collected together with their contents and disposed of.

(Ord. No. 984, § 2, 3-4-76; Ord. No. 1541, § 3, 2-18-93)

Sec. 12-20. Collection.

(a) All solid waste from premises to which collection services are provided by the city shall be collected, except bulky rubbish as defined in this article; provided, however, that bulky rubbish will be

City of Bellefontaine Neighbors -- QuickCode

collected if tied securely in bundles not exceeding reasonable limitations of weight and bulk to be fixed by regulations to be made and promulgated by the director as provided in this article. All solid waste collected shall, upon being loaded into transportation equipment, become the property of the collection agency.

(b) Tree limbs, yard wastes and bulky rubbish shall be placed at the curb for collection. Solid waste shall be placed at the curb for collection in such containers as may be permitted by this article. No waste or waste containers shall be placed at the curb prior to 5:00 P.M. on the day preceding a scheduled collection, and containers must be removed from the curbside by 5:00 P.M. on the day after collection.

(c) Bulky rubbish shall be collected by request to the director. The director shall establish the procedure for collecting bulky rubbish.

(d) Solid waste collectors, employed by the city or utilized by the citizenry or a solid waste collection agency operating under contract with the city, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this article. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste. Commercial solid waste may be removed from within commercial establishments upon written request of the owner and approval by the director.

(e) The following collection frequencies shall apply to collections of solid waste within the city:

- (1) All residential solid waste, other than bulky rubbish, shall be collected at least weekly.
- (2) All commercial solid waste shall be collected at least weekly, and shall be collected at such lesser intervals as may be required by the director upon a determination that such lesser interval may be necessary for the preservation of the health and/or safety of the public or to prevent a public nuisance.

(f) Residential solid waste containers shall be stored upon the residential premises behind the front wall line of the principal building and any attached accessory structure on the lot. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the city to use public property for such purposes. The storage site shall be well-drained and fully accessible to collection equipment, public health personnel and fire inspection personnel.

(g) Solid waste collectors, employed by the city or authorized by citizens or a solid waste collection agency operating under contract with the city, shall be responsible for the collection of solid waste from the point of collection to the transportation vehicle provided the solid waste was stored in compliance with paragraph (c), (d), (e) and (f) of section 12-19 of this article. Any spillage or blowing litter caused as a result of the duties of the solid waste collector shall be collected and placed in the transportation vehicle by the solid waste collector.

(Ord. No. 984, § 3, 3-4-76; Ord. No. 1541, § 4, 2-18-93; Ord. No. 1594, § 1, 3-3-94)

Sec. 12-21. Transportation.

City of Bellefontaine Neighbors -- QuickCode

(a) All transportation vehicles and compactors shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be closed, with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers. The name of the owner of any such vehicle shall be clearly printed on the side door of such vehicle.

(b) All earth and rock and other similar materials shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

(c) Transportation and disposal of demolition and construction wastes shall be in accordance with sections 12-17 and 12-22.
(Ord. No. 984, § 4, 3-4-76)

Sec. 12-22. Disposal.

(a) Solid wastes shall be deposited at a processing facility or disposal area approved by the city and complying with all requirements of the state division of health.

(b) The director may classify certain wastes as hazardous wastes which will require special handling and shall be disposed of only in a manner acceptable to the director and which will meet all local, state and federal regulations.
(Ord. No. 984, § 5, 3-4-76)

Sec. 12-23. Director's authority regarding rules and regulations.

The director shall make, amend, revoke and enforce reasonable and necessary rules and regulations governing, but not limited to:

- (1) Preparation, drainage and wrapping of garbage deposited in solid waste containers.
- (2) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof.
- (3) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any.
- (4) Weight limitations on the combined weight of solid waste containers and the contents thereof, and weight and size limitations of bundles of solid waste too large for solid waste containers.

City of Bellefontaine Neighbors -- QuickCode

- (5) Storage of solid waste in solid waste containers.
 - (6) Sanitation, maintenance and replacement of solid waste containers.
 - (7) Schedules of and routes for collection and transportation of solid waste.
 - (8) Collection points of solid waste containers.
 - (9) Collection, transportation, processing, compacting and disposal of solid waste.
 - (10) Disposal facilities and fees for the use thereof.
 - (11) Records of quantity and type of wastes received at processing and/or disposal facilities.
 - (12) Handling of special wastes such as toxic wastes, sludges, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, etc.
- (Ord. No. 984, § 7, 3-4-76)

Sec. 12-24. Prohibited practices.

It shall be unlawful for any person to:

- (1) Deposit solid waste in any solid waste container, other than his own, without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal;
- (2) Interfere in any manner with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the city or those of a solid waste collection agency operating under contract with the city;
- (3) Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency;
- (4) Dispose of solid waste at any facility or location which is not approved by the city and the state division of health;
- (5) Engage in the business of collecting, transporting, processing, compacting or disposing of solid waste within the corporate limits of the city without a permit from the city, or operate under an expired permit or license, or operate after a permit or license has been suspended or revoked;
- (6) Scavenge, as defined in section 12-16 of this Code, in or from any solid waste container or any container which may be used for the storage and collection of recyclable materials or in or among any solid waste placed for collection or recyclable materials placed for collection as provided by law.
- (7) Whenever the city provides for refuse collection and removal services from residences by contract with a private or public entity or agency, it shall be unlawful for any property owner or

City of Bellefontaine Neighbors -- QuickCode

occupant of a residence eligible for the contracted service: (a) to fail to register with the city's service provider; or (b) to fail to subscribe to such service; or (c) to permit such subscription to lapse or be terminated.

(Ord. No. 984, § 8, 3-4-76; Ord. No. 1436, § 2, 10-19-89; Ord. No. 2117 §1, 11-19-09)

Sec. 12-25. Penalties.

Any person violating any of the provisions of this article or any lawful rules or regulations promulgated pursuant thereto, upon conviction shall be punished as provided in section 1-10 of this Code. (Ord. No. 984, § 9, 3-4-76)

Sec. 12-26. Composting.

Owners of property located within the city may dispose of yard waste by composting such materials on their property as an accessory use. Composting may be conducted with the following conditions and restrictions:

- (1) Composting piles shall be for private use only. It shall be unlawful to operate a commercial composting facility or to accept a fee for sale or use of the product of such composting or to accept a fee to receive material for composting unless such activity is authorized by and conducted in full compliance with the city's zoning ordinances.
- (2) All composting shall be conducted using approved composting procedures and complying with the following requirements:
 - a. All compost piles shall be enclosed in a free-standing compost bin which shall be no larger than one hundred (100) cubic feet for each ten thousand (10,000) square feet of lot size of the property on which it is located. Compost bins shall be so constructed and maintained as to prevent the materials contained therein from falling through the sides thereof and to prohibit the contents from being blown out of the container by wind or other natural forces. Compost bins shall not exceed five (5) feet in height, nor may the base of any compost bin exceed six (6) feet in length.
 - b. All compost bins shall be so enclosed, constructed, and maintained as to prevent the harborage of rodents and pests. The presence of rodents in or near a compost pile shall be prima facie evidence of the maintenance of a public nuisance and public health hazard and, in addition to any other relief or punishment provided by law, as order for immediate removal thereof may be issued by the building inspector.
 - c. All compost bins shall be so maintained as to prevent unpleasant, putrefactive, sweet, sour or pungent odors.
 - d. Compost bins may be located only in the rear area of a lot and behind the rear line of the

City of Bellefontaine Neighbors -- QuickCode

principal building on the lot. No compost bin may be located within three (3) feet of the principal building, nor within three (3) feet of the rear or sidelines of the lot. No compost bin may be located within fifteen (15) feet of any principle structure, deck, patio, pool or similar structure on adjacent property. No compost bin may be located on a corner lot within the required yard area along an adjacent street.

- e. No compost bin shall be located in such a manner as to impede the natural flow of stormwater drainage or creeks.
- (3) It shall be unlawful to compost other than approved materials.
- a. Ingredients which may be composted include:
 - 1. Grass clippings.
 - 2. Leaves.
 - 3. Small limbs, brush and wood chips.
 - 4. Vegetation similar to the above.
 - 5. Commercially available compost additives.
 - 6. Flowers and household plants.
 - b. It shall be unlawful to compost the following materials or allow the following materials to be placed in a compost pile:
 - 1. Lakeweeds.
 - 2. Food scraps of any kind.
 - 3. Fish, fowl, meat or other animal products.
 - 4. Manure.
 - 5. Animal carcasses.
 - 6. Fruits, vegetables or nuts.
 - 7. Pressure-treated, painted or preserved wood or wood chips.
 - 8. Other items not normally composted.
- (4) Every owner and tenant of property shall be responsible for maintaining all property under his control in accordance with the requirements of this section. Any person found guilty of

City of Bellefontaine Neighbors -- QuickCode
owning or occupying property upon which a compost pile in violation of this section is located
may be punished as provided in section 1-10 of this Code of Ordinances.
(Ord. No. 1516, § 2, 5-21-92)

Secs. 12-27—12-40. Reserved.

ARTICLE III. LITTER

Sec. 12-41. Definitions.

For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

Litter. The scattering or dropping of rubbish or trash or other matter.

Rubbish. Any type of debris or rejected matter.

Trash. Worn out, used, broken up or worthless matter or material.
(Code 1964, § 14-5)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 12-42. Spilling of materials from vehicles.

It shall be unlawful for any person to drive, move or propel a vehicle or to allow a vehicle owned by such person to be driven, moved or propelled in such a manner as to cause to be spilled, dropped or cast onto any street, highway, thoroughfare, sidewalk or other public place in the city any trash or rubbish, or to load or allow a vehicle to be loaded so that the contents or any portion of the contents of such vehicle shall be spilled, dropped or cast from such vehicle. Vehicles, including trucks loaded with or transporting any construction material, dirt, earth, clay, stone, macadam, brick, paper, cement, sand, fuel, coal, wood, refuse or garbage, shall be so loaded and the vehicle shall be in such condition that none of the contents shall be lost or spilled along the route which the vehicle is traveling.
(Code 1964, § 14-6)

Sec. 12-43. Articles not to be thrown or placed on public places.

It shall be unlawful for any person to throw, place, deposit, or cause to be thrown, placed or deposited, or permit any one in his or her employ to throw, place or deposit, onto any public or private highway, thoroughfare, street, sidewalk or onto any other public place any kind of wire, scrap paper, ashes, cans or glass of any character, leaves, yard waste, branches, grass or grass clippings, or animal,

City of Bellefontaine Neighbors -- QuickCode

vegetable or any other substance whatever, or any type of advertising matter, or to distribute or cause to be distributed or to permit anyone in his or her employ to distribute any type of advertising matter in a manner as to cause the littering of any public or private highway, thoroughfare, street, sidewalk or other public place. It shall further be unlawful for any person to sweep or otherwise relocate, or cause to be swept or relocated, or cause anyone in his or her employ to sweep or otherwise relocate from any premises any refuse or dirt from such premises onto any public highway, thoroughfare, street, sidewalk or other public place in the city.

(Code 1964, § 14-7; Ord. No. 1537, § 1, 12-17-92)

Sec. 12-44. Articles not to be thrown from vehicles onto public places.

It shall be unlawful for any person operating a vehicle or being a passenger in any vehicle to throw or cause to be thrown from such vehicle onto any public highway, thoroughfare, street, sidewalk or other public place in the city, any rubbish or trash, fruit or fruit particles, wrappers, containers, papers, paper products, bottles, glass, cans, hulls, handbills, confetti, shavings, shells, stalks, animals, cloth or any other material of any kind which would render such public highway, thoroughfare, street, sidewalk or other public place unsightly, unsafe, unclean or unsanitary.

(Code 1964, § 14-8)

Sec. 12-45. Littering of private property.

The owner or person in control of any private property shall at all times maintain the premises free of litter. No person shall throw or deposit litter on: any private property in the city, whether owned by such person or not; provided that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property.

(Code 1964, § 14-9)

Sec. 12-46. Use of property for dumping.

It shall be unlawful for any person to use any land, premises or property within the city for the dumping or disposal of any garbage, trash, rubbish, offal, filth, excrement, discarded building materials or combustible materials of any kind without first having made application for and receiving a permit to do so. The application therefor shall be filed with the city engineer and shall state the location of the land, premises or property, the name of the owner of such premises or property, the manner in which the dumping or disposal is to be accomplished, and the means and methods by which the applicant proposes to secure the same against the danger of disease, fire and other menaces to the public health, and to provide for the suppression of rodents, mosquitos and other insects. Upon receipt of such application, the city engineer shall make, or cause to be made by duly authorized representatives, an investigation of the proposed location and method of dumping or disposal, and the method proposed by the applicant to secure the same against the danger of disease, fire and other menaces to the public health and to provide for the suppression of rodents, mosquitoes and other insects. Upon such investigation and a finding that

City of Bellefontaine Neighbors -- QuickCode

the proposed dumping will not cause any danger to the public health, the city engineer shall issue such permit upon the payment of a fee of four dollars (\$4.00).

(Code 1964, § 14-10)

Sec. 12-47. Evidence of littering

(a) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane or other conveyance in violation of this Section, it shall be prima facie evidence that the operator of the conveyance has violated this Section.

(b) Whenever any litter which is dumped, deposited, thrown or left on property in violation of this Chapter is discovered to contain any article, including, but not limited to, letters, bills, publications or other writing which display the name of the person thereon in such a manner to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this Section.

(Ord. No. 2129 §2, 3-18-10)

Sec. 12-48. Additional penalty.

In addition to the penalties set out in Chapter 1 of this Code of Ordinances, upon conviction for violating any provision of this Chapter the court may:

- (1) Order the violator to reimburse the City for the reasonable cost of removing the litter when the litter is or is ordered removed by the City; and/or
- (2) Order the violator to pick up and remove any and all litter from any public property, private right-of-way for a distance not to exceed one (1) mile or, with prior permission of the legal owner or tenant in lawful possession of private property, any such private property upon which it can be established by competent evidence that he has deposited litter, including any litter he has deposited and any litter deposited thereon by anyone else prior to the date of execution of sentence.

(Ord. No. 2129 §2, 3-18-10)

Chapter 13 -- HEALTH AND SANITATION

State law reference—Air conservation, RSMo. Ch. 203.

ARTICLE I. IN GENERAL

Sec. 13-1. Smoking prohibited in city buildings and vehicles; penalty.

City of Bellefontaine Neighbors -- QuickCode

(a) It shall be unlawful for any person to smoke any cigarette, cigar, pipe or tobacco in any other form or configuration within the interior of any building or portion thereof owned by or leased to the city and used for city purposes.

(b) Any person found guilty of violating this section shall be punished by a fine not to exceed two hundred dollars (\$200.00) for each violation.
(Ord. No. 1487, § 1, 6-6-91; Ord. No. 1489, § 1, 7-18-91; Ord. No. 1569, § 1, 9-2-93)

Sec. 13-2. Smoking prohibitions.

(a) *Definitions.* As used in this Section the following terms shall mean as follows:

Business: A sole proprietorship, partnership, joint venture, corporation or other business entity, either for profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered and private clubs.

City: The City of Bellefontaine Neighbors, Missouri.

Director of Revenue: The Director of Revenue of St. Louis County.

Drinking Establishment: Any business with a valid license issued by the City to sell intoxicating liquor by the drink or to sell beer and light wine by the drink whose on-site sales of food for consumption on the premises comprises no more than twenty-five percent (25%) of gross sales of food and both alcoholic and non-alcoholic beverages on an annual basis.

Employee: Any person who performs services for an employer with or without compensation.

Employer: A person, partnership, association, corporation, trust or other organized group of individuals, including the City and County or any agency thereof, which utilizes the services of at least one (1) employee.

Enclosed Area: A space bound by walls (with or without windows) continuous from the floor to the ceiling and enclosed by doors, including, but not limited to, offices, rooms, all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures and hallways.

Permanently designated smoking room: A hotel or motel room that may be designated as a smoking room, with such designation being changeable only one (1) time a year.

Place of Employment: Any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference rooms and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care, adult day care, respite care or health care facility.

Private Club: A not-for-profit organization incorporated under the laws of the State of Missouri

City of Bellefontaine Neighbors -- QuickCode

for fraternal or social purposes or for a congressionally chartered veterans' organization, which has a defined membership and restricts admission to members of the club and their guests. Private club shall not include an establishment that is generally open to members of the general public upon payment of a fee. A private club shall not be considered a "public place" except when it is the site of a meeting, event or activity that is open to the public.

Public Place: Any enclosed or other area to which the public is invited or in which the public is permitted, including, but not limited to, banks, educational facilities, reception areas, health facilities, laundering facilities, public transportation facilities, production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place" unless it is used as a child care, adult day care, respite care or health care facility.

Restaurant: An eating establishment including, but not limited to, coffee shops, cafeterias, sandwich stands and private and public school cafeterias, which provides food to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar and lounge area within the restaurant.

Service Line: Any indoor or outdoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Shopping Mall: An enclosed public walkway or hall area that serves to connect retail or professional establishments.

Smoking: Inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe or other tobacco product.

Sports Arena: Sports pavilions, gymnasiums, health spas, boxing arenas, outdoor and indoor swimming pools, outdoor athletic fields, outdoor and indoor roller and ice skating rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sporting events.

(b) *Prohibition of Smoking in Enclosed Places of Employment and Other Public Places.*

- (1) It shall be unlawful for any person to possess lighted or heated smoking materials in any form including, but not limited to, the possession of lighted or heated cigarettes, cigars, pipes or other tobacco products within an enclosed place of employment.
- (2) It shall be unlawful for any person to possess lighted or heated smoking materials in any form including, but not limited to, the possession of lighted or heated cigarettes, cigars, pipes or other tobacco products within an enclosed public place or within any other places hereinafter specified:
 - (a) In any public building or vehicle owned or operated by the City.
 - (b) Elevators in public buildings.
 - (c) Restrooms in public buildings.

City of Bellefontaine Neighbors -- QuickCode

- (d) Libraries, educational facilities, child care and adult day care facilities, respite care facilities, museums, auditoriums, aquariums and art galleries.
 - (e) Any health care facility, health clinic or ambulatory care facilities, including, but not limited to: laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices.
 - (f) Any indoor place of entertainment or recreation including, but not limited to, gymnasiums, theaters, concert halls, bingo halls, arenas and swimming pools.
 - (g) Service lines.
 - (h) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital or other similar performance.
 - (g) Shopping malls or retail establishments.
 - (j) Indoor and outdoor sports arenas.
 - (k) Restaurants, including lounge and bar areas except outdoor dining areas which are not "enclosed areas" as defined in this Section.
 - (l) Convention facilities.
 - (m) All indoor public areas and waiting rooms of public transportation facilities, including, but not limited to, bus and mass transportation facilities.
 - (n) Any other area used by the public or serving as a place of work.
 - (o) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including, but not limited to, joint committees, or agencies of the City or County or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City.
 - (p) Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence.
 - (q) Sidewalks, driveways and other open areas within fifteen (15) feet of the entry to any building owned or occupied by any governmental entity, or within fifteen (15) feet of the entry to any building open to the public; provided, however, that this entryway prohibition shall not apply within outside dining areas where smoking is permitted or to entries that are located less than fifty (50) feet from another public entry.
- (3) It shall be unlawful to dispose of smoking waste, or to place or maintain a receptacle for smoking waste, in an area in which smoking is prohibited under this chapter.
- (c) *Responsibilities of Proprietors, Owners and Managers.*
- (1) It shall be unlawful for any person having control of a place listed in this Section to knowingly

City of Bellefontaine Neighbors -- QuickCode

permit, cause, suffer or allow any person to violate the provisions of this Section. It shall be an affirmative defense to an alleged violation of this Subsection that the person having control of a place has asked that the lighted or heated cigarette, cigar, pipe or other tobacco product be extinguished and asked the person to leave the establishment if that person has failed or refused to extinguish the lighted or heated cigarette, cigar, pipe or other tobacco product.

- (2) A person having control of a place shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) near all entrances where smoking is prohibited pursuant to this chapter. Such signage shall consist of letters not less than one (1") inch in height.
- (3) It shall be the responsibility of employers to provide smoke-free workplaces for all employees.
- (4) All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.
- (d) *Declaration of Establishment as Non-Smoking.* Notwithstanding any other provision of this Section, an owner, operator, manager, other person in control of an establishment, facility, or outdoor area may declare that the entire establishment facility or outdoor area as a non-smoking place. No person shall smoke in places so declared and posted with signs pursuant to this Section.
- (e) *Exceptions.* Notwithstanding any other provision of this Section to the contrary, the following shall not be subject to the smoking restrictions of this Section:
 - (1) Private residences, not serving as enclosed places of employment or enclosed public places;
 - (2) Private clubs;
 - (3) Performers on stage in a theatrical production, where smoking is required as a part of the production;
 - (4) Private and semi-private rooms in nursing homes and long-term care facilities, the residents of which are all smokers and have all requested the management of the facility to be placed in a room where smoking is permitted;
 - (5) Retail establishments in which food is not prepared on the premises and where more than sixty percent (60%) of the volume of trade or business carried on is the sale of tobacco and tobacco-related products;
 - (6) Permanently designated smoking rooms, not to exceed twenty percent (20%) of the guest rooms;
 - (7) Cigar bars, provided the entity is in operation on or before the effective date of this Section, and, provided further, that smoke does not infiltrate into areas where smoking is otherwise prohibited;
 - (8) Drinking establishments which are in operation on or before the effective date of this Section; provided, however, that no smoke infiltrates into areas where smoking is otherwise prohibited, and, further provided, that each such drinking establishment has posted in a place visible to the public from its exterior a Certificate of Exemption issued by the St Louis County Department of

City of Bellefontaine Neighbors -- QuickCode

Revenue pursuant to the County Indoor Clean Air Act. A copy of such exemption shall also be provided to the City Clerk.

- (f) *Section Not To Preclude More Extensive Prohibitions by Proprietors, Owners or Managers.* Nothing in this Section shall be construed or applied in such a manner as to interfere with or prohibit a property owner, business operator or public entity, including the City, from more broadly prohibiting smoking on or about their property or from prohibiting smoking in areas, at times, or under conditions which do not fall within the prohibitions established by this Section or the County Indoor Clean Air Act.
- (g) *Notice to License Applicants.* Notice of the provisions of this Section shall be given to all applicants for licenses issued by the City pertaining to the use of property for business or commercial purposes to which the public will be invited or permitted.
- (h) *Certificates of Exception to Qualified Drinking Establishments.* The owner or operator of a drinking establishment which seeks a smoking exemption shall first obtain and file with the City Clerk a copy of a current certificate issued by the Director of Revenue attesting that the establishment satisfies the criteria for such exemption. No exemption shall be granted to any establishment not having and maintaining a valid Exemption Certificate from St. Louis County.
- (i) *Enforcement.* The Police Department and its authorized representatives shall enforce this Section. Nothing herein shall be construed to limit the authority of the Fire Marshal neither to designate additional locations in which smoking shall be prohibited nor to repeal any order of the Fire Marshal prohibiting smoking in any location.
- (j) *Penalties.* Every person who shall be convicted of a violation of this Section shall be subject to a fine in accordance with the general penalties prescribed in Section 1-10 of this Code of Ordinances. (Ord. No. 2156 §1, 1-20-11)

Secs. 13-3—13-15. Reserved.

ARTICLE II. DEPARTMENT OF PUBLIC HEALTH AND SANITATION

Cross reference—Administration generally, Ch. 2.

Sec. 13-16. Established.

There is hereby established a department of public health and sanitation.
(Code 1964, § 2-35)

Sec. 13-17. Director—Appointment; qualifications.

The head of the department of public health and sanitation shall be the director of public health and

City of Bellefontaine Neighbors -- QuickCode

sanitation, who shall be appointed by the mayor. He shall be a licensed practitioner of medicine who has had special training and experience in public health administration.

(Code 1964, § 2-36)

Sec. 13-18. Same—Powers and duties generally.

The director of public health and sanitation shall have charge of the administration of public health and sanitation in the city, and to that end he shall have the authority and be required to:

- (1) See that state laws and the provisions of this Code and other city ordinances relating to public health and sanitation are observed and enforced.
- (2) Establish and maintain such activities and clinics as are needed to promote the public health of the city, including but not limited to:
 - a. Control of rodents and mosquitoes.
 - b. Control of milk and food sanitation.
- (3) Perform such other duties with reference to public health and sanitation as may be prescribed by the mayor or by this Code and other city ordinances.

(Code 1964, § 2-37)

Sec. 13-19. Appointment of assistants to the director.

The mayor, with the approval of the board of aldermen, may appoint such assistants to the director of public health and sanitation as may be deemed necessary.

(Code 1964, § 2-38)

Sec. 13-20. Appointment of county health commissioner as assistant director; contracts with county for public health services.

The mayor may appoint or deputize the county health commissioner as an assistant director of public health and sanitation and may, with the city clerk, for and in behalf of the city, contract with the county for certain public health services.

(Code 1964, § 2-39)

Editor's note—The board of aldermen, in section 1 of Ord. No. 554, approved a contract with the county whereby the county is to provide certain public health services for the city. Such agreement may be found on file in the office of the city clerk.

Secs. 13-21—13-35. Reserved.

ARTICLE III. NUISANCES

State law reference—Authority to suppress nuisances within city and in area within one-half mile of city limits, RSMo. § 71.780.

DIVISION 1. GENERALLY

Sec. 13-36. Definition.

Every act or thing done or made, permitted, allowed or continued on any property, public or private, by any person or his agent or servant to the annoyance, inconvenience, detriment, damage or injury of any of the inhabitants of the city, whether specified in this article or not, shall be deemed a nuisance. (Code 1964, § 18-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 13-37. Liability of owners and agents for common areas of rented buildings.

Whenever any owner or agent shall rent, lease or hire out to be occupied any building or part thereof as a home or residence or more than two (2) families living independent of each other, or any building to different persons for stores or offices in such building, giving to each family or person the common right to halls, basements, yards, toilets, urinals or any of them, such owner or agent shall be liable for the condition of such halls, basements, yards, toilets or urinals, and the owner or agent, the same as the occupant of premises, may be charged with the violation of any provision of this chapter. (Code 1964, § 18-2)

Sec. 13-38. Duty of police department relative to abatement; assistance by city engineer.

It shall be the duty of the chief of police and the police department to observe the sanitary conditions of the city or the area within one-half mile of the city limits in unincorporated areas, and to receive, record and investigate all complaints or information from any source of a violation of any provision of this article or any unsanitary condition in the city or the area within one-half mile of the city limits in unincorporated areas which may constitute a nuisance. If, in their discretion, a nuisance exists, it shall be the duty of the chief of police to see that proper steps are taken to have the proper person prosecuted for carrying on or maintaining such nuisance and that the same be suppressed and abated. In the abatement of a nuisance, the chief of police and the police department may call upon and shall have the necessary

City of Bellefontaine Neighbors -- QuickCode

assistance of the city engineer, and it shall be the duty of the city engineer to render all assistance necessary.

(Code 1964, § 18-3; Ord. No. 1874 § 1, 2-15-01)

Cross references—City engineer, § 2-131 et seq.; police generally, Ch. 21.

Sec. 13-39. Notice to abate.

The chief of police shall, before proceeding to abate or remove any nuisance, notify in writing the owner, tenant, lessee or occupant or his agent, employee or manager having charge of or doing business in or on any premises where any nuisance exists, to abate, discontinue or remove the same, which notice shall be served by the chief of police, any policeman, sheriff, constable or deputy as writs or summons or served in civil suits. If such person cannot be so served in the city or the area within one-half mile of the city limits, then such notice shall be given by publication by one (1) insertion in some newspaper published in the city or having general distribution therein.

(Code 1964, § 18-4; Ord. No. 1874 § 1, 2-15-01)

Sec. 13-40. Abatement by chief of police when owner fails to do so.

If any nuisance shall not be abated, discontinued or removed within five (5) days after the service of or after the publication of notice to abate such nuisance as provided for in section 13-39, the chief of police may proceed to abate or remove such nuisance.

(Code 1964, § 18-5; Ord. No. 1874 § 1, 2-15-01)

Sec. 13-41. Estimate of cost of abatement; assessment of cost of abatement against property.

The board of aldermen may estimate the cost of abating or removing any nuisance within the city and levy and assess the same as a special tax bill against the property involved in the same manner and subject to the same penalties and conditions as tax bills issued by law for public improvements.

(Code 1964, § 18-6)

Sec. 13-42. Applicability of article.

The provisions of this article are applicable to any act or thing done or not done or any nuisance permitted, allowed or continued on any property, public or private, within the city or the area within one-half mile of the city limits within unincorporated areas.

(Code 1964, § 18-7)

Sec. 13-43. Civil abatement actions.

In addition to any other penalties established for violations of this chapter, the chief of police may, after approval by the board of aldermen, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to require the abatement of any nuisance created by the accumulation of unsightly, dangerous or noxious personal property. In such action the court may grant such legal or equitable relief, including, but not limited to, mandatory or prohibitory injunctive relief, as the facts may warrant. Upon the successful prosecution of any such action, the city may be awarded by the court reasonable attorneys' fees in accordance with RSMo. section 79.383. (Ord. No. 1568, § 1, 9-2-93; Ord. No. 1874 § 1, 2-15-01)

Sec. 13-44. Reserved.

DIVISION 1A. ACCUMULATION OF DEBRIS

Sec. 13-45. Accumulation of debris declared to be a nuisance.

(a) In addition to, and not in lieu of, any provision of this Code of Ordinances relating to nuisances and unhealthy conditions of property and procedures for correction of same, any lot or land shall be a public nuisance if it has the presence of debris of any kind including, but not limited to, weed cuttings, cut and fallen trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material which is unhealthy or unsafe and declared to be a public nuisance.

(b) In addition to the remedies provided herein, any person violating any of the requirements of this Section shall be guilty of an ordinance violation and, upon conviction, punished as provided in Sec. 1-10 of this Code of Ordinances and the civil judicial abatement procedures of Section 13-43, above. (Ord. No. 1869 §1, 12-7-00)

Sec. 13-46. Enforcement procedures.

When a public nuisance as described in Sec. 13-45 exists, the City Engineer or Chief of Police shall so declare and give written notice to the owner of the property by personal service, certified mail, if otherwise unsuccessful, by publication. Such notice shall, at a minimum:

- (1) Declare that a public nuisance exists;
- (2) Describe the condition which constitute such nuisance;
- (3) Order the removal or abatement of such condition within seven (7) days from the date of service of such notice;

City of Bellefontaine Neighbors -- QuickCode

- (4) Inform the owner that he or she may file a written request for a hearing before the City Engineer or Police Chief on the question of whether a nuisance exists upon such property; and
- (5) State that if the owner fails to begin removing the nuisance within time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the City Engineer or Police Chief shall cause the condition which constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes.

(Ord. No. 1869 §1, 12-7-00)

Sec. 13-47. Recovery of abatement costs.

If the owner of property described in this Division fails to begin removing the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, the City Engineer or Police Chief shall cause the condition which constitutes the nuisance to be removed. If the City Engineer or Police Chief causes such condition to be removed or abated, the cost of such removal shall be certified to the city clerk and/or city collector who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

(Ord. No. 1869 §1, 12-7-00)

Secs. 13-48—13-55. Reserved.

DIVISION 2. ENUMERATION

Sec. 13-56. Placing of garbage, trash, debris, etc., on public or private property.

The placing or throwing of garbage, rubbish, trash, debris or other articles or materials which are obnoxious, dangerous or detrimental to the public health, safety or welfare upon any street, sidewalk, alley or public place or upon any private lot or premises, unless such articles or materials are contained in a tightly closed container or approved receptacle of a weight which will permit two (2) men to handle the same when filled and which is emptied and the contents removed from the city at least once each week, is hereby declared to be a nuisance.

(Code 1964, § 18-8)

Sec. 13-57. Storage of rags, broken barrels, boxes, etc.

Whenever there shall be found in or upon any lot or premises any dirt gathered in the cleaning of yards, waste from industrial or business establishments, or any rags, damaged merchandise, wet, broken or leaking barrels, casks or boxes, or any materials which are offensive or tend by decay to become putrid or to render the atmosphere impure or unwholesome, the same shall be deemed to be a nuisance.
(Code 1964, § 18-9)

Sec. 13-58. Burning of refuse, leaves, etc.

The burning of garbage, refuse, waste, leaves, straw or other combustible materials in any ash pit, stove or incinerator or in any street, alley or on any private lot or premises which produces offensive or obnoxious smoke, gases or odors is hereby declared to be a nuisance.
(Code 1964, § 18-10)

Sec. 13-59. Overflowing ash pits, ash piles, etc.

Ash pits or containers which are not emptied and the contents removed from the premises when level full or ash piles on public or private premises not contained in suitable pits or containers are hereby declared to be a nuisance.
(Code 1964, § 18-11)

Sec. 13-60. Pools of stagnant water; discharge of dirty, etc., water or liquid on public or private property.

Any pond or pool of stagnant water and all foul or dirty water or liquid, when discharged through any drain pipe, spout or otherwise upon any street, alley or thoroughfare or private lot or premises to the injury or annoyance of the public, is hereby declared to be a nuisance.
(Code 1964, § 18-12)

Cross reference—Swimming pools generally, Ch. 25.

Sec. 13-61. Privies and private vaults not connected to sanitary sewers or septic tanks.

All privies or private vaults not connected with a sanitary sewer or septic tank are hereby declared to be nuisances.
(Code 1964, § 18-13)

Sec. 13-62. Dead animals, decayed matter, etc., on public or private property.

(a) No person shall deposit any dead animal, filth, decayed or decomposed matter or other substance or thing obnoxious to the public upon a street, alley or public or private lot or premises and the doing of any such act is hereby declared to be a nuisance.

(b) Any carcass of a dead animal, not slain for human food and not removed by the owner or other person entitled thereto within twelve (12) hours after death, is hereby declared to be a nuisance. (1964, § 18-14)

Cross reference—Animals and fowl, Ch. 4.

Sec. 13-63. Defective, dirty drains, gutters, etc.

Any unclean, stinking, foul, defective or filthy drain, ditch, tank or gutter, or any leaking or broken slop, garbage or manure box, can or container is hereby declared to be a nuisance.
(Code 1964, § 18-15)

Sec. 13-64. Sale of tainted or unwholesome food.

No person shall sell or offer for sale, to consumers or others, for human food, any meat, game, poultry, fish, vegetable or fruit that is tainted, diseased, corrupted or unwholesome, or meat from any cattle, hogs, sheep or calves that were unsound, sick, diseased or out of condition at the time they were slaughtered. Any such sale or offer for sale is hereby declared to be a nuisance.
(Code 1964, § 18-16)

Sec. 13-65. Slaughterhouses, soap factories and pigpens.

All slaughterhouses, soap factories and pigpens are hereby declared to be nuisances.
(Code 1964, § 18-17)

Sec. 13-66. Unclean stables and stable yards; deposit of manure on private property for cultivation of soil.

Every person having charge or control of any stable, shed or apartment or any yard or appurtenance thereof in which any horse, cow or other animal is kept or any place in which manure or liquid discharged from such animal shall collect or accumulate shall keep the same in a clean and wholesome condition so that no offensive smell shall be allowed to escape therefrom, and any such place which is not so kept is hereby declared to be a nuisance, provided that any pigpen, however kept or maintained,

City of Bellefontaine Neighbors -- QuickCode

shall be deemed a nuisance; provided further, that nothing in this section shall be construed as to include manure deposits upon any private property for the cultivation of the soil of such property.

(Code 1964, § 18-18)

Sec. 13-67. Display of foodstuffs on side walks; exception.

(a) No person shall cause the sidewalk display of any meat or meat products at any place within the city or cause any meat or meat products to be displayed on, over or above any sidewalk, street, alley or other public place. No person shall cause or permit the sidewalk display of any article or substance of human food or drink whatsoever, for sale or delivery to the consumer, at a height less than eighteen (18) inches above the surface of the sidewalk. The doing of any such acts shall be deemed a nuisance.

(b) Nothing in subsection (a) of this section shall apply to any of the merchandise, articles or things named in such subsection while the same are being received, kept or delivered by those who do not sell the same directly to the consumer.

(Code 1964, §§ 18-21, 18-23)

Sec. 13-68. Protection of foodstuffs from insects or rodents.

(a) No person shall, at any time between the first day of April and the last day of November of each year, place keep, expose, offer or prepare for sale to the consumer or sell or store, pending delivery of the same to the consumer, any article or substance of human food or drink in any place or premises with the city which is not screened or enclosed so as to prevent flying insects, mice and rats from having access to such articles or substance. No person shall, at any time within such period in any year, carry, hand or convey for sale or delivery to the consumer or place or keep or cause to be placed or kept in or upon any vehicle within, upon, along or over any street, drive, alley or other lane or public place or way in the city, for sale to the consumer, any article or substance of human food or drink unless such article or substance is covered, screened or otherwise protected in such manner as not to be accessible to flying insects, mice or rats. Failure to comply with the provisions of this section shall be deemed a nuisance.

(b) No such person offering foodstuffs for sale shall maintain or suffer to be maintained upon the premises or lot or grounds where foodstuffs are offered for sale, any harbor or hiding place for mice or rats.

(c) No provision of this section shall apply to or affect any article or substance of human food or drink which at the time and place shall be in the possession of the owner thereof and intended exclusively for his own individual consumption.

(d) No provision of this section shall apply to or affect any article or substance of human food or drink which shall be in an unbroken container tightly closed.

(Code 1964, § 18-24)

Sec. 13-69. Graffiti.

(a) As used in this section the word "graffiti" shall mean and refer to any word, phrase, motto, name, design, symbol, or picture written, scribbled, painted, drawn, etched or scratched directly onto an exterior surface on public or private property.

(b) No person shall cause graffiti to be placed upon any public or private building, fence, wall, bridge, sidewalk, road, parking area, driveway, or similar structure or surface, nor shall the owner thereof suffer the same to remain thereon.

(c) No person under the age of twenty-one (21) years may be in possession of any spray paint or any container thereof, nor any permanent or semipermanent paint pens or similar device while in or upon any public or private road, sidewalk, parking area, driveway, park or premises unless the minor is accompanied by his or her parent or legal guardian.

(d) The parent or guardian, excluding foster parents, of any unemancipated minor, under eighteen (18) years of age, in their care and custody, found guilty of causing graffiti to be placed as prohibited in subsection (b) above, shall be liable for the payment reasonable damages and the cost of removal of such graffiti, up to an amount not to exceed two thousand dollars (\$2,000.00), payable to the owner of the property upon which the graffiti was placed, if the parent or guardian has been given written notice of the possible liability provided herein and has been afforded an opportunity to be heard relative to such liability by the judge of the municipal court. The liability provided in this subsection shall not be a bar to any action or proceeding against the unemancipated minor for violation of this section or for damages not paid by the parent or guardian.

(e) In addition to the abatement provisions of this chapter, any person found guilty of violating any provision of this section may, upon conviction, be punished as provided in section 1-10 of this Code of Ordinances.

(Ord. No. 1578, § 2, 10-21-93)

Sec. 13-70. Handbills on public or private property.

It is hereby declared to be a nuisance for any person to tack, stick, paste or fasten in any manner any handbill or flier containing commercial advertising of a written, printed or pictorial nature upon any public property within the limits of the City or on any motor vehicle, dwelling or other structure within the City, without the consent of the owner or occupant thereof.

(Ord. No. 2129 §3, 3-18-10)

Sec. 13-71. Contamination of waters.

The throwing, discharging, placing or causing to be placed into the waters adjacent to the waters of any pond, lake, stream, storm sewer or drain flowing into such waters any substances, matter or thing,

City of Bellefontaine Neighbors -- QuickCode

liquid or solid, which will or may result in the pollution of the waters. Such substances shall include, but are not limited to, gasoline, benzene, naphtha, oil or petroleum products, mud, straw, grass clippings, leaves, tree branches, metal or plastic objects or other waste materials is hereby declared to be a nuisance.

(Ord. No. 2129 §3, 3-18-10)

Secs. 13-72--13-80. Reserved.

ARTICLE IV. WEEDS

State law references—City's authority to cause removal and issue tax bill, RSMo. § 71.285; destruction of weeds, RSMo. § 263.190 et seq.

Sec. 13-81. Weeds more than ten (10) inches in height declared public nuisance.

It is hereby declared that a growth of weeds or grass in excess of ten (10) inches in height on vacant lots, parcels of land or land of any other description in the city is dangerous to public health and safety and constitutes a public nuisance. Therefore, any owner of any lot, parcel of land or land of any other description in the city who shall permit or suffer a growth of weeds or grass thereon in excess of ten (10) inches in height shall be deemed to have committed a public nuisance.

(Code 1964, § 28-1; Ord. No. 1472, § 2, 10-4-90)

Sec. 13-82. Procedures to abate weed and grass nuisances; excess growth declared a misdemeanor.

(a) Whenever the chief of police, city engineer or their designated representatives shall determine that weeds or grass have been allowed to grow on property in excess of eight (8) inches in height, the chief of police shall notify the owner or owners of the property, as their names may appear on the official records of the city, that the growth of such weeds or grass constitutes a public nuisance under this article.

(b) The notice shall be delivered by personal service, U.S. mail or posting on the premises. The notice shall apprise the owner or owners of the opportunity, within five (5) business days of the delivery of notice, to either abate said nuisance or to request a hearing concerning the alleged nuisance. The notice shall further apprise the owner or owners of the manner by which a hearing may be requested. For the purpose of this section, the date of delivery of notice is the date on which personal service is effected or the notice is mailed or posted.

(c) If the property owner or owners fail either to abate the nuisance or to request a hearing, the city may immediately thereafter enter upon the property to cut down and remove such growth. Any cost incurred by the city in so doing may be taxed against the owner or owners and the property as a special tax bill. The city is further authorized to record a lien against the property involved to the extent of its

City of Bellefontaine Neighbors -- QuickCode

special tax bill and to take such further legal action as may be necessary to collect same. The city may charge its costs of collecting the tax bill, including reasonable attorneys' fees in the event a lawsuit is required to enforce a tax bill.

(d) If a hearing is requested, the chief of police shall schedule same not less than four (4) business days thereafter, at which the hearing officer shall immediately determine, after consideration of evidence presented, whether the growth of weeds or grass on the stated property constitutes a public nuisance as defined in this article and whether the owner or owners are required by this article to abate same. If so, the hearing officer shall order the owner or owners to abate said nuisance within five (5) business days of the delivery of notice of said order. Notice of the order shall be provided to the property owner in accordance with subsection (b) of this section. Any person aggrieved by the determination of the hearing officer may seek judicial review, within five (5) business days of the date of the determination, by (1) filing a written notice of appeal with the hearing officer and (2) filing a petition for review pursuant to RSMo. chapter 356 in the Circuit Court of St. Louis County.

(e) If after an adverse determination the property owner or owners fail either to abate the nuisance or to pursue judicial review within the time allowed, the city may immediately thereafter enter upon the property to cut down and remove such growth. Any costs incurred by the city in so doing may be taxed against the owner or owners and the property as a special tax bill and enforced as provided in subsection (c) of this section.

(f) If weeds or grass are allowed to grow on the same property in violation of this article more than once during the same growing season:

- (1) The chief of police may order the owner or owners to abate same within five (5) business days after notice of such order is delivered, after which the city may abate same; and the costs thereof shall be taxed and enforced as provided in subsection (c) of this section; or
- (2) The city may, without such notice, abate same; and the costs thereof shall be taxed and enforced as provided in subsection (c) of this section.

(g) In addition to the remedial provisions set forth in this section and in order to protect, promote and preserve the public health and safety, it is hereby declared that any person owning any lot within the city and permitting or suffering a growth of weeds or grass thereon in excess of eight (8) inches from the soil shall be guilty of a misdemeanor and punished as provided in section 1-10 of this Code of Ordinances.

(Ord. No. 1444, § 1, 2-15-90; Ord. No. 1460, § 1, 6-7-90; Ord. No. 1472, § 3, 10-4-90; Ord. No. 1567, § 1, 9-2-93; Ord. No. 1650, § 1, 6-1-95; Ord. No. 1670, § 1, 9-21-95; Ord. No. 1874 § 1, 2-15-01)

Editor's note—Ord. No. 1444, § 1, adopted Feb. 15, 1990, repealed former § 13-82, which pertained to notice to owner of property to cut weeds, and enacted new provisions in lieu thereof to read as herein set out; formerly, such section was derived from § 28-2 of the city's 1964 Code as amended by Ord. No. 1142, § 1, adopted Feb. 19, 1981.

Cross reference—Property maintenance code, § 5-71 et seq.

Chapter 14 -- COMMUNITY RELATIONS AND FAIR HOUSING

Editor's note--Ord. no. 1980 §1, adopted August 19, 2004, repealed ch. 14 "Human Relations" and enacted new provisions set out herein. Former ch. 14 derived from ord. no. 1262 §§ 2--6, 3-7-85 and ord. no. 1604 §1, 6-2-94.

ARTICLE I. IN GENERAL

Sec. 14-1. Human relations commission created; composition; term of members; organization.

(a) *Members of human relations commission.* There shall be a Human Relations Commission consisting of five (5) members, appointed by the Mayor, with the consent of the Board of Aldermen. All members shall serve without compensation and shall serve staggered terms of four (4) years each expiring on June 30 of the appropriate year; provided that all members shall continue in office until their respective successors shall have been appointed and qualified. Appointees to the first Commission shall serve shortened terms designated at the time of appointment, two commissioners serving for one year, one for two years, one for three years and one for four years. In the event of death or resignation of any member, the Mayor with the consent of the Board of Aldermen shall appoint a successor to serve the unexpired portion of his or her term. Commissioners must be residents of the city and registered to vote within the city at the time of their appointment and throughout their service on the Commission. Commission members should be interested in the matters over which the commission has jurisdiction and qualified by training, employment or past activities in community reconciliation processes. Effort should be made to appoint at least one member from each ward of the city.

(b) *Organization of the commission.* Each year the Mayor shall appoint one Commissioner as Chair who shall preside at all meetings of the Commission and perform all the duties and functions of the Chair thereof. The Mayor shall also annually appoint one Commissioner as Vice Chair who shall act as Chair during the absence or incapacity of the Chair and when so acting the Vice Chair shall have and perform all the duties and functions of the Chair of the Commission. The terms of office of the Chair and Vice Chair shall be for one (1) year, and members may be reappointed to the commission and may serve consecutive terms as Chair and Vice Chair. The Chair or Vice Chair may resign from office at any time during the term and may do so without resigning from the Commission. In such event, the Mayor shall elect another member to replace the resigning officer and such person shall serve the unexpired term of the person he or she replaces. A majority of the appointed members of the Commission shall constitute a quorum for the purpose of conducting the business thereof.

(c) *Training for commissioners.* Commission members should receive training and orientation from and/or through the city as appropriate. They should be familiar with all aspects of city operations, federal, state and local anti-discrimination laws, the character of the city and its residents, and successful techniques for dispute resolution, mediation and community reconciliation. Commission members who

City of Bellefontaine Neighbors -- QuickCode

fail to participate in training offered to the Commission may forfeit their office and be subject to removal by the Board of Aldermen.

(Ord. No. 1980 § 1, 8-19-04)

Sec. 14-2. Powers and duties of the commission.

The Commission, through its members, agents, committees and task forces, shall have the following functions, powers, duties and responsibilities:

- (1) Promote mutual understanding and respect among all social, racial, religious, cultural, and ethnic groups in the City and seek solutions to related problems concerning citizens of the City with the objective to provide an environment in which each citizen shall have the opportunity to grow to his or her maximum potential and be treated with dignity and respect.
- (2) Endeavor to eliminate prejudice among various groups in the City and to create harmonious relationships among citizens, groups and agencies within the City.
- (3) Encourage the cooperation of all community groups, both private and public, and work with civil rights organizations, community organizations, law enforcement agencies, school districts and other community educational institutions and other groups to:
 - (a) Foster better human relations among the citizenry of Bellefontaine Neighbors and within the surrounding communities when those relations will significantly impact the quality of life in Bellefontaine Neighbors.
 - (b) Collect and review data relating to patterns of discrimination, hate crimes, hate group activity and general issues of civil and human rights and community relations.
- (4) Facilitate the formation of local community groups to initiate and coordinate discussions between individuals or groups in order to lessen tensions and promote human relations understanding in the City.
- (5) Conduct studies and assemble pertinent data for the purposes of:
 - (a) Developing the most effective means of improving human and community relations.
 - (b) Organizing training materials for use by the commission to assist civil and human rights and human relations agencies, neighborhood organizations, educational institutions, law enforcement agencies, businesses and others to prevent unfair treatment and encourage harmonious relations among all groups in the City.
 - (c) Disseminating such information and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination in the City.
 - (d) Measuring effectiveness of programs established to eliminate discrimination in the City.
- (6) Conduct an inquiry into matters referred to the Commission by the City and into complaints of discrimination within the City filed with the Commission as hereinafter provided.

City of Bellefontaine Neighbors -- QuickCode

- (7) Enforce the provisions of the City's Fair Housing Code, Article II of this Chapter.
 - (8) Seek and enlist the cooperation of private, charitable, religious, labor, civic or benevolent organizations for the purposes of this section.
 - (9) Implement and coordinate programs that may be funded by city, county, state and federal grants or other programs to effectuate the purposes and policy of this Chapter.
 - (10) Bring to the attention of the Mayor and Board of Aldermen issues of significance which require consideration of further legislative or administrative action.
 - (11) Advise and consult with the Mayor and Board of Aldermen on matters involving discrimination to assure effective compliance with nondiscriminatory policies and ordinances.
 - (12) Study, advise and make other recommendations for legislation, policies, procedures and practices of the City and other public entities as are consistent with the purposes of this chapter.
 - (13) Prepare an annual report for the Mayor and Board of Aldermen concerning the Commission's activities under the provisions of this division with recommendations and pertinent comments.
 - (14) Regularly advise the Mayor and Board of Aldermen, through distribution of its agendas, minutes, memoranda, reports and other pertinent documents, of the items of business before the Commission, the ongoing status of such items, and the dispositions of such items.
- (Ord. No. 1980 § 1, 8-19-04)

Sec. 14-3. Complaints; investigations.

- (a) Any individual who claims to be aggrieved by a discriminatory practice may file with the commission a verified complaint in writing stating the name and address of the person alleged to have committed such practice, the particulars thereof, and such other information as may be required by the commission.
- (b) Any complaint filed under this section in which affirmative relief is sought shall state what relief is sought or proposed.
- (c) All such complaints shall be filed within one hundred eighty (180) days of the date of the alleged discriminatory practice.
- (d) An individual who files a complaint with the commission shall be advised of the possibility of filing a complaint with the Missouri Commission on Human Rights, when appropriate.
- (e) Before investigating a complaint, the Commission shall determine if the complainant and respondent are willing to resolve the issues raised in the complaint through mediation or some other method of dispute resolution. If the complainant and respondent are willing, the Commission shall facilitate dispute resolution. The complainant and respondent may engage in dispute resolution at any stage in the process. If the complainant and respondent resolve the dispute prior to investigation, the case shall be closed.

City of Bellefontaine Neighbors -- QuickCode

(f) If the complainant and respondent are unwilling to attempt dispute resolution or are unsuccessful in such an attempt, the Commission shall promptly investigate the allegations of the complaint.

(g) When the commission is satisfied that the complaint has been properly investigated, it shall determine whether there is probable cause to credit the allegations of the complaint. If the commission determines that there is no probable cause, it shall dismiss the complaint. If the commission determines that there is probable cause, it shall attempt to have the issue resolved through mediation or some other method of dispute resolution. If the respondent is unwilling to participate in dispute resolution, the commission may forward the matter to the city prosecutor.

(h) At any stage in the process, the commission may close the case for good administrative reasons. Such reasons shall include but not be limited to the following:

- (1) The complainant has failed to cooperate with the commission.
- (2) The commission is unable to locate the complainant or respondent.
- (3) The complainant wishes to withdraw the complaint.

(4) The subject matter of the complaint has been satisfactorily investigated and resolved by another governmental agency.

(5) The complainant has filed a lawsuit against respondent involving the subject matter of the complaint.

(Ord. No. 1980 § 1, 8-19-04)

Secs. 14-4—14-15. Reserved.

ARTICLE II. OPEN HOUSING

Sec. 14-16. Prohibited practices.

It shall be unlawful for any person to:

- (1) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of a dwelling to any person because of sex, age, race, color, religion, religious affiliation, national origin, familial status or disability;
- (2) Discriminate against any person in the terms, conditions, privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of sex, age, race, color, religion, religious affiliation, national origin, familial status or disability;

City of Bellefontaine Neighbors -- QuickCode

- (3) Make, print, or publish or cause to be made, printed, or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on sex, age, race, color, religion, religious affiliation, national origin, familial status or disability, or an intention to make any such preference, limitation or discrimination;
- (4) Represent to any person because of sex, age, race, color, religion, religious affiliation, national origin, familial status or disability that any dwelling is not available; or
- (5) For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular sex, age, race, color, religion, religious affiliation, national origin, familial status or disability.

(Ord. No. 1980 § 1, 8-19-04)

Sec. 14-17. Discrimination in the financing of housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the sex, age, race, color, religion, religious affiliation, national origin, familial status or disability of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

(Ord. No. 1980 § 1, 8-19-04)

Sec. 14-18. Exemption for religious organizations, etc.

Nothing in this article shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of sex, age, race, color, or national origin; nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of sex, age, race, color, or national origin; nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

Chapter 15 -- LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS

Cross references—License for manufacture, distribution or sale of intoxicating liquor required, § 3- 21; license required for manufacture and sale of nonintoxicating beer, § 3-62; electrical contractors' licenses, § 8-46 et seq.; permits and inspections for electrical work, § 8-61 et seq.; development permit under flood damage prevention and control chapter required, § 11-31; permits and licenses required for collection of garbage, trash and refuse, § 12-17; state driver's license required, § 17-21; state registration plates for motor vehicles required, § 17-22; permits for shooting galleries, § 19-130; permit required for sewage treatment plants, etc., § 22-5; permit required for street obstructions, § 23-17; permit required for street excavations, § 23-46; construction permit required for subdivisions, § 24-5; swimming pool permits, § 25-3; cigarette tax, § 26-16 et seq.; sales tax, § 26-46 et seq.; taxicab operator's license, § 27-26 et seq.; taxicab driver's permit, § 27-51 et seq.; county weights and measures code adopted, § 28-1.

State law references—Licensing by fourth class cities generally, RSMo. §§ 94.200, 94.230, 94.310.

ARTICLE I. IN GENERAL

Sec. 15-1. Traversing private property on other than walkways while making deliveries prohibited.

It shall be unlawful for all sales or delivery personnel in the course of such activity whether employed by a private firm or government agency or government-supported corporation to traverse lawns or other private property in the city not normally used as a walkway by the general public. (Ord. No. 1017, § 1, 5-19-77)

Secs. 15-2—15-15. Reserved.

ARTICLE II. BUSINESSES AND OCCUPATIONS GENERALLY

Sec. 15-16. Required.

It shall be unlawful for any person to engage in any of the businesses named in section 15-23 without first procuring a license therefor and paying the fee prescribed by such section for such license. (Code 1964, § 15-1)

Sec. 15-17. Application.

(a) Applications for such licenses shall be made to the city clerk on appropriate forms provided therefor, and all licenses issued shall bear the signature of the collector and city clerk; and shall bear the date of issuance thereof, and the date of expiration of such license.

(b) *Reserved.*
(Code 1964, § 15-2; Ord. No. 2063 §2, 6-7-07)

Sec. 15-18. Expiration date; prorating of fees.

All licenses issued under this article on a yearly basis shall expire on December thirty-first after the date of their issuance. If issued prior to July thirty-first of any year, then the full yearly fee shall be paid for such license. If issued after July thirty-first, then one-half of the yearly license fee shall be paid. (Code 1964, § 15-3)

Sec. 15-19. Posting.

Licenses required by this article, when obtained, shall be posted in a conspicuous place and be available for inspection by any police officer or other proper officer of the city upon demand. (Code 1964, § 15-4)

Sec. 15-20. Determination of fee when licensee engages in more than one activity.

In the event a person engages in two (2) or more of the activities or industries listed in section 15-23, then only the higher of the license fees involved shall apply. (Code 1964, § 15-5)

Sec. 15-21. Chapter not to authorize illegal activity; no business licenses to unauthorized businesses.

(a) This chapter shall not be construed as authorizing any activity herein named that is prohibited by

City of Bellefontaine Neighbors -- QuickCode

this Code or other city ordinances.

(b) No business or occupation license provided under this chapter shall be issued to any applicant if the business or occupation is to be conducted at or upon premises for which an occupancy permit is required for that business or occupation and no such occupancy permit has been issued by the city. Each applicant for a business or occupation license shall submit evidence of the issuance of an occupancy permit authorizing the conduct of the proposed business or occupation at the location for which the license is sought upon request of the city collector or other issuing official.

(Code 1964, § 15-6; Ord. No. 1461, § 1, 6-7-90)

Sec. 15-22. Certain businesses exempt from payment of fees.

The fees required by section 15-23 shall not apply to businesses or occupations carried on by or to events or operators of events conducted for any charitable, eleemosynary or any nonprofit organization, whether religious, political, educational or charitable.

(Code 1964, § 15-7)

Sec. 15-23. Schedule of fees.

The following fees shall be paid for the businesses and occupations listed in this schedule prior to the issuance of a license for such business or occupation:

Amusements and Recreation

Badminton courts, per year.....	\$ 30.00
Bowling alleys, per alley, per year.....	10.00
Boxing and sparring exhibitions, per day.....	100.00
Carnivals, circuses and shows for parade or exhibition, first.....	100.00
Each additional day.....	25.00
Dance house, per year.....	100.00
Dances and balls, public, each.....	50.00
Fortunetellers, per day.....	250.00
Golf:	
Driving tees, per year.....	100.00
Miniature courses, per year.....	100.00
Regular courses, per year.....	100.00
Grounds, public, per year.....	50.00
Menageries, per day.....	25.00
Museums, per year.....	150.00
Opera house, per year.....	50.00
Parades and exhibitions, per day.....	100.00
Parks:	
Amusement, per year.....	100.00

City of Bellefontaine Neighbors -- QuickCode

Baseball, per year.....	100.00
Private, per year.....	100.00
Pistol galleries, per day.....	100.00
Rides:	
Pony, per day.....	5.00
Merry-go-round and other mechanical—Also safety permit required to be issued after inspection by city engineer's office	
Riding stables, per year.....	100.00
Shows and amusements:	
Moving pictures, per year.....	250.00
Other, per day.....	5.00
Skating rinks, per year.....	250.00
Street fairs, per day.....	100.00
Swimming pools, per year.....	25.00
Tables, billiard, pool or other, per table, per year.....	25.00
Theatrical or other exhibitions, each.....	5.00
Per year	100.00
Turkey shoots or other shooting contests, per day.....	100.00

Services

Agencies:	
Advertising, per year.....	25.00
Claim, per year.....	25.00
Cleaning, drying and laundry, per year.....	25.00
Collection, per year.....	100.00
Detective (Surety bond required in the sum of \$5,000.00 for the faithful and honest conduct of business), per year.....	100.00
Insurance, per year.....	50.00
Real estate, per year.....	50.00
All other, per year.....	25.00
Animal hospitals, per year.....	100.00
Animal shelters and kennels, per year.....	50.00
Automobile washing establishments, per year.....	200.00
Banks, per year.....	200.00
Barbershops, per chair, per year.....	10.00
Beauty parlors or hairdressers, per year.....	25.00
Blacksmith shops, per year.....	25.00
Brokerage houses, securities of all kinds, per year.....	100.00
Cleaning, dyeing and laundry plants, per year.....	50.00
Daily paper routes, per year.....	25.00
Dancing and music schools, academies or dancing and music lessons, per year.....	25.00

City of Bellefontaine Neighbors -- QuickCode

Employment offices, per year.....	50.00
Express and delivery services, per year.....	25.00
Funeral homes, per year.....	200.00
Haulers, per year.....	25.00
Hospitals and clinics, per year.....	250.00
Insurance companies, per year.....	100.00
Launderettes, per machine, per year.....	5.00
Lawn, landscaping, tree service and nursery, per year.....	25.00
Loan and finance companies or offices, per year.....	200.00
Moving and storage companies, regardless of warehouses, per year.....	750.00
Nurseries:	
Child care, per year.....	50.00
Nursing homes and other institutions for the care of sick, aged or infirm persons, per bed, per year.....	10.00
Maximum, per year.....	250.00
Parking lots and public garages, per year.....	25.00
Pawnbrokers, per year.....	200.00
Printing plants and newspaper offices, per year.....	25.00
Private schools or institutions, per year.....	50.00
Real estate business:	
Having no more than one person associated or connected with such business.....	50.00
Having not less than two and no more than five persons associated or connected with such business.....	75.00
Having more than five persons associated or connected with such business.....	100.00
Rental service:	
Auto, trailer and truck, per vehicle, per year.....	15.00
Other, per year.....	25.00
Repair shops and services:	
Appliances, per year.....	25.00
Automobile, per year.....	50.00
Jewelry and watch, per year.....	25.00
Radio and television, per year.....	50.00
Shoe (includes shine), per year.....	25.00
Upholstering and furniture, per year.....	25.00
All other, per year.....	25.00
Services, others not specifically listed, per year.....	25.00
Telegraph companies, per year.....	50.00
Tin shops, per year.....	25.00
Warehouses, per year.....	750.00
Welding shops, per year.....	25.00
Woodworking and pattern shops, per year.....	25.00

City of Bellefontaine Neighbors -- QuickCode

Agents and Salesmen

Automobile, per day.....	1.00
Per year.....	10.00
Automobile accessories, per day.....	1.00
Per year.....	10.00
Claim, per day.....	1.00
Per year.....	10.00
Coffee and tea, per day.....	1.00
Per year.....	10.00
Collection, per day.....	1.00
Per year.....	10.00
Express, per day.....	1.00
Per year.....	10.00
Insurance, per day.....	1.00
Per year.....	10.00
Laundry and cleaners, per day.....	1.00
Per year.....	10.00
Loan, per day.....	1.00
Per year.....	10.00
Manufacturers, per day.....	1.00
Per year.....	10.00
Mercantile, per day.....	1.00
Per year.....	10.00
Merchants, per day.....	1.00
Per year.....	10.00
Nursery stock, per day.....	1.00
Per year.....	10.00
Piano and organ, per day.....	1.00
Per year.....	10.00
Ready-made clothing, per day.....	1.00
Per year.....	10.00
Real estate, per day.....	1.00
Per year.....	10.00
Sewing machine, per day.....	1.00
Per year.....	10.00
Snow cone vendors, who are minors and do not use motor vehicles in the carrying of such products, only during the period between April first and October first, inclusive, for such period.....	12.50
Others not specified, per day.....	1.00
Per year.....	10.00

Other Trades or Occupations

City of Bellefontaine Neighbors -- QuickCode

Abstractors, per year.....	25.00
Architects, per year.....	50.00
Artists or sign painters, per year.....	25.00
Auctioneers, per day.....	25.00
Billposters, per year.....	50.00
Bookbinders, per year.....	25.00
Brokers:	
Insurance, per year.....	10.00
Money, per year.....	50.00
Real estate, per year.....	10.00
Stocks and bonds, per year.....	10.00
Others not specified, per year.....	10.00
Canvassers and solicitors, per day.....	1.00
Per year.....	25.00
Detectives, private (Surety bond of \$2,000.00 required for faithful and honest conduct of business), per year.....	25.00
Drummers, per year.....	25.00
Food caterers, per year.....	25.00
Gaugers, per year.....	25.00
Inspectors, per year.....	25.00
Insurance adjusters, per year.....	25.00
Masseurs, per year.....	50.00
Opticians, per year.....	25.00
Photographers, per year.....	25.00
Tailor, per year.....	25.00
Tinners or tinsmiths, per year.....	25.00
Title examiners, per year.....	25.00
Undertakers, per year.....	200.00

Miscellaneous

Boarding houses, lodging houses and rooming houses, per room, per year.....	25.00
Bottling works, per year.....	100.00
Buildings:	
Office, per year.....	50.00
Public, per year.....	50.00
Business offices, per year.....	25.00
Halls, public, per year.....	50.00
Hotels or motels, per room, per year.....	25.00
Maximum.....	250.00
Machine shops, per year.....	50.00
Meetings, public, per meeting.....	25.00
Sand, cement, gravel and asphalt plants, per year.....	150.00
Stockyards, per year.....	900.00

City of Bellefontaine Neighbors -- QuickCode

Storage yards primarily for sale or rental of steel pilings, pile driving hammers and any other equipment directly associated with the same that might be concerned with the actual business of the contractor operating hereunder, per year.....	750.00
Tanneries, per year.....	900.00

(Code 1964, § 15-8)

Sec. 15-24. Workers' compensation insurance required.

No business or occupational license required under the provisions of this chapter shall be issued to any contractor in the construction industry unless the applicant submits a certificate of insurance for workers' compensation coverage or an affidavit, in a form approved by the Division of Workers Compensation, signed by the applicant attesting that the contractor is exempt. The city shall have no duty to investigate any certificate of insurance or affidavit filed pursuant to this section. Issuance of a business or occupational license shall not be construed to ensure or guarantee to any person that a licensee has or will maintain workers' compensation insurance coverage. The city shall not be liable to any person for any reason if a licensee fails to have or maintain such insurance or fails to provide such coverage to one (1) or more individuals. Pursuant to the provisions of Sec. 287.061, RSMo. 2000, nothing contained in this section shall be construed to create or constitute a liability to or a cause of action against the city in regard to the issuance or nonissuance of any license for failure to provide evidence of workers' compensation coverage.
(Ord. No. 1576, § 1, 10-7-93; Ord. No. 1984, § 1, 9-2-04)

Secs. 15-25—15-35. Reserved.

**ARTICLE III. DEALERS IN PRECIOUS METALS AND SECONDHAND
GOODS**

Editor's Note--Ord. no. 2135 §4, adopted June 17, 2010, repealed sections 15-36--15-39 concerning "advertising and commercial signs" in their entirety. Former sections 15-36--15-39 derived from ord. no. 1024 § 2, 7-7-77; ord. no. 1188 §§ 2, 4, 8-19-82; ord. no. 1363 § 1, 10-1-87; ord. no. 1437 §§ 1, 2, 11-2-89; ord. no. 1524 § 1, 11-5-92; ord. no. 1553 § 1, 7-1-93; ord. no. 1636 § 1, 1-5-95.

Subsequently, ord. no. 2247 §1, adopted April 18, 2013 enacted provisions related to "dealers in precious metals and secondhand goods" which have been set out herein.

Sec. 15-36. Definitions.

City of Bellefontaine Neighbors -- QuickCode

As used in this Article, the following terms shall mean as follows:

Chief of Police. The Chief of Police of the City of Bellefontaine Neighbors Police Department.

Consumer. A person who acquires personal property, goods or merchandise for the purpose of putting such items to their intended use and not solely for resale.

Director. The Finance Director of the City of Bellefontaine Neighbors.

Item of precious metal. An object composed wholly or in part of gold, silver, platinum or other precious metal; and coins of any composition. For the purpose of these regulations, "item of precious metal" shall also include gems such as diamonds, rubies, pearls and similar substances.

Person. An individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

Person of good moral character. A person who has not been convicted of any State, Federal, or Municipal offense involving drugs or narcotics, robbery, burglary, theft, stealing, receiving stolen property, embezzlement, extortion, forgery, gambling, bribery, perjury, any weapons offense, or any crime of violence.

Precious metals dealer. Any person who in any way, as principal, broker or agent:

- i. Deals in the purchase or sale at retail of any item of precious metal; or
- ii. Deals in the purchase or sale at retail of secondhand items of precious metal; or
- iii. Deals in the purchase or sale at retail of items of precious metal for the purpose of melting or refining.

Secondhand goods. Personal property and consumer goods of any kind or description which have previously been used or have previously been transferred into the possession of a consumer, including, but not limited to, carpets, clothing, cloth and rags, copper, brass, iron or other metals, furniture, articles of household utility, tools, articles of personal use, electronic devices, computers, cellular phones, and electronic communication devices.

Secondhand Goods Dealer. A person purchases or sells secondhand goods. (Ord. No. 2247 §1, 4-18-13)

Sec. 15-37. Licenses.

(a) *Licenses required.* No person shall operate as a precious metals dealer or secondhand goods dealer in the City unless such person obtains a license issued by the City in accordance with the general licensing provisions of this Chapter 15 and the specific provisions of this Article. A license is required for each place where such a dealer's business is transacted; and no one shall act as an agent, employee, or solicitor for any such dealer while such dealer is engaged in such business at a place other than that

City of Bellefontaine Neighbors -- QuickCode

specified in the license. It shall be unlawful for any person to conduct or transact a precious metals dealer business or secondhand goods dealer business in the City unless he shall keep posted in a conspicuous place in the place of business the license certificate therefor, and a copy of all ordinances relating to such dealer's activities.

(b) *Licensing year is calendar year.* All licenses issued under this Article are for a period of one (1) year, or portion of one (1) year, and expire on Midnight of December thirty-first (31st). The license fee for any license which is issued for a portion of a year shall be prorated by the Director.

(c) *Application for new dealer license.*

(1) An application for a new precious metals dealer or secondhand goods dealer license shall be under oath and on forms prescribed and provided by the Director and shall contain other relevant information sufficient to inform the Director regarding the qualifications of the applicant for a license as required by the Director. At minimum, the application shall include:

a. The full name and address of the applicant, and each current and prospective employee, if known, for the past two (2) years;

b. The address where the business is to be conducted;

c. A statement as to whether the applicant, and each current and prospective employee, if known, has ever been convicted of a felony;

d. The name, address and phone number of at least two (2) persons of good moral character who may be used as character references for the applicant, and each current and prospective employee, if known; and

e. If the applicant is a partnership, the application shall include the required information for each partner, and whether such partner is a general partner or a limited partner. If the applicant is a corporation, the application shall include the required information for each officer and director and each shareholder owning twenty percent (20%) or more of the corporate stock.

(2) The application shall be accompanied by:

a. An investigation fee of one hundred dollars (\$100.00) if the applicant is unlicensed at the time of applying for the pawnshop, or fifty dollars (\$50.00) if the application involves a second (2nd) or additional license to an applicant previously licensed for a separate location, or involves substantially identical principals and owners licensed at a separate location;

b. The annual license fee required by this Chapter; and

c. If the applicant is a corporation, a "certificate of good standing" issued by the Missouri Secretary of State.

(d) *Non-use and transfer of license.*

City of Bellefontaine Neighbors -- QuickCode

(1) If a dealer does not conduct business for any continuous period of ninety (90) days after the issuance of a license, the license shall be null and void.

(2) Licenses are personal to the licensee and may not be transferred to any other person. Any attempt to transfer such license to any other person shall render said license null and void. It shall be unlawful for any person to do business or to attempt to do business under a license transferred to him.

(e) *Investigation by Director.* The Director shall investigate the facts contained in an application for a new license and shall request the assistance of the Chief of Police and any other person who has knowledge of the facts contained in the application, or who is authorized to investigate such facts.

(f) *Standards for issuance.* No license shall be issued to any person who:

(1) Is not of good moral character, or to any dealer employing persons who are not of good moral character; or

(2) Makes a false statement of material facts in the application for a license or a renewal license; or

(3) Fails to show that the business will be operated lawfully and fairly within the purposes of the Article; or

(4) Has a felony or misdemeanor conviction which either directly relates to the duties and responsibilities of the occupation of precious metals dealer or secondhand goods dealer or which otherwise makes the applicant presently unfit for a license.

(g) *Exemption from requirement for new license.* No person who is lawfully operating a precious metals dealership or a secondhand goods dealership on the date of adoption of this ordinance shall be required to obtain a license under this Article in order to continue operating such dealership, so long as such person does not violate any other provisions of this Code of Ordinances, this Chapter or this Article. Such persons may continue to operate those dealerships then in existence, but thereafter must receive annual renewal by paying the requisite license and investigation fees and meeting the operational standards provided in this Article.

(h) *Subsequent license applications.* Each dealer make a renewal application to the Director. The application shall be filed by December first (1st) of the current licensing year and shall be on the forms and shall contain such information as the Director may require. The forms shall contain such information as will assist the Director in determining whether conditions have changed, and whether a renewal license should be issued for the subsequent licensing year. The Director may request the assistance of the Chief of Police or any other City employee or person having knowledge of the truth or falsity of the matters contained in the application, or who is able to investigate those matters. The annual fee for the renewal license application is fifty dollars (\$50.00).

(i) *Suspension or revocation of license.*

City of Bellefontaine Neighbors -- QuickCode

(1) If the Director has reason to believe that any condition has changed such that the licensee would not be eligible to receive a license, or that the licensee is in violation of this Article or any State or Municipal law, the Director may suspend the license.

(2) If the Director has reason to believe that the changed condition(s) are such that, if true, the licensee would not be able to remedy the situation in a reasonable time, or if the licensee has previously been in violation of this Article or State or Municipal law, then the Director may revoke the license.

(3) If the Director has reason to believe that the safety, morals, or peace of residents of the City are immediately affected by the change in conditions, the Director may suspend or revoke the license prior to a hearing; but in such case he shall afford the licensee a hearing within five (5) days of the suspension or revocation if the licensee desires such a hearing. If the Director believes that the changed condition is not of such imminent hazard to the safety, morals, or peace of the residents of the City, he may hold a hearing prior to taking any action. He shall give the licensee at least ten (10) days' notice of the hearing.

(4) Any party aggrieved by a decision of the Director may appeal to the Circuit Court of St. Louis County within fifteen (15) days of the Director's action in accordance with the provisions of Chapter 536, RSMo. (Ord. No. 2247 §1, 4-18-13)

Sec. 15-38. Information pertaining to persons and items involved in transactions.

(a) All secondhand goods dealers and precious metals dealers who in the course of business exchange money or any other thing of value for any secondhand good or item of precious metal shall concurrently

(1) Make one (1) or more photographs or digital images of all other persons engaged in the transaction other than the dealer and or the dealer's employee and such other persons' governmentally-issued identification card(s), such as a driver's license; and

(2) Make an adequate array of photographs or digital images of each item or items involved in the transaction. The image array of a person shall display all facial features with such clarity and orientation so as to enable clear identification of the subject. The image array of an item or items shall fully preserve and display all aspects of the item or items with sufficient clarity, orientation and detail to enable a clear identification of each item, and must include any serial number and all other identifying marks.

(b) Dealers shall retain all photographs taken pursuant to this Section. Photographs may be kept electronically as part of the electronic record required hereby.

(c) No secondhand goods dealer or precious metals dealer shall acquire any such items from any other person who is less than twenty-one (21) years of age. (Ord. No. 2247 §1, 4-18-13)

Sec. 15-39. Electronic record of transactions.

(a) All precious metals dealers and secondhand goods dealers shall, in electronic form, record the following information regarding the transaction and all persons engaged in a transaction involving acquisition by such dealer of secondhand goods or items of precious metal:

- (1) Date, time and place of the transaction;
- (2) Correct and documented name, address, date of birth, driver's license or other governmentally-issued identification number, if different from Social Security number, and pedigree of all persons involved or present at the transaction other than the dealer and the dealer's employee;
- (3) Telephone contact information for all such other persons;
- (4) A complete description of the item or items involved in the transaction, including, but not limited to, any serial number and all other identifying marks, and the telephone number if the item is a cell phone or similar communication device;
- (5) The amount or consideration paid by the dealer;
- (6) Identification of the dealer and employee, if any, involved in the transaction; and
- (7) The right thumbprint (or left thumbprint, if no right thumbprint can be obtained) of all other persons involved in the transaction.

(b) All secondhand goods dealers and precious metals dealer shall display in a prominent space a notice to customers that the law requires the taking and retention of one (1) or more photographs of every customer engaged in a transaction involving acquisition by such dealer of any secondhand good or item of precious metal.

(c) Each secondhand goods dealer and each precious metals dealer must, before the hour of 6:00 P.M. of every day, except Sunday and days the dealer is closed all day, make and deliver to the Chief of Police, at the police station, a full, true and detailed copy of that day's electronic records of transactions. If no transactions occurred during that day, a report must be made to that effect. (Ord. No. 2247 §1, 4-18-13)

Sec. 15-40. Retention of electronic records.

(a) All completed electronic records shall be retained by the secondhand goods or precious metals dealer completing them for not less than one (1) year from the date of the transaction to which they relate. No dealer shall fail to provide a retained electronic record to a Law Enforcement Officer for inspection or transfer to the possession of the Police Department for lawful purposes.

City of Bellefontaine Neighbors -- QuickCode

(b) A secondhand goods or precious metals dealer may destroy a retained electronic record after one (1) year; provided however, that not less than sixty (60) days prior to the date of destruction, the dealer shall notify the Police Department in writing of the intention to destroy the electronic record. The Chief of Police may thereafter order the dealer to turn over possession of the electronic record to the Police Department, and the dealer so ordered shall immediately comply therewith. (Ord. No. 2247 §1, 4-18-13)

Sec. 15-41. Time period after which secondhand goods or items of precious metal may be sold or otherwise disposed.

A secondhand goods or precious metals dealer shall not sell, trade, melt down or otherwise dispose of, alter or destroy any secondhand good or item of precious metal less than ninety-six (96) hours after its acquisition. Upon written notice that the Police Department has cause to believe any secondhand good or item of precious metal has been stolen or transferred to such dealer under unlawful circumstances, the dealer shall retain possession of the item for not less than an additional ten (10) days. (Ord. No. 2247 §1, 4-18-13)

Sec. 15-42. Penalty.

Any person operating a dealership in secondhand goods or precious metals pawnshop without a license or otherwise in violation of the standards and requirements provided herein shall be guilty of a violation ordinance and, upon conviction thereof, shall be punished as provided in Section 1-10 of this code. (Ord. No. 2247 §1, 4-18-13)

Secs. 15-43—15-50. Reserved.

ARTICLE IV. CLEANING ESTABLISHMENTS AND LAUNDROMATS

Sec. 15-51. Attendant required in self-service establishments.

(a) Each dry cleaning plant establishment and each laundromat establishment located within the city shall have a qualified attendant of at least twenty-one (21) years of age, who is qualified, by virtue of sufficient and adequate experience, to operate safely and properly any self-service dry cleaning or laundering machinery located in such establishments at all times that such establishments may be open for business to the public.

(b) The term "dry cleaning plant establishment," when used in this section, shall mean any place, building or structure, room, location or portion thereof which is used for the purpose of dry cleaning of clothing, materials or fabrics by means of self-service, such as where any self-service machine is rented for compensation for the dry cleaning of clothing, materials or fabrics on a time or per load basis within

the city.

(c) The term "laundromat establishment", when used in this section, shall mean any place, building or structure, room, location or portion thereof, which is used for the purpose of washing or laundering of clothing, materials or fabrics by means of self-service, such as where any self-service machine is rented for compensation for the washing or laundering of clothing, materials or fabrics on a time or per load basis within the city.

(Code 1964, § 7-1)

Sec. 15-52. Permit required where cleaning machinery, boilers, etc., used on premises.

It shall be unlawful for any person to operate any cleaning establishment in which cleaning machinery or boilers or similar cleaning equipment or machinery are used in connection with such cleaning establishment, unless a permit for the same is first obtained from the board of aldermen. (Code 1964, § 7-2)

Sec. 15-53. Prerequisites for licensing of cleaning pick-up stations.

No license for any cleaning pick-up station shall be granted pursuant to any provision of this Code or any other ordinance of the city until an affidavit is filed with the board of aldermen, and such license shall be contingent on not having any cleaning equipment, boilers or machinery on the premises of such cleaning pick-up station.

(Code 1964, § 7-3)

Sec. 15-54. Injunctions against violations.

The city may proceed by injunction in any court of competent jurisdiction against any person violating or attempting to violate the provisions of this article, in addition to the penalty imposed for such violation.

(Code 1964, § 7-4)

Secs. 15-55—15-65. Reserved.

ARTICLE V. DRIVING SCHOOLS

Sec. 15-66. Compliance with article required.

All driving schools or organizations involved in teaching, instructing or training people to drive motor vehicles in the city must comply with the regulations set out in this article.

(Ord. No. 851, § 1, 11-16-72)

Sec. 15-67. Advance notice of routes, instructors and students required.

Notification in advance must be given to the city clerk's office regarding hours and routes to be used in the city, names of instructor and students and their addresses, the driving school or organization's name and address, make, a description and license number of each training vehicle to be used. Routes should not be the same as the state uses for their test drivers.

(Ord. No. 851, § 1(A), 11-16-72)

Sec. 15-68. Marking of vehicles; vehicle condition.

Vehicles being used for training of drivers must be clearly marked with a sign on the rear which states "CAUTION—STUDENT DRIVER." The name and address of the driving school or organization must appear on both sides of training vehicle, with a minimum of two-inch lettering. Vehicles must appear to be in safe operating order. If vehicles are not, an investigating officer may require a state inspection of same at the owner's expense before being used as a training vehicle. (Ord. No. 851, § 1(B), 11-16-72)

Sec. 15-69. Nighttime instruction restricted.

No driving lessons or driver training shall be conducted after dark unless the student lives within the city and complies with the training route given and approved by the city clerk.

(Ord. No. 851, § 1(C), 11-16-72)

Sec. 15-70. Qualifications of instructors.

All instructions in driving schools must have some certification as to qualifications as an instructor and identification from his school or organization or a certified school with him during the lesson or training period, stating his (or her) qualifications to be an instructor in driving or driver training.

(Ord. No. 851, § 1(C), 11-16-72)

Secs. 15-71—15-85. Reserved.

ARTICLE VI. GARAGE SALES

Sec. 15-86. Restrictions on sales as to hours, number and days.

City of Bellefontaine Neighbors -- QuickCode

Real property owners or renters in the city may conduct garage sales for the sale of their own personal property in the garage or driveway or patio on the real property owned or rented by them in the city during daylight hours only for not more than two (2) consecutive days, but in no event not more than twice per year and each time for not more than two (2) consecutive days. A garage sale is for the purpose of disposing of surplus household items such as clothing, tools or other household items.
(Ord. No. 1137, § 1, 12-4-80)

Sec. 15-87. Permits.

Before conducting any such garage sale as provided in section 15-86 of this article, a permit must be obtained from the city clerk. Such permit shall specify the date such garage sale shall commence and end, but not exceeding two (2) consecutive days, except that no garage sales shall be permitted on national holidays. No charge will be made for such garage sale permit. No advertising of a garage sale shall be made prior to obtaining such garage sale permit.
(Ord No. 1137, § 2, 12-4-80)

Sec. 15-88. Article not to authorize violations of zoning regulations.

Nothing in this article shall be construed as permitting any commercial activity in violation of the zoning laws of the city.
(Ord No. 1137, § 3, 12-4-80)

Secs. 15-89—15-100. Reserved.

ARTICLE VII. GASOLINE SERVICE STATIONS

Sec. 15-101. Required closing hours, exception.

All gasoline service stations in the city shall close at night between the hours of 11:00 p.m. and 6:00 a.m. following, except that gasoline service stations located within eighty (80) yards of the right-of-way of any interstate highway in the city shall be permitted to remain open twenty-four (24) hours per day.
(Ord No. 1224, § 1, 12-15-83)

Sec. 15-102. Gasoline and other combustible liquids only to be dispensed in suitable metal containers.

Gasoline or other combustible chemicals shall only be dispensed at gasoline service stations in suitable metal containers which are in sound condition.
(Ord No. 1200, § 2, 3-3-85)

Secs. 15-103—15-115. Reserved.

ARTICLE VIII. MANUFACTURERS

Sec. 15-116. Definition.

Every person who shall hold or purchase personal property for the purpose of adding to the value thereof by any process of manufacturing, refining or by the combination of different materials, or shall purchase and sell manufactured articles such as he manufactures or used in manufacturing, shall be deemed to be a manufacturer for the purposes of this article, except as may be otherwise provided by ordinance.

(Code 1964, § 15-18)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 15-117. Licenses—Required.

It shall be unlawful for any person to engage in the conduct of any business as a manufacturer without procuring a license therefor and paying a license fee, as prescribed in this article.

(Code 1964, § 15-19)

Sec. 15-118. Same—Application and statement of gross sales.

Every manufacturer desiring to engage in such business in the city shall file with the city clerk, on or before the last day of February of each year, an application for a license for the ensuing year, on such forms as may be prescribed by the city clerk. Such application shall include a statement of the gross amount of all sales made during the preceding year and shall be accompanied by the license fee.

(Code 1964, § 15-20)

Sec. 15-119. Same—Fees generally.

The license fee for manufacturers shall be computed as follows: A fee of one dollar and twenty-five cents (\$1.25) on each one thousand dollars (\$1,000.00) or part thereof in value of all sales made during the preceding year; provided, that the minimum license fee shall be twenty-five dollars (\$25.00).

(Code 1964, § 15-21)

Sec. 15-120. Same—Fees for first year of business.

City of Bellefontaine Neighbors -- QuickCode

Whenever any person shall first engage in the business of manufacturing in the city, it shall be his duty to make application to the city clerk for a license and file with the city clerk his estimate of the gross amount of sales that will be made during such first year of business, and pay the tax on such estimated return; calculated in the same mariner as set forth in section 15-119; provided that, the minimum license fee shall be twenty-five dollars (\$25.00). Thereafter, on or before the last day of February of the following year, such person shall file a statement giving like estimates for the succeeding calendar year, and pay the balance of the license fee, if any, computed as set forth in section 15-119.
(Code 1964, § 15-22)

Sec. 15-121. Authority of city clerk to examine books and records; false statements.

(a) The city clerk or any person authorized by him shall have the right or authority to examine the books and records of any person engaged in the business of manufacturing in the city for the purpose of determining the accuracy of the statements filed by such person. It shall be the duty of any manufacturer to permit, at any reasonable time, the city clerk or any person authorized by him to make such examination.

(b) If, on any such examination, it shall appear that a false or fraudulent return has been made by any such manufacturer, then such manufacturer shall not only be required to pay the actual amount found to be due, but also a like amount in addition thereto before such license shall be issued. If any license has been previously issued to such manufacturer, the same may be revoked and cancelled by the city clerk until such amount is paid.
(Code 1964, § 15-23)

Secs. 15-122—15-135. Reserved.

ARTICLE IX. STORAGE, TRANSPORTATION AND SALE OF MOTOR FUEL

Cross reference—Motor vehicles and traffic, Ch. 17.

Sec. 15-136. Definition.

For the purpose of this article, the term "motor fuel" shall mean and include gasoline and every other volatile and inflammable liquid, ordinarily, practically or commercially usable in internal combustion engines for the generating of power. Such term shall not, however, include kerosene, oil or distillates.
(Code 1964, § 15-24)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 15-137. License—Required.

No person shall store for sale, delivery or other purposes or engage in carrying on or conducting the business of selling any motor fuel in the city, either in the capacity of a filling station, gasoline station, public garage, repair shop or a wholesale, bulk or other station of any character whatsoever, nor shall any person transport motor fuel and sell the same in or from any barrel, tank wagon or any other container in the city without first having obtained a license from the city clerk to do so.

(Code 1964, § 15-25)

Sec. 15-138. Same—Monthly fee.

Every person engaged in any of the businesses enumerated in section 15-137 shall pay to the city collector a monthly license fee on the tenth day of each month for the preceding month. Such license fee shall be an amount equal to one cent (\$.01) per gallon of motor fuel sold by such person during the preceding month; provided that, where such license fee shall have been paid by a previous vendor, such payment shall be sufficient, the intention of this article being that the fee shall be paid but once.

(Code 1964, § 15-26)

Sec. 15-139. Same—Failure to pay fee, when fee due.

It shall be unlawful for any person required to pay the license fee provided for in this article to fail, neglect or refuse to pay such license fee on or before the first day of each month for the month next preceding the preceding month.

(Code 1964, § 15-27)

Sec. 15-140. Records to be kept of sales; filing of statement of sales with city clerk.

Every person engaged in any of the businesses described in this article shall keep an accurate record of all receipts and sales of motor fuel, showing the number of gallons received and the number of gallons sold, and shall, each month, on or before the tenth day of each month, file with the city clerk a sworn statement of the number of gallons of motor fuel sold during the preceding month. (Code 1964, § 15-28)

Sec. 15-141. Authority of city clerk to examine books and records of licensees.

The city clerk or the gasoline inspector of the city or any person authorized or designated by the board of aldermen is hereby authorized to investigate the correctness and accuracy of the returns of reports required by this article, and, for that purpose, shall have access, at all reasonable times, to the books, documents and reports bearing on the number of gallons of motor fuel received or sold, and may appoint temporary inspectors to assist in a proper investigation whenever he desires.

(Code 1964, § 15-29)

Sec. 15-142. Failure to file reports; false reports; interference with city clerk.

No person shall refuse or neglect to make the report or return provided for in section 15-140, or make any false or fraudulent return, or interfere with the city clerk or the gasoline inspector in the performance of their duties.

(Code 1964, § 15-30)

Sec. 15-143. Sales exempted from license for retail merchants.

All persons required to pay the license fee for the storing, selling or transportation of motor fuel under this article shall be exempted from the payment of a license fee for the sale of merchandise and materials on the basis of a graduated sales of merchandise tax so far as the sales of motor fuel are concerned, and such payment made under the provisions of this article shall be deemed to be sufficient, it being the intention of this article that a license fee by such person shall be paid but once. (Code 1964, § 15-31)

Secs. 15-144—15-155. Reserved.

ARTICLE X. RETAIL MERCHANTS

Sec. 15-156. Definition.

The term "retail merchant", as used in this article, shall include not only any person who sells goods, wares and merchandise at retail to customers, but shall include any person conducting any business in the city who furnishes goods and supplies to consumers in connection with contracts for services of any kind. (Code 1964, § 15-9)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 15-157. License—Required.

It shall be unlawful for any person to engage in the conduct of any business as a retail merchant in the city without first procuring a license therefor and paying a license or occupational tax as prescribed in this article.

(Code 1964, § 15-10)

Sec. 15-158. Application and statement of gross sales; exclusion of gasoline sales.

Except as provided in sections 15-160 and 15-161, all persons desiring to engage in business as retail merchants in the city shall file with the city clerk, on or before the last day of February of each year, an application for a license to engage in such business, on such forms as may be prescribed by the city clerk. Such application shall be accompanied by a sworn statement showing the amount of gross sales made by such person during the preceding calendar year, together with the amount of the license fee. In computing gross sales to be reported by retail service stations, gasoline sales shall be excluded. (Code 1964, § 15-11)

Sec. 15-159. Same—Fees generally.

The license fee for retail merchants shall be one dollar (\$1.00) for each one thousand dollars (\$1,000.00) or fraction thereof of gross sales made during the preceding calendar year; provided, that the minimum license fee shall be twenty-five dollars (\$25.00) per annum. (Code 1964, § 15-12)

Sec. 15-160. Same—Fees for first year of business.

For the first year or part thereof that any person engages in any retail business in the city, such person shall be licensed to carry on such business upon the payment of the minimum license fee prescribed by section 15-159 and is hereby required, on or before the last day of February of the following year, to file with the city clerk a verified statement of his gross sales during the preceding year, as prescribed in section 15-158, and the license fee for such preceding year or portion thereof shall thereupon be determined in accordance with the terms set forth in section 15-159, and the balance, if any, shall thereupon become due and payable. (Code 1964, § 15-13)

Sec. 15-161. Same—Fees for second year of business.

For the year immediately following the initial year during which any person entered into a retail business covered by this article in the city, the license fee for such person shall be estimated and finally determined as follows: The amount of gross sales of such person made during the year in which such person initially entered into such business in this city shall be divided by the number of months or fraction thereof in which such person engaged in such business in the initial year. The result of such division shall be multiplied by twelve (12), and the result of such multiplication shall be used as the estimated gross sales for the year immediately following the calendar year during which a person initially entered into such business, and the license fee for such year shall be based on the same. On or before the last day of February of the following year, such person shall file a verified statement of gross sales made the preceding year with the city clerk, and the license fee theretofore paid on an estimated basis shall be

City of Bellefontaine Neighbors -- QuickCode

finally determined and adjusted, and the balance, if any, due shall thereupon become due and payable, or a refund, if any, shall be paid to the licensee out of the city treasury.

(Code 1964, § 15-14)

Sec. 15-162. Same—Signatures.

All licenses issued under this article shall bear the signatures of the city collector and the city clerk.

(Code 1964, § 15-15)

Sec. 15-163. Same—When delinquent additional fee for late payment.

Any person to whom this article is applicable and who fails to make application for a license required by this article and pay the required license fee on or before the last day in February of each year shall be deemed delinquent, and be required to pay an additional ten (10) percent of the license fee found to be due for each month or part thereof such delinquency shall continue thereafter.

(Code 1964, § 15-16)

Sec. 15-164. Authority of city clerk to examine books and records; false statements.

The city clerk or any person authorized by him shall have the right and authority to examine the books and records of any person doing business as a retail merchant within the city for the purpose of determining the accuracy of the statement of the gross sales filed with him, and it shall be the duty of any such person to permit, at any reasonable time, the city clerk or any of his agents or subordinates to make such examination. If, on any such examination, it shall appear that a false or fraudulent return has been made by any person, then such person shall not only be required to pay the actual amount found to be due, but also a like amount in addition thereto before such license is issued, and if any license has previously been issued to such person, the same may be revoked and cancelled by the city clerk until such amount is paid.

(Code 1964, § 15-17)

Secs. 15-165—15-175. Reserved.

ARTICLE XI. SHUFFLEBOARDS AND COIN-OPERATED MACHINES

Cross reference—Coin-operated alcoholic beverage dispensing machines prohibited, §3-2.

Sec. 15-176. License—Required.

City of Bellefontaine Neighbors -- QuickCode

It shall be unlawful for any person to have or permit others to have located on or about their premises any shuffleboards or coin-operated machines without having first obtained a license to do so from the city clerk and paid an annual license fee, as provided in this article.
(Code 1964, § 15-32)

Sec. 15-177. Same—Fees—Enumerated.

Any person desiring to operate any shuffleboards or coin-operated machines within this city shall apply to the city clerk for a license to do so and shall pay a license fee as follows:

- (1) The annual license fee for each pinball machine shall be ten dollars (\$10.00) per annum.
- (2) The annual license fee for each juke box machine shall be ten dollars (\$10.00) per annum.
- (3) The annual license fee for each cigarette vending machine shall be ten dollars (\$10.00) per annum.
- (4) The annual license fee for each other coin-operated machine having a ten cent (\$0.10) slot shall be five dollars (\$5.00) per annum.
- (5) The annual license fee for each other coin-operated machine having a five cent (\$0.05) slot shall be two dollars and fifty cents (\$2.50) per annum.
- (6) The annual license fee for each other coin-operated machine having a one cent (\$0.01) slot other than scales, shall be fifty cents (\$0.50) per annum.
- (7) The annual license fee for each other coin-operated machine having over a ten cent (\$0.10) slot shall be ten dollars (\$10.00) per annum.
- (8) The annual license fee for each described shuffleboard shall be ten dollars (\$10.00) per annum.

(Code 1964, § 15-33)

Sec. 15-178. Same—When payable; proration.

The annual license fees payable under the provisions of this article shall be due and payable to the city collector in advance on the first day of January of each year; provided that, the fees for licenses issued after the first day of July in any year shall be one-half the annual license fee.

(Code 1964, § 15-34)

Sec. 15-179. Same—Separate license required for each board or machine.

A separate license shall be required for each shuffleboard or coin-operated machine described in

section 15-177.
(Code 1964, § 15-35)

Sec. 15-180. Same—Nontransferable.

No license issued under the provisions of this article shall be assignable or transferable from one person to another, nor from one shuffleboard or machine to another, including replacement shuffleboards or machines.

(Code 1964, § 15-36)

Sec. 15-181. Same—Posting of tags.

All license tags issued in pursuance of the provisions of this article shall at all times be displayed in a conspicuous place on the license shuffleboard or machine, plainly visible.

(Code 1964, § 15-37)

Sec. 15-182. Gambling devices, etc., not to be licensed.

None of the provisions of this article shall apply to the licensing of any coin-operated machine or appliance as a gambling device or for any other unlawful purpose or against public policy.

(Code 1964, § 15-38)

Sec. 15-183. Article not applicable to charitable, etc., organizations.

This article shall not apply to charitable, eleemosynary or nonprofit organizations, whether religious, political, educational or charitable.

(Code 1964, § 15-39)

Sec. 15-184. Seizure of unlicensed boards and machines.

In addition to any other penalty imposed for the violation of this article, any shuffleboard or coin-operated machine being operated or maintained within the city without a license shall be seized by the chief of police and held as evidence. Such shuffleboard or machine shall not be returned to the owner or operator until all license fees, including past due license fees, transportation charges, storage charges and all other expenses resulting from such seizure are paid.

(Code 1964, § 15-40; Ord. No. 1874 § 1, 2-15-01)

Secs. 15-185—15-195. Reserved.

ARTICLE XII. SPECIAL EVENT SALES

Sec. 15-196. Definition.

For the purposes of this article, the term "special event" shall mean the sale, display or storage of any merchandise, material, article or other thing which is to be made on a tract of land, lot or premise other than in a building which is completely enclosed in commercial districts.

(Ord No. 1248, § 1(a)(2), 9-6-84)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 15-197. Permitted subject to article.

Special event sales by commercial businesses are hereby authorized under the provisions of this article.

(Ord No. 1248, § 1, 9-6-84)

Sec. 15-198. License—Required.

Special events may be conducted in areas other than a totally enclosed building on the premises of an occupant or contiguous occupants of businesses in the C-1 commercial district upon the following conditions:

- (1) A license issued by the city shall be obtained by any person before conducting any special event.
- (2) Only the owner/manager of an existing licensed business in the city may apply for a special events permit.
- (3) In no event shall more than two (2) special events be held by any licensee hereunder in any one calendar year. The licenses issued hereunder shall extend for a period of not more than two (2) days, measured in twenty-four-hour periods during normal business hours only.

(Ord No. 1248, § 1(b), 9-6-84)

Sec. 15-199. Same—Application requirements.

A person desiring a license to conduct a sale regulated by this article shall make written application to the city containing the following information:

City of Bellefontaine Neighbors -- QuickCode

- (1) The true name and address of the owner of the goods to be the object of the sale or display.
 - (2) A description of the place where such sale or display is to be held.
 - (3) The dates of the period of time in which the sale or display is to be conducted.
 - (4) The means to be employed in advertising such special event.
- (Ord No. 1248, § 1, 9-6-84)

Sec. 15-200. Same—Terms.

A license shall be issued under this article only under the following terms:

- (1) The license shall authorize the special event described in the application for a period of not more than two (2) consecutive days, following the issuance thereof.
 - (2) The license shall authorize only the one type of special event described in the application at the location named therein.
 - (3) Any license hereunder provided shall not be assignable or transferable.
 - (4) The board of aldermen shall be notified prior to issuance of any license granted hereunder.
- (Ord No. 1248, § 1, 9-6-84)

Secs. 15-201—15-215. Reserved.

ARTICLE XIII. UTILITY COMPANIES

Editor's Note--Ord. nos. 2030 and 2031 were passed in compliance with HB209 of the 2006 Missouri Legislative session. Provisions contained in HB209 were subsequently deemed unconstitutional by the Missouri Supreme Court on August 8, 2006 in City of Springfield, Appellant V Sprint Spectrum, L.P., Respondent Case No. SC87238. Consequently these ordinances were not codified.

Sec. 15-216. License tax levied; amount.

(a) There is hereby levied upon all persons now or hereafter engaged in the business of furnishing or supplying electricity, electrical service or power, gas or gas service, telephones or telephone service, or water or water service, within the city, a monthly license or occupational tax based on the gross receipts derived from the carrying on of such business within the city in the amounts hereinafter set

City of Bellefontaine Neighbors -- QuickCode

forth. The term "gross receipts", as used in this article, means the aggregate amount of all sales and charges from the business of furnishing or supplying electricity, electrical service or power, gas or gas service, telephones or telephone service, or water or water service during any period, less discounts, credits, refunds, sales taxes and uncollectible accounts.

(b) The amount of the tax shall be seven and forty-one hundredths (7.41) percent on the gross receipts of the company on all sales to residential consumers, and seven and forty-one hundredths (7.41) percent on the gross receipts of the company on all sales or services to non-residential consumers. Provided, however, that the board of aldermen may, by ordinance, from time to time, suspend collection of all or any portion of the tax levied hereby on sales to either residential or non-residential consumers, or both, when and if the board determines that the city's financial position so warrants.

(c) In accord with the provisions of Section 393.275.2, RSMo., 2000, and any successive similar legislation, the City will maintain the tax rate of its business license tax on the gross receipts of utility corporations as provided herein or as may be revised by the Board of Aldermen from time to time regardless of tariff or rate actions of the Missouri Public Service Commission. (Code 1964, § 15-41; Ord. No. 803, § 1, 9-16-71; Ord. No. 1018, §§ 1, 2, 6-7-77; Ord. No. 1022, § 1, 7-1-77; Ord. No. 1195, § 2, 11-18-92; Ord. No. 1206, § 1, 4-21-83; Ord. No. 1310, § 1, 5-15-86; Ord. No. 1672, § 1, 10-5-95; Ord. No. 2192 §1, 9-1-11)

Editor's note—Ord. No. 1695, §§ 1—4, adopted May 16, 1996, effective July 1, 1996, reduced the rate of the gross receipts tax levy from 7.41 percent to 5 percent for both residential and nonresidential consumers. Ord. No. 1695 further provided that said tax reduction remain in effect until repealed by action of the board of aldermen.

Subsequently, Ord. No. 1788, §§ 1, 2, adopted September 3, 1998, effective October 1, 1998, reduced the rate of the gross receipts tax levy from 7.41 percent to 4 percent for residential customers. Ord. No. 1788 further provided that said tax reduction remain in effect until repealed by action of the board of aldermen.

Subsequently, Ord. No. 2087, §1, adopted July 3, 2008, effective September 3, 2008 hereby temporarily terminates the suspension of collection of portions of the rate of the license tax on sales of utility services to consumers in the City and requires that all licensees pay the full authorized rate of seven and forty-one hundredths percent (7.41%) for all services rendered to any and all customers within the City on or after the effective date stated above.

Sec. 15-217. Sworn statement to be filed with city collector; term of license.

It shall be the duty of every person engaged in any of the businesses described in this article to file with the city collector on or before the last day of each month a sworn statement showing the gross receipts derived from the transaction of such business in the city during the previous calendar month,

City of Bellefontaine Neighbors -- QuickCode

setting forth separately receipts derived from residential and non-residential consumers, and at such times, pay to the city collector the tax thereon as hereinabove set forth at the rate set forth in the preceding section or at such rate as may be otherwise determined by the board of aldermen from time to time in accord with the provisions of subsection 2 of section 15-216 above. The license granted on the payment of such tax shall be issued to cover the next ensuing calendar month.

(Code 1964, § 15-42; Ord. No. 803, § 2, 9-16-71; Ord. No. 1018, § 3, 6-2-77; Ord. No. 1083, § 3, 5-17-79; Ord. No. 1195, § 2, 11-18-82; Ord. No. 1206, § 2, 4-21-83; Ord. No. 1672, § 1, 10-5-95)

Sec. 15-218. Authority of city collector to examine books and records of licensees.

The city collector or any auditor employed by the city is hereby authorized to investigate the correctness and accuracy of any statement filed pursuant to this article and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such return in order to ascertain the accuracy thereof.

(Code 1964, § 15-43)

Sec. 15-219. License tax in lieu of other occupational or license taxes.

The license tax imposed by this article shall be in lieu of any other occupational or license tax required of any person engaged in any of the businesses described in this article but nothing contained in this article shall be construed to exempt any such person from the payment to the city of the tax which the city levies upon the real or personal property belonging to any such person, nor the tax required of merchants or manufacturers, if any, for the sale of anything other than the commodity or service herein specified, nor shall the license tax required by this article exempt any such person from the payment of any tax which may be lawfully required other than an occupational or license tax. (Code 1964, § 15-44)

Sec. 15-220. Telephone companies.

Insofar as this article pertains to firms or corporations engaged in the business of supplying telephone service, wherever the term telephone, telephone service or such business is used, it is meant to mean firms or corporations engaged in the business of furnishing exchange telephone service within the city.

(Ord No. 822, § 1(4B), 4-6-72)

Sec. 15-221. Raising, lowering wires, etc.

All persons mentioned in section 15-216 of this article on the request of any person shall remove or raise wires to accommodate bulky structures. The expense of such temporary removal, raising, or lowering of wires shall be paid by the party or parties requesting such raising or lowering of wires, and payment in advance may be required. Not less than forty-eight (48) hours' advance notice shall be given to arrange for such temporary wire changes.

(Ord No. 822, § 1(4B), 4-6-72)

Sec. 15-222. Right to trim trees, etc.

The right is hereby granted to all persons mentioned in section 15-216 of this article to trim trees, brush or hedges upon and overhanging the streets, alleys, sidewalks and public places of the city so as to prevent such foliage from coming in contact with telephone wires and cables, all of such trimming to be done by such parties under the supervision and direction of the governing body of the city or of any city official to whom such duties have been or may be delegated.

(Ord No. 822, § 1(4C), 4-6-72)

Secs. 15-223—15-240. Reserved.

ARTICLE XIV. RESERVED

Editor's Note--Ord. no. 2063 §1, adopted June 7, 2007, repealed article XIV "itinerant merchants, peddlers, solicitors, hawkers and others", sections 15-241--15-247 in their entirety. Former sections 15-241--15-247 derived from ord. no. 1275 §§1--6, 8-1-85.

Secs. 15-241-15-249. Reserved.

ARTICLE XV. REVOCATION OF LICENSES

Sec. 15-250. Grounds for revocation.

Any license issued under the provisions of this chapter shall be subject to revocation for violation of any of the provisions of this chapter or when provided by the laws of the State of Missouri. Licenses shall also be subject to revocation for having provided false or inaccurate information as to the nature or volume of the business for which the license was requested, failure to make any license payment when due, failure to have a valid state license (if required by the State of Missouri), or conducting the licensed activity in such a manner as to cause or maintain a nuisance which is detrimental to the health, safety, welfare or peaceful enjoyment of the property of others.

(Ord No. 1435, § 1, 10-19-89)

Sec. 15-251. Notice of revocation; hearing.

(a) Whenever the city collector has reason to believe that any license(s) issued under the provisions

City of Bellefontaine Neighbors -- QuickCode

of this chapter may be subject to revocation, the collector shall send, by certified United States mail, postage prepaid and return receipt requested, notice of revocation to the licensee at the last address listed for the licensee on the most recent license application filed with the city. Such notice shall include a statement of the grounds for such revocation and information as to the date, time and place when the collector shall hold a hearing as to whether or not such license(s) as specified therein shall be revoked. Such notice shall be mailed at least ten (10) calendar days prior to the hearing date specified in the notice. Failure of the addressee to accept delivery of a notice mailed as aforesaid shall not be deemed to be insufficient notice. Notice may also be given by delivery of a copy thereof to any person in charge of the licensed premises by a police officer of the city or by posting a copy thereof at the front entrance to the licensed premises.

(b) At least ten (10) calendar days after mailing, delivering or posting such notice, the city collector shall hold a hearing on the question of whether the license(s) shall be revoked. At such hearing, the licensee shall be entitled to appear in person and/or by counsel and be heard on the question of revocation. Documentary evidence and testimony relevant to the question shall be received by the collector at the time and place specified in the notice and at such other times to which the hearing may be adjourned from time to time. In the event that a hearing is not completed on the date specified in the notice and is to be resumed at a later time, additional notice of the resumption of the hearing need not be given.

(c) At the conclusion of the hearing and upon consideration of all the evidence, the collector shall issue a determination of the question of revocation and shall enter such order of revocation and surrender of the license(s) as shall be supported by the evidence. Notice of the collector's determination and order shall be given in the same manner as provided for notice of the hearing or in such other manner as the licensee may have requested at the hearing and shall include information as to the licensee's right to appeal as hereinafter provided. In the event that the collector shall determine that the license(s) shall be revoked, a copy of such determination shall be forwarded to the chief of police with a request that the chief of police, or an officer of the police department, demand and recover such license(s). (Ord No. 1435, § 1, 10-19-89; Ord. No. 1874 § 1, 2-15-01)

Sec. 15-252. Appeal.

(a) Any person aggrieved by the determination of the collector may appeal the determination to the board of aldermen by filing a written request for a hearing by the board with the city clerk at the clerk's office in city hall. Such request must be received by the city clerk within seven (7) calendar days of the date of mailing of the collector's determination and shall specify wherein and why the aggrieved party believes the collector's determination to be in error.

(b) Upon receipt of a notice of such an appeal, the city clerk shall notify the board of aldermen that a hearing has been requested. The board shall thereafter set a time, date and place for a hearing and notify all parties thereof. The board may, should it so desire, designate a committee of one or more aldermen to conduct an evidentiary hearing. At any hearing, the licensee shall have the right to appear in person and/or by counsel and to present such evidence as may be relevant to the issues, and a record of the proceedings shall be made. Upon conclusion of the hearing and consideration of all the evidence, the board shall issue findings of fact, conclusions of law and its order affirming, reversing or modifying the

City of Bellefontaine Neighbors -- QuickCode
order of the collector, and notice thereof shall be provided to all parties.

(c) Any person aggrieved by the order of the board of aldermen may seek judicial review in accord with the provisions of state law governing judicial review of administrative decisions by filing a petition therefor in the Circuit Court of St. Louis County within fifteen (15) days of the date of the board's order. (Ord No. 1435, § 1, 10-19-89)

Secs. 15-253—15-274. Reserved.

ARTICLE XVI. PAWNBROKERS

Sec. 15-275. Definitions.

For the purpose of this article, the following terms, phrases and words shall have the following meanings unless otherwise indicated by context:

Chief of police: The Chief of Police of the City of Bellefontaine Neighbors Police Department.

Director: The Finance Director of the City of Bellefontaine Neighbors.

Month: That period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last date of such following month, and when computations are made for a fraction of a month, a day shall be one-thirtieth (1/30) of a month.

Net assets: The book value of the current assets of a person or pawnbroker less its applicable liabilities as stated in this section. Current assets include the investment made in cash, bank deposits, merchandise inventory, and loans due from customers excluding the pawn service charge. Current assets do not include the investments made in fixed assets of real estate, furniture, fixtures, or equipment, investments made in stocks, bonds, or other securities, or investments made in prepaid expenses or other general intangibles. Applicable liabilities include trade or other accounts payable; accrued sales, income, or other taxes; accrued expenses; and notes or other payables that are unsecured or secured in whole or part by current assets. Applicable liabilities do not include liabilities secured by assets other than current assets. Net assets must be represented by a capital investment unencumbered by any liens or other encumbrances to be subject to the claims of general creditors.

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

Pawnshop: The location at which, or premises in which, a pawnbroker regularly conducts business.

City of Bellefontaine Neighbors -- QuickCode

Person: An individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

Person of good moral character: A person who has not been convicted of any state, federal, or municipal offense involving drugs or narcotics, robbery, burglary, theft, stealing, receiving stolen property, embezzlement, extortion, forgery, gambling, bribery, perjury, any weapons offense, or any crime of violence.

Pledged goods: Tangible personal property other than choses in action, securities, or printed evidence of indebtedness, which property is deposited with, or otherwise actually delivered into, the possession of a pawnbroker in the course of his business in connection with a pawn transaction.

Secured personal credit loan: Every loan of money made in this city, the payment of which is secured by a security interest in tangible personal property which is physically delivered into the hands of the lender at the time of the making of the loan and which is to be retained by the lender while the loan is a subsisting obligation.
(Ord No. 1574, § 1, 10-7-93; Ord. No. 1675, § 1, 12-7-95)

Sec. 15-276. Licenses.

(a) *Licenses required.* No person shall operate a pawnshop in the city unless such person obtains a pawnshop license issued by the city in accordance with the general licensing provisions of this chapter 15 and the specific provisions of this article XVI. A license is required for each place where pawnbroking business is transacted; and no one shall act as an agent, employee, or solicitor for any pawnbroker while such pawnbroker is engaged in such business at a place other than that specified in the license. It shall be unlawful for any person to conduct or transact a pawnbroker business in the city unless he shall keep posted in a conspicuous place in the place of business the license certificate therefor, and a copy of all ordinances relating to pawnbrokers.

(b) *Licensing year is calendar year.* All licenses issued under this article are for a period of one (1) year, or portion of one (1) year, and expire on midnight of December 31. The license fee for any license which is issued for a portion of a year shall be prorated by the director.

(c) *Application for New Pawnshop License:*

- (1) An application for a new pawnshop license shall be under oath and on forms prescribed and provided by the director and shall contain other relevant information sufficient to inform the director regarding the qualifications of the applicant for a license as required by the director. At minimum, the application shall include:
 - a. The full name and address of the applicant, and each prospective pawnshop employee, if known, for the past two (2) years;
 - b. The address where the business is to be conducted;

City of Bellefontaine Neighbors -- QuickCode

- c. A statement as to whether the applicant, and each prospective pawnshop employee, if known, have ever been convicted of a felony;
- d. The name, address and phone number of at least two (2) persons of good moral character who may be used as character references for the applicant, and each prospective pawnshop employee, if known; and
- e. If the applicant is a partnership, the application shall include the required information for each partner, and whether such partner is a general partner or a limited partner. If the applicant is a corporation, the application shall include the required information for each officer and director and each shareholder owning twenty percent (20%) or more of the corporate stock.

(2) The application shall be accompanied by:

- a. An investigation fee of five hundred dollars (\$500.00) if the applicant is unlicensed at the time of applying for the pawnshop, or two hundred fifty dollars (\$250.00) if the application involves a second or additional license to an applicant previously licensed for a separate location, or involves substantially identical principals and owners of a licensed pawnshop at a separate location;
- b. Proof of general liability insurance in the amount of five hundred thousand dollars (\$500,000.00);
- c. An annual fee of five hundred dollars (\$500.00); and
- d. If the applicant is a corporation, a "certificate of good standing" issued by the Missouri Secretary of State.

(d) *Nonuse and transfer of license.*

- (1) If a pawnbroker shall not conduct business for any continuous period of ninety (90) days after the issuance of a license, the license shall be null and void.
- (2) Licenses are personal to the licensee and may not be transferred to any other person. Any attempt to transfer such license to any other person shall render said license null and void. It shall be unlawful for any person to do business or to attempt to do business under a license transferred to him.

(e) *Investigation by director.* The director shall investigate the facts contained in an application for a new pawnshop license and shall request the assistance of the chief of police and any other person who has knowledge of the facts contained in the application, or who is authorized to investigate these facts.

(f) *Standards for issuance.* No license shall be issued to any person who:

- (1) Is not of good moral character, or to any pawnshop employing persons who are not of good

City of Bellefontaine Neighbors -- QuickCode

moral character; or

- (2) Makes a false statement of material facts in the application for a license or a renewal license; or
- (3) Fails to show that the pawnshop will be operated lawfully and fairly within the purposes of the article; or
- (4) Has a felony or misdemeanor conviction which either directly relates to the duties and responsibilities of the occupation of pawnbroker or which otherwise makes the applicant presently unfit for a license; or
- (5) Does not have net assets of at least fifty thousand dollars (\$50,000.00) readily available for use in conducting business as a pawnshop for each licensed pawnshop; or
- (6) Does not file with the director a bond satisfactory to the director in an amount of five thousand dollars (\$5,000.00) with a surety company qualified to do business in this city. The aggregate liability of such surety shall not exceed the amount stated in the bond. The bond shall run to the city for the use of the city and of any person(s) who may be a cause of action against the obligor of such bond under the provisions of this article. Such bond shall be conditioned that the obligor will comply with the provisions of this article and by all rules and regulations adopted by the director and will pay to the city and to any such person(s) any and all amounts of money that may become due or owing to the city or to such person(s) from such obligor under and by virtue of the provisions of this article, or any rules adopted by the director pursuant to this article, during the time such bond is in effect.

If the director is unable to verify that the applicant meets the net assets requirement for a licensed pawnshop as required by subsection (5) hereinabove, the director may require a finding, including the presentation of a current balance sheet, by an independent certified public accountant, that the accountant has reviewed the books and records of the applicant and that the applicant meets the net assets requirement of this article.

(g) *Exemption from requirement for new pawnshop license.* No person who is lawfully operating a pawnshop on October 7, 1994, shall be required to obtain a license under this section in order to continue operating such pawnshop, so long as such person does not violate any other provisions of RSMo., sections 367.011—367.060 or this article. Such persons may continue to operate those pawnshops then in existence, but thereafter must receive annual renewal licenses even though the operation of such pawnshop might cause the number of pawnbrokers in the city to exceed the number determined by operation of subsection (h) of this section. Such persons shall be required to pay the five hundred dollar (\$500.00) annual fee prescribed in subsection (i) of this section, but such payment shall be in lieu of any occupational license fee.

(h) *Limitation on number of pawnbrokers in the city.* Subject to the provisions of subsection (g) of this section, no license for engaging in the business of pawnbroker shall be issued when the issuance thereof would increase the number of such licenses outstanding and in force at that time to more than one (1) per each fifteen thousand (15,000) inhabitants residing in the city.

City of Bellefontaine Neighbors -- QuickCode

(i) *Subsequent license applications.* Subject to the first year for which a license is issued to a pawnbroker, each pawnbroker shall make a renewal application to the director. The application shall be filed by December 1 of the current licensing year and shall be on the forms and shall contain such information as the director may require. The forms shall contain such information as will assist the director in determining whether conditions have changed, and whether a renewal license should be issued for the subsequent licensing year. The director may request the assistance of the chief of police or any other city employee or person having knowledge of the truth or falsity of the matters contained in the application, or who is able to investigate those matters. The annual fee for the issuance of a renewal license is five hundred dollars (\$500.00).

(j) *Suspension or revocation of license.*

- (1) If the director believes that any condition has changed such that the licensee would not be eligible to receive a pawnbroker's license, or that the licensee is in violation of this article or any state or municipal law, the director may suspend the license.
- (2) If the director believes that the licensee is capable of remedying the adverse change in conditions, and if the licensee has not previously been in violation of this article or state or municipal law, the director may suspend the license. If the director believes that the changed condition(s) are such that, if true, the licensee would not be able to remedy the situation in a reasonable time, or if the licensee has previously been in violation of this article or state or municipal law, then the Director may revoke the license.
- (3) If the director believes that the safety, morals, or peace of residents of the city is immediately affected by the change in conditions, the director may suspend or revoke the license prior to a hearing; but he shall afford the licensee a hearing within five (5) days of the suspension or revocation if the licensee desires such a hearing. If the director believes that the changed condition is not of such imminent hazard to the safety, morals, or peace of the residents of the city, he may hold a hearing prior to taking any action. He shall give the licensee at least ten (10) days' notice of the hearing.
- (4) Any party aggrieved by a decision of the director may appeal to the Circuit Court of St. Louis County in accordance with the provisions of RSMo., Ch. 536.

(k) *Issuance of pawnshop licenses prohibited, when.*

- (1) No license shall be issued for the operation of a pawnshop as defined within this article wherein said pawnshop will be located within one thousand (1,000) feet of the property line of any church, synagogue, school, or residentially-zoned property.
- (2) No license shall be issued for the operation of a pawnshop as defined in this article wherein said pawnshop will be located within one thousand (1,000) feet of the property line of property on which there is located another pawnshop.
- (3) No license shall be issued for the operation of a pawnshop as defined in this article wherein said pawnshop will be located within one thousand (1,000) feet of the property line of any

City of Bellefontaine Neighbors -- QuickCode

residence unless the licensee shall provide to the director written authorization for such operation from the owner of record of such property and each adult resident thereof.

- (4) No license shall be issued unless the pawnbroker has obtained a special or conditional use permit as may be required by the city's zoning code.

(Ord No. 1675, § 1, 12-7-95)

Sec. 15-277. Record requirements of pawn shop operations.

(a) *Pawn number.* The pawnbroker shall affix to each item of tangible personal property a tag upon which shall be inscribed a pawn number of legible characters which shall correspond to the number on any pawn ticket or receipt for payment.

(b) *Pawn ticket for pledged property, contents, loss of, effect.* At the time of making the secured personal credit loan, the lender shall execute and deliver to the borrower a pawn ticket for, and describing, the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

- (1) The name and address of the pawnshop;
- (2) The name and address of the pledgor, date of birth, height, weight, sex, race or nationality, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;
- (3) The date of the transaction;
- (4) An identification and description of the pledged goods including, but not limited to, serial numbers, if reasonably available, and an estimated value of each item pledged;
- (5) The amount of cash advanced or credit extended to the pledgor;
- (6) The amount of the pawn service charged;
- (7) The total amount which must be paid to redeem the pledged goods on the maturity date;
- (8) The maturity date of the pawn transaction;
- (9) A statement to the effect that the maximum legal interest rate may not exceed two (2) percent per month on the amount of any loan; and
- (10) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty (60) days after the specified maturity date.

(c) *Employee registration.* Every employee of a pawnshop shall, within thirty (30) days from the

City of Bellefontaine Neighbors -- QuickCode

issuance of any license, register his name and address with the police department of the city and shall have had his thumbprints, fingerprints, and photograph taken and filed with the city, and such employee shall receive a certificate showing compliance therewith, except that employees registered with the city need not register a second time. The term "employee" means all persons working in a pawnshop, including any owner, any officer, director or stockholder if the owner is a corporation, any partner or any other person who receives income in any manner from engaging in the operation of said pawnshop.

(d) *Affidavit of lost ticket.* If a pawn ticket is lost, destroyed or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction, or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the Secretary of State pursuant to RSMo., Section 486.205, to perform notarial acts in this state.

(e) *Receipt for payment to be furnished.* Upon any payment by a pledgor, or upon the redemption of any pledge, the pawnbroker shall furnish to the pledgor a written signed receipt indicating the exact amount paid on principal, interest and any other charges. Said written receipt shall be either printed or stamped with the name of the pawnbroker and the address, shall include the date of payment, and shall be legibly written so that the figures thereon are clearly discernible.

(f) *Pawn register.* Each pawnbroker shall keep a register of all items pawned at each pawnshop, which register shall contain the information listed in subsections (a) and (b) of this section. This record shall be kept in a bound book, or in a continuous sheet of paper or tape, handwritten in ink or typed using a ribbon other than carbon, so that it will be obvious if an entry has been erased, obliterated or defaced. Such information may be made on cards, individual sheets or order pads if each sheet or card is numbered, so that if an entry is removed it will be obvious.

(g) *Daily report.* Each pawnbroker must, before the hour of 6:00 p.m. of every day, except Sunday and days the pawnbroker is closed all day, make and deliver to the chief of police, at the police station, a full, true and detailed copy of that day's pawn register. If no article or thing has been pawned or received during said day, a report must be made to that effect.

(h) *Photographic records.*

- (1) All pawnbrokers shall install a proper camera in operative condition and shall use such equipment to photograph every person and the receipts of pawn shop tickets given to such persons with all loans and with all purchases of items from persons.
- (2) All pawnbrokers shall display, in a prominent place, a notice to customers that they are required to be photographed when they pawn, sell, or offer as a part or full payment, any item to the pawnbroker.
- (3) All such photographs shall be available for development, and developed by the pawnbroker, upon request by the chief of police.

City of Bellefontaine Neighbors -- QuickCode

(i) *Retention and use of records.* Each licensee shall keep and maintain the originals of the foregoing records, or an original copy as may be appropriate, for a period of at least two (2) years from the date of the last transaction recorded therein, and each such record shall at all reasonable times be open to inspection by the chief of police or at his direction.

(Ord No. 1574, § 1, 10-7-93; Ord. No. 1675, § 1, 12-7-95)

Sec. 15-278. Operational regulations.

(a) *Interest rates.* It shall be unlawful for any pawnbroker to charge interest exceeding two (2) percent per month on any pledge. All pawnbrokers shall display, in a prominent place, a notice to customers that the maximum legal interest rate may not exceed two (2) percent per month on the amount of any loan.

(b) *Safekeeping of pledges.*

- (1) Every pawnbroker licensed under the provisions hereof shall provide a safe place for the keeping of the pledges received by him and shall have sufficient insurance on the property held on pledges, for the benefit of the pledgors, in case of destruction by fire or loss by theft. A pawnbroker shall not fail to exercise reasonable care to protect pledged goods from loss or damage.
- (2) In the event such pledged goods are lost or damaged as a result of a pawnbroker's negligence while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with like kind of merchandise. Pawnbrokers shall not be responsible for loss of pledged articles due to acts of God, acts of war or riots. Each lender shall employ a reputable company for the purpose of fire and theft security.

(c) *Loans due, when; return of collateral, when; restrictions.*

- (1) Every secured personal credit loan shall be due and payable in lump sum thirty (30) days after the date of the loan contract or, if extended, thirty (30) days after the date of the last preceding extension of the loan, and if not so paid when due, it shall, on the next day following, be in default. The pawnbroker shall retain possession of the tangible personal property subjected to the security interest to secure payment of any secured personal credit loan for a period of sixty (60) days next following the date of default. If during the period of sixty (60) days the pledgor shall pay to the pawnbroker the principal sum of the loan, with the loan fee(s), and the interest due thereon to the date of payment, the pawnbroker shall thereupon deliver possession of the tangible property to the pledgor. But if the pledgor fails during the period of sixty (60) days to make payment, then the title to the tangible personal property shall, on the day following the expiration of the period of sixty (60) days, pass to the pawnbroker, without foreclosure, and the right of redemption by the pledgor shall be forever barred.
- (2) A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction.

City of Bellefontaine Neighbors -- QuickCode

- (3) Any person properly identifying himself and presenting a pawn ticket to the pawnbroker shall be presumed to be entitled to redeem the pledged goods described therein.
- (d) *Hold orders.*
- (1) Whenever any peace officer has probable cause to believe that property in possession of a pawnbroker licensed by the city is stolen or embezzled, said officer may place a written hold order on the property. A hold order required by this section shall contain the following:
- a. Name of the pawnbroker;
 - b. Name, title and identification number of the peace officer placing the hold order;
 - c. Name and address of the agency to which the peace officer is attached and the offense number;
 - d. Complete description of the property to be held, including model number, serial number and transaction number;
 - e. Name of the agency reporting the property to be stolen or embezzled; and
 - f. Mailing address of the pawnshop where the property is held.
- (2) The pawnbroker or his designee shall sign and date a copy of the hold order as evidence of its receipt.
- (3) While the hold order is in effect, the pawnbroker may consent to release, upon written receipt, the stolen or embezzled property to the custody of the law enforcement agency to which the peace officer placing the hold order is attached. Such consent shall not be considered a waiver or release of the pawnbroker's property rights or interest in the property.
- (4) Except as provided in subsection (3) of this section, the pawnbroker shall not release or dispose of the property except pursuant to a court order or the termination or expiration date, if any, of the hold order.
- (5) In the event criminal charges have been filed in any Missouri court involving property which is in the possession of a pawnbroker licensed by the city and which may be needed as evidence, the appropriate prosecuting attorney's office may place a written hold order on the property. Such order shall contain the case number, the style of the case and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the prosecuting attorney's office. The prosecuting attorney's office shall notify the pawnbroker in writing within fifteen (15) days of the disposition of the case.
- (6) Willful noncompliance by a pawnbroker with a written hold order shall be cause for the pawnbroker's license to be suspended or revoked. A hold order may be terminated at any time

City of Bellefontaine Neighbors -- QuickCode

by written release from the law enforcement agency or prosecuting attorney placing the initial hold order.

(e) *Lost, stolen or encumbered property; police cooperation.*

- (1) Each pawnbroker shall notify the police of any article pledged, or attempted to be pledged, if the pawnbroker has reason to believe that said article was stolen or lost.
- (2) A pawnbroker shall have no recourse when a customer has pledged goods for the receipt of money except the pledged goods themselves, unless the pledged goods are found to be stolen, lost, mortgaged or otherwise pledged or encumbered. When a customer is notified by a peace officer that the goods he pledged or sold to a pawnbroker were stolen, lost, mortgaged or otherwise pledged or encumbered, the customer shall be liable to repay the pawnbroker the full amount the customer received from the pawn or buy transaction. A pawnbroker shall not charge any fee relating to the restoration of such property to its rightful owner.
- (3) Every pawnbroker shall give the chief of police notice of all pawned goods to be shipped out of town, which notice shall state the name of the pledgee and the destination and date of shipment. Such goods shall not be shipped for at least seven (7) days after delivery of the copy of the register to the chief of police.
- (4) Every pawnbroker shall, upon request, show and exhibit to any peace office any article purchased, taken, or received by the pawnbroker if the item is still in the possession of the pawnbroker.

(f) *Miscellaneous regulations.*

- (1) *Pawnshop not to be used as a residence.* No pawnbroker or member of the pawnbroker's family, or employee, or any other person shall be permitted to live in a pawnshop or in rooms connecting therewith.
- (2) *Hours of operation.* No pawn shop shall be open for business or receive as pawned, pledged, or purchased, or upon any condition whatsoever, any article of personal property or other valuable thing between the hours of 8:00 p.m. on any day and 7:00 a.m. on the following day.
- (3) *Keeping items seven (7) days.* No pawnbroker shall destroy, melt down, dispose of, sell or deliver to any other person any item of tangible personal property until seven (7) days have passed from the date the item was received.
- (4) *Dealing in weapons prohibited, when.* No pawnbroker shall receive as security or otherwise conduct any transaction involving any kind of firearm, revolver, pistol, rifle, bowie knife, spring back knife, razor, metal knuckles, billy, sword cane, dirk, dagger, or other similar weapon, unless said pawnbroker is otherwise licensed by applicable state and federal law to purchase and sell such weapons.
- (5) *Secondhand goods.* A pawnbroker shall not purchase or take in trade used or secondhand

City of Bellefontaine Neighbors -- QuickCode
personal property unless a record is established that contains:

- a. The name, address, physical description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the seller;
- b. A complete description of the property, including the serial number, if reasonably available, or other identifying characteristic; and
- c. A signed document from the seller providing that the seller has the right to sell the property.

(6) *Additional restrictions.* A pawnbroker shall not:

- a. Accept a pledge from a person who is under eighteen (18) years of age;
- b. Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
- c. Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this article or other law; or
- d. Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction.

(Ord No. 1675, § 1, 12-7-95)

Sec. 15-279. Enactment of rules and regulations.

The director may issue such rules and regulations as he or she deems necessary to implement this article and the policies contained herein.

(Ord No. 1574, § 1, 10-7-93; Ord. No. 1675, § 1, 12-7-95)

Sec. 15-280. Inconsistent provisions.

It is the intention of the board of aldermen that this article shall be read in harmony with all other articles of the city and that such articles and provisions shall be so construed, interpreted, administered and applied as to reconcile any differences between them and this article. To the extent that any such articles and provisions are determined to be irreconcilable with the provisions of this article, but only to the extent, the provisions of this article shall be deemed to have superseded the conflicting provisions.

(Ord No. 1675, § 1, 12-7-95)

Sec. 15-281. Penalty.

Any person operating a pawnshop without a license or otherwise in violation of the standards and requirements provided herein shall be guilty of a violation of this section and, upon conviction thereof, shall be punished as provided in section 1-10 of this Code.
(Ord No. 1574, § 1, 10-7-93; Ord. No. 1675, § 1, 12-7-95)

Secs. 15-282—15-289. Reserved.

ARTICLE XVII. ADULT ENTERTAINMENT BUSINESS LICENSE

Sec. 15-290. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the most reasonable application. For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adult bookstore: An establishment having ten percent (10%) or more of its stock in trade in books, photographs, magazines, films for sale or viewing on or off the premises by use of motion picture devices, video players, DVD players, computers, or coin-operated means, or other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to specified sexual activities as said term is defined herein or the principal purpose of which is to stimulate or arouse sexually the patron viewer or reader.

Adult entertainment: Any live exhibition, performance, display or dance of any type including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons or, if the entertainment involves a person who is nude, unless otherwise prohibited by ordinance, or in such attire, costume or clothing as to expose to view any portion of human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered. Adult bookstores, novelty stores and massage parlors or shops shall be considered adult entertainment for purposes of this Chapter.

Adult entertainment business or establishment: Any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron or member.

Employee: Any and all persons including managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of an adult entertainment business.

City of Bellefontaine Neighbors -- QuickCode

Entertainer: Any person who provides adult entertainment within an adult entertainment premises as defined in this section, whether or not a fee is charged or accepted for entertainment.

Erotic dance: Any dance performed by an erotic dancer in an erotic dance establishment that emphasizes or seeks to arouse or excite a patron's sexual desires.

Manager: Any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment premises.

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

Nude or nudity: The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the showing of the female breast with less than a full opaque covering of any part of the nipple or areola or the showing of the covered male genitals in a discernible turgid state.

Operator: Any person operating, conducting or maintaining an adult entertainment business.

Person: Any individual, partnership, corporation, trust, incorporated or unincorporated association, martial community, joint venture, governmental entity or other entity or group of persons however organized.

Public place: Any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and automobiles whether moving or not.

Server: Any person who serves food or drink at an adult entertainment business.

Specified anatomical areas:

(1) Uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola or nipple, or any combination of the foregoing; or

(2) Human male genitals in a discernible erect state, even if completely and opaquely covered.

Specified sexual activities: Sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female; or any

City of Bellefontaine Neighbors -- QuickCode

sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-291. Business license required.

(a) It shall be unlawful for any person to operate or maintain an adult entertainment business in the City unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the City, or to operate such business after such license has been revoked or suspended by the City.

(b) It is unlawful for any entertainer, employee or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult entertainment business.

(c) It shall be prima facia evidence that any adult entertainment business that fails to have posted, in the manner required by this article, an adult entertainment business license, has not obtained such a license. In addition, it shall be prima facia evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business in which an adult entertainment license is not posted, in the manner required by this section, had knowledge that such business was not licensed.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-292. Managers, servers and entertainers, license required.

It is unlawful for any person to work as an entertainer, server or manager at an adult entertainment business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager at an adult entertainment business after such person's license to do so has been revoked or suspended.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-293. License, classification and fees.

(a) The license year for all fees required under this article shall be as stated in the City Code. The application for a license shall be accompanied by payment in full and no application shall be considered complete until such fee is paid.

(b) All licenses shall be issued for a specific location and shall be non-refundable and non-transferable.

(c) The classification of licenses and fees shall be as set forth in the City Code.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-294. License application.

City of Bellefontaine Neighbors -- QuickCode

- (a) *Adult entertainment business application.* All persons desiring to secure a license to operate an adult entertainment business under the provisions of this article shall make application with the city clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the city clerk and shall require the following information:
- (1) The name, residence address, home telephone number, occupation, date and place of birth and Social Security number of the applicant.
 - (2) The name of the adult entertainment business, a description of the adult entertainment to be performed on the licensed premises and the name of the owner of the premises where the adult entertainment business will be located.
 - (3) The names, residence addresses, Social Security numbers and dates of birth of all partners, if the applicant is a partnership; and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors, stockholders or members who own more than ten percent (10%) or greater interest in the corporation or limited liability company.
 - (4) The addresses of the applicant, or of all partners, or of all corporate officers, directors and members for the five (5) years immediately prior to the date of application.
 - (5) A description of the adult entertainment or similar business history of the applicant, or of all partners, or of all corporate officers, directors and members; whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor and the activity or occupation subjected to such action, suspension or revocation.
 - (6) A statement of the business, occupation or employment of the applicant, or of all partners, members, or of all corporate officers and directors for the three (3) years immediately preceding the date of the application.
 - (7) A statement from the applicant, or from each partner, member or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - a. A felony criminal act within five (5) years immediately preceding the application, or
 - b. A misdemeanor criminal act within two (2) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substance Act or other statutes or ordinances.

The statement shall also indicate that the applicant, each partner or each corporate officer, director or member has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately

City of Bellefontaine Neighbors -- QuickCode

preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

- (8) A full set of fingerprints and two (2) photographs, to be taken by the Police Department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers, directors or members if the applicant is a corporation.
- (9) If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Missouri Secretary of State.
- (10) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this article regulating adult entertainment businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application that shall not be processed.

(b) *Adult entertainment manager, server or entertainer's license.* All persons desiring to secure a license under the provisions of this article to be an adult entertainment manager, server or entertainer shall make a notarized application with the city clerk. All applicants shall be submitted in the name of the person proposing to be an adult entertainment manager, server or entertainer. All applications shall be submitted on a form supplied by the city clerk and shall require the following information:

- (1) The applicant's name, home address, home telephone number, date and place of birth, Social Security number and any stage names or nicknames used in entertaining.
- (2) The name and address of each adult entertainment business where the applicant intends to work as a manager, server or entertainer and an "intent to hire" statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this article, indicating the adult entertainment business intends to hire the applicant to manage, serve or entertain on the premises.
- (3) A statement from the applicant, that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - a. A felony criminal act within five (5) years immediately preceding the application, or
 - b. A misdemeanor criminal act within two (2) years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substance Act or other Statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance

City of Bellefontaine Neighbors -- QuickCode

violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

- (4) A full set of fingerprints and two (2) photographs to be taken by the Police Department of the applicant.
- (5) The applicant shall present to the city clerk who shall copy documentation that the applicant has attained the age of eighteen (18) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - a. A motor vehicle operator's license issued by any State bearing this applicant's photograph and date of birth;
 - b. A State issued identification card bearing the applicant's photograph and date of birth;
 - c. An official and valid passport issued by the United States of America;
 - d. An immigration card issued by the United States of America;
 - e. Any other form of picture identification issued by a governmental entity that is deemed reliable by the city clerk; or
 - f. Any other form of identification deemed reliable by the city clerk.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

(c) *Application processing.*

- (1) Upon receipt of a complete application for an adult entertainment or an adult entertainment manager, server or entertainer license, the city clerk shall immediately transmit one (1) copy of the application to the chief of police for investigation of the application. In addition, the city clerk shall transmit a copy of the application to the building commissioner. It shall be the duty of the chief of police or his designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The chief of police shall report the results of the investigation to the city clerk not later than ten (10) working days from the date the application is received by the city clerk. It shall be the duty of the building commissioner to determine whether the structure where the adult entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city.
- (2) The building commissioner shall report the results of the investigation to the city clerk not later than ten (10) working days from the date the application is received by the city clerk. Upon receipt of the reports from the chief of police and the building commissioner, the city clerk shall schedule the application for the consideration by the board of aldermen at the earliest meeting consistent with the notification requirements established by law, providing the licensed application for an adult entertainment business and for an adult entertainment business manager, server or entertainer license shall be approved or disapproved within forty-five (45) days of the date of filing of a completed application with the city clerk's

City of Bellefontaine Neighbors -- QuickCode

office. The applicant shall be notified in writing of the date when the board of aldermen will consider the application.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-295. Examination of application--issuance of license--disapproval.

(a) If the application for an adult entertainment business or an adult entertainment business manager, server or entertainer is in proper form and accompanied by the appropriate license fee, the city clerk shall examine the application and after such examination, the city clerk shall, if the applicant is qualified, approve a license as provided for by law.

(b) The license shall state that it is not transferable to other persons and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working. Licensed businesses shall have a copy of all photograph required by section 15-294(a)(8), above, attached thereto at all times. Licenses for managers, servers or entertainers shall have a copy of the photograph of the licensee required by section 15-294(b)(4), above, attached thereto at all times.

(c) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address and the notification shall state that basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-296. License ineligibility and disqualification.

No person is eligible nor shall a license be issued to:

- (1) An adult entertainment business applicant if one (1) or more of the following conditions exist:
 - (a) The applicant failed to supply all of the information requested on the application.
 - (b) The applicant gave materially false, fraudulent or untruthful information on the application.
 - (c) The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the city, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the board of aldermen.
 - (d) The applicant has been convicted of any felony or a misdemeanor involving sexual misconduct.
 - (e) The applicant has had an adult entertainment license revoked or suspended in this or any

City of Bellefontaine Neighbors -- QuickCode
other city during the past five (5) years.

- (2) An applicant for an adult entertainment manager, server or entertainer if one (1) or more of the following conditions exist:
 - (a) The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment business license for any of the reasons stated in subsection (1) above.
 - (b) The applicant has been convicted of any felony or a misdemeanor involving sexual misconduct.
 - (c) The applicant failed to provide all of the information required on the application.
 - (d) The applicant gave materially false, fraudulent or untruthful information on the application.
 - (e) The applicant has had an adult entertainment manager, server or entertainer license revoked or suspended in this or any other city during the past five (5) years.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-297. Standards of conduct.

The following standards of conduct shall be adhered to by all adult entertainment business licensees, their employees and all adult entertainment business managers, servers and entertainers and patrons of adult entertainment businesses, while on or about the premises of the business:

- (1) *Interior restrictions.*
 - (a) It shall be unlawful for any erotic dancer to dance at a distance of less than ten (10) feet from any patron or to touch any patron while dancing.
 - (b) It shall be unlawful for any erotic dancer to dance on a stage that is not raised at least two (2) feet above the area on which the patron or patrons sit or stand.
- (2) *Age restriction.* Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult entertainment business.
- (3) *Exterior observation.* The premises of all adult entertainment businesses will be so constructed as to include an anteroom, foyer, partition or other physical barrier on all customer entrances, that will insure observation of the interior of the premises and is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.
- (4) *Exterior display.* No adult entertainment business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or

City of Bellefontaine Neighbors -- QuickCode

persons depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

- (5) *Nudity prohibited, exceptions.* No employee, server or entertainer in an adult entertainment business shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.
- (6) *Certain acts prohibited.*
- (a) No employee, server or entertainer shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.
- (b) No employee, server, entertainer or patron of an adult entertainment business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle, or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.
- (c) No employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
- (d) No adult entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this article and no adult entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:
- (1) While such entertainer is on the stage or platform, a customer or patron may place such payment or gratuity into a box affixed to the stage, or
- (2) While such entertainer is not on the stage or platform and is clothed so as to not expose to view any specified anatomical area, a customer or patron may place such payment or gratuity into the entertainer's hand.
- (e) No owner, operator, manager or other person in charge of the premises of an adult entertainment premises shall:
- (1) Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises, (unless otherwise permitted pursuant to Chapter 3, ALCOHOLIC BEVERAGES of this Code);
- (2) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
- (3) Knowingly allow or permit any person under the age of eighteen (18) years of age to be in or upon the premises;
- (4) Knowingly allow or permit any act of prostitution or patronizing prostitution on the

City of Bellefontaine Neighbors -- QuickCode
premises; or

- (5) Knowingly allow or permit a violation of this article or any other City ordinance provision or State law.
- (7) *Signs required.* All adult entertainment businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at two (2) inches high and lowercase letters at least one (1) inch high, which shall read as follows:

THIS ADULT ENTERTAINMENT BUSINESS IS
REGULATED AND LICENSED BY THE CITY OF
BELLEFONTAINE NEIGHBORS

ENTERTAINERS ARE:

- * Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron, or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.
- * Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals, unless upon a stage at least two (2) feet above the customer floor and a sufficient distance from the customers to prevent the customers from touching the entertainers.
- * Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:
 - ** While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or
 - ** While such entertainer is not on the stage, by placing such payment or gratuity into the entertainer's hand.

CUSTOMERS ARE:

- * Not permitted to be upon the stage at any time.
 - * Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.
- (8) *Lighting required.* The premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access to an illumination of not less than one (1) foot candle as measured at the floor

City of Bellefontaine Neighbors -- QuickCode

level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

(9) *Closed booth or room prohibited.* The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portions of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.

(10) *Ventilation and sanitation requirements.* The premises of all adult entertainment businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

(11) *Hours of operation.* No adult entertainment business may be open or in use between the hours of 1:30 a.m. and 9:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 1:30 a.m. and 12:00 noon.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-298. License posting or display.

(a) Every person, corporation, partnership or association licensed under this article as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment facility premises.

(b) Every person holding an adult entertainment server, manager or entertainer license shall post his or her license in his or her work area on the adult entertainment facility premises so it shall be readily available for inspection by City authorities responsible for enforcement of this article.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-299. Manager on premises.

(a) An adult entertainment manager shall be on duty at any adult entertainment business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.

(b) It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainer's license or an adult entertainment server's license and that such licenses are prominently posted.

(Ord. No. 2018 §6, 12-1-05)

Sec. 15-300. Inspector and inspections.

All adult entertainment businesses shall permit representatives of the police department or any other city official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

Sec. 15-301. Suspension, revocation or non-renewal--license.

Whenever the city clerk has information that:

- (1) The owner or operator of an adult entertainment business or a holder of an adult entertainment manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of the city code; or
- (2) There have been recurrent violations of provisions of this article that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed; or
- (3) The adult entertainment business license or the adult entertainment manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or
- (4) The adult entertainment business licensee or the adult entertainment manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
- (5) The owner or operator, or any partner, or any corporate officer or director holding an adult entertainment business license has become disqualified from having a license by a conviction as provided in section 15-196(a)(4); or
- (6) If the holder of an adult entertainment manager, server or entertainer license has become disqualified from having a license by a conviction as provided in section 15-296(b)(2), then the city clerk shall conduct a public hearing to determine whether the license should be suspended or revoked. Based on the evidence produced at the hearing, the city clerk may take any of the following actions:
 - (a) Suspend the license for up to ninety (90) days.
 - (b) Revoke the license for the remainder of the license year.
 - (c) Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of the article occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, license will be revoked for the remainder of the license year.
 - (d) Any action otherwise authorized in the city code not inconsistent with this section.

Sec. 15-302. Renewal.

- (a) A license may be renewed by making an application for renewal to the city clerk on application

City of Bellefontaine Neighbors -- QuickCode

forms provided for that purpose. Licenses shall expire on December thirty-first (31st) of each calendar year and renewal applications for such licenses shall be submitted to the city clerk by November thirtieth (30th) of each license year.

(b) Upon timely application and review as provided for a new license, a license issued under the provisions of this article shall be renewed by issuance of a new license in the manner provided in this article.

(c) If the application for renewal of a license is not made during the time otherwise provided in the Bellefontaine Neighbors City Code, a new application shall be required.
(Ord. No. 2018 §6, 12-1-05)

Sec. 15-303. Judicial review--stay of enforcement of orders.

Following the entry of an order by the city clerk, suspending or revoking a license issued pursuant to this article, or disapproving the renewal application for a license, such licensee or applicant may seek administrative or judicial review in a manner provided by law.
(Ord. No. 2018 §6, 12-1-05)

Sec. 15-304. Penalty.

It shall be unlawful for any person to violate any of the provisions of this article. Upon conviction thereof, such person shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of or failure, refusal or neglect to comply with any provision of this article shall constitute a separate and distinct offense.
(Ord. No. 2018 §6, 12-1-05)

ARTICLE XVIII. PEDDLERS, SOLICITORS AND CANVASSERS

Sec. 15-350. Definitions.

As used in this Article, the following words have the meaning indicated:

Canvasser: A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

Issuing officer: The city collector for the city of Bellefontaine Neighbors, Missouri.

City of Bellefontaine Neighbors -- QuickCode

Peddler: A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to sell a good or service. A "peddler" does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor".

Solicitor: A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-351. Exception.

This Article shall not apply to a federal, state or local government employee or a public utility employee in the performance of his/her duty for his/her employer.
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-352. Identification card required for peddlers and solicitors, available for canvassers.

No person shall act as a peddler or as a solicitor within the city without first obtaining an identification card in accordance with this Article. A canvasser is not required to have an identification card but any canvasser wanting an identification card for the purpose of reassuring city residents of the canvasser's good faith shall be issued one upon request.
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-353. Fee.

The fee for the issuance of each identification card shall be:

- (a) For a peddler or solicitor, seven dollars fifty cents (\$7.50) per day.
 - (b) For a canvasser requesting an identification card, no fee.
- (Ord. No. 2063 §1, 6-7-07)

Sec. 15-354. Application for identification card.

City of Bellefontaine Neighbors -- QuickCode

Any person or organization (formal or informal) may apply for one (1) or more identification cards by completing an application form at the office of the issuing officer during regular office hours. (Ord. No. 2063 §1, 6-7-07)

Sec. 15-355. Contents of application.

The applicant (person or organization) shall provide the following information:

- (a) Name of applicant.
- (b) Number of identification cards required.
- (c) The name, physical description and photograph of each person for which a card is requested. In lieu of this information, a driver's license, state identification card, passport or other government-issued identification card (issued by a government within the United States) containing this information may be provided and a photocopy taken. If a photograph is not supplied, the city will take an instant photograph of each person for which a card is requested at the application site. The actual cost of the instant photograph will be paid by the applicant.
- (d) The permanent and (if any) local address of the applicant.
- (e) The permanent and (if any) local address of each person for whom a card is requested.
- (f) A brief description of the proposed activity related to this identification card. (Copies of literature to be distributed may be substituted for this description at the option of the applicant.)
- (g) Date and place of birth for each person for whom a card is requested and (if available) the social security number of such person.
- (h) A list of all infraction, offense, misdemeanor and felony convictions of each person for whom a card is requested for the seven (7) years immediately prior to the application.
- (i) The motor vehicle make, model, year, color and state license plate number of any vehicle which will be used by each person for whom a card is requested.
- (j) If a card is requested for a peddler:
 - (1) The name and permanent address of the business offering the event, activity, good or service (i.e., the peddler's principal).
 - (2) A copy of the principal's sales tax license as issued by the state of Missouri, provided that no copy of a license shall be required of any business which appears on the city's annual report of sales tax payees as provided by the Missouri Department of Revenue.
 - (3) The location where books and records are kept of sales which occur within the City and which are available for city inspection to determine that all city sales taxes have been

City of Bellefontaine Neighbors -- QuickCode

paid.

(k) If a card is requested for a solicitor:

- (1) The name and permanent address of the organization, person or group for whom donations (or proceeds) are accepted.
- (2) The web address for this organization, person or group (or other address) where residents having subsequent questions can go for more information.

(l) Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-356. Issuance of identification card.

The identification card(s) shall be issued promptly after application but in all cases within sixteen (16) business hours of completion of an application, unless it is determined within that time that:

- (a) The applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven (7) years, or
- (b) With respect to a particular card, the individual for whom a card is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven (7) years, or
- (c) Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-357. Investigation.

During the period of time following the application for one (1) or more identification cards and its issuance, the city shall investigate as to the truth and accuracy of the information contained in the application. If the city has not completed this investigation within the sixteen (16) business hours provided in section 15-356, the identification card will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation. [If a canvasser requests an identification card, the investigation will proceed as described above, but if the city refuses to issue the identification card (or revokes it after issuance), the canvasser will be advised that the failure to procure an identification card does not prevent him/her from canvassing the residents of the City.]
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-358. Denial; administrative revocation.

City of Bellefontaine Neighbors -- QuickCode

If the issuing officer denies (or upon completion of an investigation revokes) the identification card to one (1) or more persons, he shall immediately convey the decision to the applicant orally and shall within sixteen (16) working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant. Upon receipt of the oral notification and even before the preparation of the written report, the applicant shall have at his option an appeal of the denial of his application before the Board of Aldermen at its next regular meeting or if the next regular meeting is more than ten (10) days from the denial of the application, at a special meeting to be held within that ten (10) day period, due notice of which is to be given to the public and the applicant. (Ord. No. 2063 §1, 6-7-07)

Sec. 15-359. Hearing on appeal.

If the applicant requests a hearing under Section 15-358, review from the decision (on the record of the hearing) shall be had to the circuit court of St. Louis County. (Ord. No. 2063 §1, 6-7-07)

Sec. 15-360. Display of identification card.

Each identification card shall be (when the individual for whom it was issued is acting as a peddler or solicitor) worn on the outer clothing of the individual, as so to be reasonably visible to any person who might be approached by said person. (Ord. No. 2063 §1, 6-7-07)

Sec. 15-361. Validity of identification card.

An identification card shall be valid within the meaning of this Article for the length of the license period requested, up to a maximum period of six (6) months, from its date of issuance. (Ord. No. 2063 §1, 6-7-07)

Sec. 15-362. Revocation of card.

In addition to the administrative revocation of an identification card, a card may be revoked for any of the following reasons:

- (a) Any violation of this Article by the applicant or by the person for whom the particular card was issued.
- (b) Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.
- (c) Conviction of any felony or a misdemeanor involving moral turpitude within the last seven (7) years.

City of Bellefontaine Neighbors -- QuickCode

(d) Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

The revocation procedure shall be initiated by the filing of a complaint by the issuing officer and a hearing before the tribunal identified in Section 15-358 above.
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-363. Distribution of handbills and commercial flyers.

In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:

(a) No handbill or flyer shall be left at or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The police are authorized to remove any handbill or flyer found within the right-of-way.

(b) No handbill or flyer shall be left at or attached to any privately owned property in a manner that causes damage to such privately owned property.

(c) No handbill or flyer shall be left at or attached to any of the property having a "no solicitor" sign of the type described in Section 15-364(a) or (b).

(d) No person shall throw, deposit or distribute any handbill or flyer upon private premises which are inhabited except by handing or transmitting same directly to some person then present upon such private premises. Provided, however, that in the case of inhabited private premises which are not posted against solicitors or solicitors and canvassers, a solicitor or canvasser, unless requested not to do so by someone on such premises, may place or deposit any such handbill or flyer in or upon such premises if such handbill or flyer is so placed or deposited as to secure or prevent such handbill or flyer from being blown away or drifting about such premises or sidewalks, streets or other public places; and further provided that mailboxes may not be used for handbills or flyers unless specifically allowed by federal law.

(e) Any person observed distributing handbills or flyers shall be required to identify himself/herself to the police (either by producing an identification card or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the City receives a complaint of damage caused to private property during the distribution of handbills or flyers.
(Ord. No. 2063 §1, 6-7-07)

Sec. 15-364. General prohibitions.

No peddler, solicitor or canvasser shall:

(a) Enter upon any private property where the property has clearly posted in the front yard a

City of Bellefontaine Neighbors -- QuickCode

sign visible from the right-of-way (public or private) indicating a prohibition against peddling, soliciting and/or canvassing as the case may be. Such sign need not exceed one (1) square foot in size and may contain words "no soliciting" or "no solicitors", "no peddling" or "no peddlers" or "no canvassing" or "no canvassers" or any combination thereof in letters of at least two (2) inches in height.

(b) Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words similar to that specified in Subsection (a) above and which is clearly visible to the peddler, solicitor or canvasser.

(c) Use or attempt to use any entrance other than the front or main entrance to the dwelling or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.

(d) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.

(e) Use or attempt to use any entrance other than the front or main entrance to the dwelling or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.

(f) Enter upon the property of another except between the hours of 9:00 A.M. and 8:00 P.M. in the hours of Central Standard Time and 9:00 A.M. and 9:30 P.M. in the hours of Central Daylight Time.

Except that the above prohibitions shall not apply when the peddler, solicitor or canvassers has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

(Ord. No. 2063 §1, 6-7-07)

Sec. 15-365. Penalty.

Any person violating any part of this Article shall be prosecuted under the general penalty ordinance of the city of Bellefontaine Neighbors as set forth at Section 1-10 of the Code of Ordinances.

(Ord. No. 2063 §1, 6-7-07)

ARTICLE XIX. VIDEO SERVICES PROVIDERS

DIVISION 1. EXISTING FRANCHISES

Sec. 15-366. Ratification of existing franchises.

City of Bellefontaine Neighbors -- QuickCode

(a) To the extent permitted by the 2007 Video Services Providers Act, the Board of Aldermen of the City of Bellefontaine Neighbors hereby ratifies all existing agreements, franchises and ordinances regulating cable television operators and other video service providers, including the imposition of a franchise fee of five percent (5%) imposed on the gross revenues of all such providers and further declares that such agreements, franchises and ordinances shall continue in full force and effect until expiration as provided therein or until pre-empted by the issuance of video service authorizations by the Missouri Public Service Commission or otherwise by law, but only to the extent of said pre-emption.

(b) It shall be unlawful for any person to provide video services, as defined in Section 15-367 hereof, within the City without either an agreement, franchise or ordinance approved by the City or a video service authorization issued by the Missouri Public Service Commission.
(Ord. No. 2069 §1, 10-4-07)

DIVISION 2. VIDEO SERVICE REGULATIONS

Sec. 15-367. Definitions.

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

Franchise area: The total geographic area of the City authorized to be served by an incumbent cable television operator or incumbent local exchange carrier or affiliate thereof.

Gross revenues: The total amounts billed to subscribers or received from advertisers for the provision of video services within the City, including:

- (1) Recurring charges for video service,
- (2) Event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges,
- (3) Rental of set top boxes and other video service equipment,
- (4) Service charges related to the provision of video service, including, but not limited to, activation, installation, repair and maintenance charges,
- (5) Administrative charges related to the provision of video service, including, but not limited to, service order and service termination charges, and
- (6) A pro rata portion of all revenue derived, less refunds, rebates or discounts, by a video service provider for advertising over the video service network to subscribers, where the numerator is the number of subscribers within the City and the denominator is the total number of subscribers reached by such advertising; but gross revenues do not include:
 - (a) Discounts, refunds and other price adjustments that reduce the amount of compensation

City of Bellefontaine Neighbors -- QuickCode
received by a video service provider,

- (b) Uncollectibles,
 - (c) Late payment fees,
 - (d) Amounts billed to subscribers to recover taxes, fees or surcharges imposed on subscribers or video service providers in connection with the provision of video services, including the video service provider fee authorized herein,
 - (e) Fees or other contributions for PEG or I-Net support, or
- (7) Charges for services other than video service that are aggregated or bundled with amounts billed to subscribers, provided the video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means. Except with respect to the exclusion of the video service provider fee, gross revenues shall be computed in accordance with generally accepted accounting principles.

Household: An apartment, a house, a mobile home or any other structure or part of a structure intended for residential occupancy as separate living quarters.

Low income household: A household with an average annual household income of less than thirty-five thousand dollars (\$35,000.00) as determined by the most recent decennial census.

Person: An individual, partnership, association, organization, corporation, trust or government entity.

Subscriber: Any person who receives video services in the franchise area.

Video service: The provision of video programming provided through wireline facilities, without regard to delivery technology, including Internet protocol technology, whether provided as part of a tier, on demand or a per channel basis, including cable service as defined by 47 U.S.C. Section 522(6), but excluding video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d) or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail or other services offered over the public Internet.

Video service authorization: The right of a video service provider or an incumbent cable operator that secures permission from the Missouri Public Service Commission pursuant to Sections 67.2675 to 67.2714, RSMo., to offer video service to subscribers.

Video service network: Wireline facilities or any component thereof that deliver video service, without regard to delivery technology, including Internet protocol technology or any successor technology. The term "video service network" shall include cable television systems.

Video service provider or provider: Any person authorized to distribute video service through a video service network pursuant to a video service authorization.

Video service provider fee: The fee imposed under Section 15-369 hereof.

Sec. 15-368. General regulations.

(a) A video service provider shall provide written notice to the City at least ten (10) days before commencing video service within the City. Such notice shall also include:

- (1) The name, address and legal status of the provider;
- (2) The name, title, address, telephone number, e-mail address and fax number of individual(s) authorized to serve as the point of contact between the City and the provider so as to make contact possible at any time (i.e., twenty-four (24) hours per day, seven (7) days per week); and
- (3) A copy of the provider's video service authorization issued by the Missouri Public Service Commission.

(b) A video service provider shall also notify the City, in writing, within thirty (30) days of:

- (1) Any changes in the information set forth in or accompanying its notice of commencement of video service, or
- (2) Any transfer of ownership or control of the provider's business assets.

(c) A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the area in which the group resides. A video service provider shall be governed in this respect by Section 67.2707, RSMo. The City may file a complaint in a court of competent jurisdiction alleging a germane violation of this Subsection, which complaint shall be acted upon in accordance with Section 67.2711, RSMo.

(d) A video service provider shall comply with all Federal Communications Commission requirements involving the distribution and notification of emergency messages over the emergency alert system applicable to cable operators. Any video service provider other than an incumbent cable operator serving a majority of the residents within a political subdivision shall comply with this Section by December 31, 2007.

(e) A video service provider shall, at its sole cost and expense, indemnify, hold harmless and defend the City, its officials, boards, board members, commissions, commissioners, agents and employees against any and all claims, suits, causes of action, proceedings and judgments ("claims") for damages or equitable relief arising out of:

- (1) The construction, maintenance, repair or operation of its video services network,
- (2) Copyright infringements, and
- (3) Failure to secure consents from the owners, authorized distributors or licenses or programs to be delivered by the video service network.

City of Bellefontaine Neighbors -- QuickCode

Such indemnification shall include, but is not limited to, the City's reasonable attorneys' fees incurred in defending against any such claim prior to the video service provider assuming such defense. The City shall notify the provider of a claim within seven (7) business days of its actual knowledge of the existence of such claim. Once the provider assumes the defense of the claim, the City may at its option continue to participate in the defense at its own expense. This indemnification obligation shall not apply to any claim related to the provision of public, educational or governmental channels or programming or to emergency interrupt service announcements.

(Ord. No. 2069 §2B, 10-4-07)

Sec. 15-369. Video service provider fee.

(a) Each video service provider shall pay to the City a video service provider fee in the amount of five percent (5%) of the provider's gross revenues on or before the last day of the month following the end of each calendar quarter. The City may adjust the video service provider fee as permitted in Section 67.2689, RSMo.

(b) A video service provider may identify and pass through on a proportionate basis the video service provider fee as a separate line item on subscribers' bills.

(c) The City, not more than once per calendar year and at its own cost, may audit the gross revenues of any video service provider as provided in Section 67.2691, RSMo. A video service provider shall make available for inspection all records pertaining to gross revenues at the location where such records are kept in the normal course of business.

(Ord. No. 2069 §2C, 10-4-07)

Sec. 15-370. Customer service regulations.

(a) *Definitions.* For purposes of this Section, the following terms shall mean:

Normal business hours: Those hours during which most similar businesses in the community are open to serve customers. In all cases the term normal business hours must include some evening hours at least one (1) night per or some weekend hours.

Normal operating conditions: Those service conditions which are within the control of the video service provider. Those conditions which are not within the control of the video service provider include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the video service provider include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the video system.

Service interruption: The loss of picture or sound on one (1) or more video channels.

(b) All video service providers shall adopt and abide by the following minimum customer

City of Bellefontaine Neighbors -- QuickCode

service requirements.

- (1) Video service providers shall maintain a local, toll-free or collect call telephone access line which may be available to subscribers twenty-four (24) hours a day, seven (7) days a week.
- (2) Video service providers shall have trained company representatives available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours shall be responded to, by a trained company representative, on the next business day.
- (3) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.
- (4) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.
- (5) Customer service centers and bill payment locations shall be open at least during normal business hours and shall be conveniently located.
- (6) Under normal operating conditions, each of the following standards shall be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:
 - (i) Standard installations shall be performed within seven (7) business days after an order has been placed. "Standard" installation are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.
 - (ii) Excluding conditions beyond the control of the operator, the video service provider shall begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The video service provider must begin actions to correct other service problems the next business day after notification of the service problem.
 - (iii) The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.
 - (iv) A video service provider shall not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
 - (v) If a video service provider's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer must be contacted. The appointment shall be rescheduled, as necessary, at a time convenient for the customer.

City of Bellefontaine Neighbors -- QuickCode

- (7) Refund checks shall be issued promptly, but no later than either:
- (i) The customer's next billing cycle following resolution of the request or thirty (30) days, which ever is earlier, or
 - (ii) The return of the equipment supplied by the video service provider if the service is terminated.
- (8) Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.
- (9) Video service providers shall not disclose the name or address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video service provider or its affiliates, as required under 47 U.S.C. Section 551, including all notice requirements. Video service providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name or address.
- (c) As required by Section 67.2692, RSMo., this Section shall be enforced only as follows:
- (1) Each video service provider shall implement an informal process for handling inquiries from the City and customers concerning billing issues, service issues and other complaints. If an issue is not resolved through this informal process, the City may request a confidential non-binding mediation with the video service provider, with the costs of such mediation to be shared equally between the City and the video service provider.
 - (2) In the case of repeated, willful and material violations of the provisions of this Section by a video service provider, the City may file a complaint on behalf of a resident harmed by such violations with Missouri's Administrative Hearing Commission seeking an order revoking the video service provider's Public Service Commission authorization. The City or a video service provider may appeal any determination made by the Administrative Hearing Commission under this Section to a court of competent jurisdiction, which shall have the power to review the decision de novo. The City shall not file a complaint seeking revocation unless the video service provider has been given sixty (60) day's notice to cure alleged breaches but has failed to do so.

(Ord. No. 2069 §2D, 10-4-07)

Sec. 15-371. Public, educational and government access programming.

(a) Each video service provider shall designate the same number of channels for non-commercial public, educational or governmental ("PEG") use as required of the incumbent cable television franchisee as of August 28, 2007.

(b) Any PEG channel that is not substantially utilized by the City may be reclaimed and programmed by the video service provider at the provider's discretion. If the City finds and certifies that a channel that has been reclaimed by a video service provider will be substantially utilized, the video

City of Bellefontaine Neighbors -- QuickCode

service provider shall restore the reclaimed channel within one hundred twenty (120) days. A PEG channel shall be considered "substantially utilized" when forty (40) hours per week are locally programmed on that channel for at least three (3) consecutive months. In determining whether a PEG channel is substantially utilized, a program may be counted not more than four (4) times during a calendar week.

(c) The operation of any PEG access channel and the production of any programming that appears on each such channel shall be the sole responsibility of the City or its duly appointed agent receiving the benefit of such channel and the video service provider shall bear only the responsibility for the transmission of the programming on each such channel to subscribers. The City must deliver and submit to the video service provider all transmissions of PEG content and programming in a manner or form that is capable of being accepted and transmitted by such video service provider holder over its network without further alteration or change in the content or transmission signal. Such content and programming must be compatible with the technology or protocol utilized by the video service provider to deliver its video services. The video service provider shall cooperate with the City to allow the City to achieve such compatibility.

(d) The City shall make the programming of any PEG access channel available to all video service providers in a non-discriminatory manner. Each video service provider shall be responsible for providing the connectivity to the City's or its duly appointed agent's PEG access channel distribution points existing as of August 27, 2007. Where technically necessary and feasible, video service providers shall use reasonable efforts and shall negotiate in good faith to interconnect their video service networks on mutually acceptable rates, terms and conditions for the purpose of transmitting PEG programming. A video service provider shall have no obligation to provide such interconnection to a new video service provider at more than one (1) point per headend, regardless of the number of political subdivisions served by such headend. The video service provider requesting interconnection shall be responsible for any costs associated with such interconnection, including signal transmission from the origination point to the point of interconnection. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable method of connection acceptable to the person providing the interconnect.

(e) The franchise obligation of an incumbent cable operator to provide monetary and other support for PEG access facilities existing on August 27, 2007 shall continue until the date of franchise expiration (ignoring any termination by notice of issuance of a video service authorization) or January 1, 2012, whichever is earlier. Any other video service provider shall have the same obligation to support PEG access facilities as the incumbent cable operator, but if there is more than one (1) incumbent, then the incumbent with the most subscribers as of August 27, 2007. Such obligation shall be prorated, depending on the nature of the obligation, as provided in Section 67.2703.8, RSMo. The City shall notify each video service provider of the amount of such fee on an annual basis, beginning one (1) year after issuance of the video service authorization.

(f) A video service provider may identify and pass through as a separate line item on subscribers' bills the value of monetary and other PEG access support on a proportionate basis. (Ord. No. 2069 §2E, 10-4-07)

Sec. 15-372. Compliance with other regulations.

All video service providers shall comply with the right-of-way use and zoning regulations established in Sections 9-8 to 9-13 and Section 29-119 of this Code Book and with all other applicable laws and regulations.
(Ord. No. 2069 §2F, 10-4-07)

Chapter 16 -- MINORS

Cross references—Purchase or possession of alcoholic beverages by minors prohibited, § 3-3; persons eighteen years of age and older authorized to sell and handle liquor or beer, § 3-4; furnishing false identification to minors for purchase of alcoholic beverages prohibited, § 3-5; sale of intoxicating liquors to minors prohibited, § 3-41; permitting minors to consume intoxicating liquor and furnishing with setups prohibited, § 3-42; permitting minors on premises licensed for retail sale by the drink for consumption on premises prohibited, § 3-43; sale of nonintoxicating beer to minors prohibited, § 3-83; abandonment of airtight or semi-airtight containers restricted, § 19-58; domestic abuse, § 19-107.

ARTICLE I. IN GENERAL

Sec. 16-1. Parental neglect; Prohibited

(a) *Definitions.* For the purpose of this section, the following words and phrases are defined as follows:

Criminal act. An act which violates the statutes of the United States, the statutes of the State of Missouri or the ordinances of Bellefontaine Neighbors, including curfew and moving traffic violations.

Minor. Any person under the age of seventeen (17).

Parent. Mother, father, legal guardian or any person having the care or custody of a minor.

(b) No parent shall knowingly permit, encourage, aid or cause a minor to commit a criminal act or engage in any conduct which would be injurious to the minor's morals or health.

(c) No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit a criminal act.

(d) Notification of responsibility:

(1) Whenever a minor shall be arrested or detained for the commission of any criminal act within the city, the police department shall immediately notify the minor's parent of the

City of Bellefontaine Neighbors -- QuickCode

arrest or detention and shall advise the parent of his responsibility under this section.

- (2) The notice shall be in such a form as to be signed by the notified parent signifying receipt thereof. If the parent refuses to sign said notice, the notifying police officer shall indicate such refusal on the notice.
- (3) A record of said notifications shall be kept by the police department.

(e) Written notification of responsibility as provided by this section shall be prima facie evidence that a parent has failed to exercise customary and effective control over a minor as required hereby if the minor commits a second (2nd) or successive criminal act of any kind.

(f) Each violation of any of the provisions of this section shall constitute a separate offense. Any person who shall violate this section shall be subject to punishment as provided by section 1-10 of this Code of Ordinances. In addition, upon a plea or finding of guilt for violating any of the requirements of this section, the court may, either as a condition of any probation granted to any parent found guilty of violating this section or otherwise, order the defendant to make restitution to any person who has been damaged by the misconduct of the minor in an amount not to exceed two thousand dollars (\$2,000.00). (Ord. No. 2028 §1, 4-20-06)

Secs. 16-2—16-15. Reserved.

ARTICLE II. CURFEW

Sec. 16-16. Imposed; exceptions.

(a) It shall be unlawful for children under the age of seventeen (17) years, of either sex, to be on or about the streets, highways, sidewalks or public places of the city between 11:55 p.m. and 6:00 a.m. on Friday and Saturday nights and between 10:55 p.m. and 6:00 a.m. on all other nights of the week, unless in bona fide search of a physician or unless accompanied by their parent, legally appointed guardian or other authorized adult custodian of such minors.

(b) The provisions of this section shall not apply to any minor having a permit issued by the police department of the city authorizing him to be upon the public streets, highways, sidewalks and in public places of the city during such hours for legitimate purposes.
(Code 1964, § 16-1)

Sec. 16-17. Responsibilities of parents, guardians, etc.

No parent, guardian or other persons having legal custody of a child under the age of seventeen (17) years shall allow or permit such child to be on or about the streets, highways, sidewalks or other public places of the city between the hours prohibited in section 16-16 unless accompanied by such parent,

City of Bellefontaine Neighbors -- QuickCode

guardian or other person having legal custody of such minor child or unless such minor child shall fall within the exceptions provided by section 16-16.

(Code 1964, § 16-2)

Sec. 16-18. Penalties.

If any child is found violating any of the provisions of section 16-16, a warning notice shall be given to the parent, guardian or other person having legal custody of such child. Thereafter, any such child or the parent, guardian or person having legal custody thereof shall be deemed to be guilty of a violation of this article after the second infraction or violation of section 16-16, in which event such parent, guardian or persons having legal custody of such minor child or children shall be subject to punishment as provided in section 1-10 of this Code, and such minor child shall be arrested and turned over to the juvenile authorities of the county for prosecution for violation of this article in accordance with the laws of the state.

(Code 1964, § 16-3)

Sec. 16-19. Reserved.

ARTICLE III. TOBACCO

Cross reference—Alcoholic beverages, ch. 3.

Sec. 16-20. Prohibited sale to, possession of, and purchase by, minors, of any tobacco and related items.

(a) No person under eighteen (18) years of age shall purchase, attempt to purchase, or have in his possession, any tobacco or related products, including but not limited to, cigarettes, cigarette wrappers, cigars, pipes, chewing tobacco, or snuff, within the city limits.

(b) No individual, corporation, partnership, or other entity, or their employees, agents, or representatives, shall sell or supply any tobacco or related products, including but not limited to, cigarettes, cigarette wrappers, cigars, pipes, chewing tobacco, or snuff, within the city limits to persons under eighteen (18) years of age.

(c) No person under eighteen (18) years of age shall represent that he has attained the age of eighteen (18) for the purpose of purchasing, asking for, or in any way receiving, any tobacco or related products, including but not limited to, cigarettes, cigarette wrappers, cigars, pipes, chewing tobacco, or snuff, within the city limits.

(d) Anyone convicted of violating the provisions of this section shall be punished as set forth in section 1-10.

Chapter 17 -- MOTOR VEHICLES AND TRAFFIC

Cross references—*Planning and zoning commission, § 2-186 et seq.; civil defense and disaster, Ch. 6; flood damage prevention and control, Ch. 11; gasoline service stations, § 15-101 et seq.; storage, transportation and sale of motor fuels, § 15-136 et seq.; police, Ch. 21; streets and sidewalks, Ch. 23; subdivisions, Ch. 24; taxicabs, Ch. 27.*

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

All-terrain vehicle. Any motorized vehicle manufactured and used exclusively for off-highway use which is fifty (50) inches or less in width, with an unladen dry weight of six hundred (600) pounds or less, traveling on three (3), four (4) or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control.

Authorized emergency vehicle. A vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the state highway patrol, police or fire department, sheriff or constable or deputy sheriff, traffic officer or any privately owned vehicle operated as an ambulance when responding to emergency calls.

Central business (or traffic) district. All streets and portions of streets within the area described by city ordinance as such.

Commercial vehicles. Every vehicle designed, maintained, or used primarily for the transportation of property

Controlled access highway. Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

Crosswalk.

- (1) That part of a roadway at an intersection included within the connections of the lateral lines of

City of Bellefontaine Neighbors -- QuickCode

the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway;

- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Curb. The lateral boundaries of that portion of the street designated for the use of vehicles, whether marked with curbstones or not.

Driver. Every person who drives or is in actual physical control of a vehicle.

Improved street or highway. A street or highway which has been paved with gravel, macadam, concrete, or asphalt, or improved in any manner by adding material or substance so as to present a surface other than the original earth surface.

Intersection.

- (1) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;
- (2) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

Live load. The weight of the cargo of a commercial motor vehicle, in addition to that of the chassis and body of the vehicle.

Motor bus. A motor vehicle designed or regularly used for carrying more than eight (8) passengers.

Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

Motorized bicycle. Any two-wheeled or three-wheeled device having fully operative pedals capable of propulsion by human power, an automatic transmission and a motor with a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than two (2) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground.

Motor vehicle. Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Official traffic control devices. All signs, signals, markings and devices not inconsistent with this

City of Bellefontaine Neighbors -- QuickCode

chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

One-way street. A street where vehicles are by law required to move in one (1) direction only.

Park or parking. The standing of a vehicle, whether occupied or not, upon a roadway, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

Pedestrian. Any person afoot.

Pneumatic tires. Tires of rubber or other substance and fabric, inflated with air.

Police officer. Every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Right-of-way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Roadway. That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Safety zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

School zone. A space in any street lawfully designated by this Code or other city ordinance for the safety of persons going to and returning from public, private or parochial schools.

Service car. A motor vehicle, other than a motor bus, offered for or engaged in carrying passengers for hire over a designated route and for a fixed fare and over the route of which the passenger has no control.

Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

Solid tires. Tires of rubber or other resilient material, other than pneumatic tires.

State highway. The entire width between the lines of every way publicly maintained when any part thereof is open to the uses of the public for purposes of vehicular travel.

City of Bellefontaine Neighbors -- QuickCode

Taxicab. A motor vehicle other than motor bus or service car, offered for or engaged in carrying passengers for hire.

Traffic control signal. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and proceed.

Trailer. Any vehicle without motive power designed for carrying passengers or property on its own structure and for being drawn by a vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type, so designed and used in connection with any vehicle that a considerable part of its weight rests upon and is carried by the towing vehicle.

Vehicle. Any mechanical device on wheels, designed primarily for use, or used, on highways except motorized bicycles, vehicles propelled or drawn by horses or human power or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons.
(Code 1964, § 17-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

State law reference—Similar provisions, RSMo. § 300.010.

Sec. 17-2. Authority of police and fire department officials.

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of the city and all of the state vehicle laws applicable to street traffic in the city.

(b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.
(Code 1964, § 17-2)

State law reference—Similar provisions, RSMo. § 300.075.

Sec. 17-3. Obedience to police and fire department officials.

No person shall wilfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.
(Code 1964, § 17-3)

State law reference—*Similar provisions, RSMo. § 300.080.*

Sec. 17-4. Authority of police department to make further regulations; emergency, temporary regulations.

(a) The police department is hereby empowered to make and enforce regulations necessary to make effective the provisions of this chapter and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.

(b) The police department may test traffic control devices under actual conditions of traffic.

(c) Any person who shall operate or park a vehicle in violation of any regulation established pursuant to this section, or any sign or other notice of such regulation, shall be guilty of an ordinance violation and, upon conviction, be punished as provided in section 1-10 herein.
(Code 1964, § 17-4; Ord. No. 1346, § 1, 3-19-87; Ord. No. 1760, § 1, 11-20-97)

Sec. 17-5. Public employees to obey traffic regulations.

The provisions of this chapter shall apply to the operator of any vehicle owned by or used in the service of the United States Government, the state, the county and this city, and it shall be unlawful for any such operator to violate any of the provisions of this chapter, except as otherwise permitted in this chapter.

(Code 1964, § 17-5)

State law reference—*Similar provisions, RSMo. § 300.095.*

Sec. 17-6. Authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this chapter;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the maximum speed limits so long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to a authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(Code 1964, § 17-6)

State law reference—Similar provisions, RSMo. § 300.100.

Sec. 17-7. Persons propelling pushcarts or riding animals to obey traffic regulations.

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

(Code 1964, § 17-7)

State law reference—Similar provisions, RSMo. § 300.085.

Sec. 17-8. Vehicle watchers.

It shall be unlawful for any person to solicit the privilege of watching or guarding a vehicle while parked on the streets of this city.

(Code 1964, § 17-8)

Sec. 17-9. Boarding or alighting from moving vehicles.

It shall be unlawful for any person to board or alight from any car or vehicle while such car or vehicle is in motion.

(Code 1964, § 17-9)

Sec. 17-10. Unlawful riding.

It shall be unlawful for any person to ride on any vehicle or any portion thereof not designed or intended for the use of passengers when the vehicle is in motion. This section shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space

intended for merchandise.
(Code 1964, § 17-10)

Sec. 17-11. Clinging to moving vehicles.

No person riding upon any bicycle, motorized bicycle, coaster, sled, roller skates or any toy vehicle shall attach the same or himself to any vehicle upon a roadway.
(Code 1964, § 17-11)

State law reference—Similar provisions, RSMo. § 300.350.

Sec. 17-12. Riding on handle bars, frames, etc., of bicycles prohibited; safety helmets, etc.

(a) It shall be unlawful for the operator of any bicycle or motorcycle, when upon the street, to convey any other person upon the handle bar, frame or tank of any such vehicle, or for any person other than the operator to so ride upon any such vehicle.

(b) Operators and riders of any motorcycle or motorized bicycle in the city shall wear what are commonly known as crash helmets and safety goggles or plastic transparent face shields at all times while such vehicle is in motion.
(Code 1964, § 17-12)

Sec. 17-13. Riding on motorcycles, additional passengers, requirements.

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

(b) The operator of a motorized bicycle shall ride only astride the permanent and regular seat attached thereto, and shall not permit more than one (1) person to ride thereon at the same time, unless the motorized bicycle is designed to carry more than one (1) person. Any motorized bicycle designed to carry more than one (1) person must be equipped with a passenger seat and footrests for the use of a passenger.
(Code 1964, § 17-12)

State law reference—Similar provisions, RSMo. § 300.345.

Sec. 17-14. Use of coasters, roller skates and similar devices restricted.

City of Bellefontaine Neighbors -- QuickCode

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of the city.

(Code 1964, § 17-13)

State law reference—*Similar provisions, RSMo. § 300.090.*

Sec. 17-15. Railway trains, busses or other vehicles not to block street.

(a) It shall be unlawful for the directing officer or operator of any railroad train or vehicle to direct the operation of or to operate the same in such a manner as to prevent the use of any street for the purpose of travel for a period longer than five (5) minutes; except that, this provision shall not apply to trains, motor busses or vehicles in motion other than those engaged in switching.

(b) It shall be unlawful for any street railway train, motor bus, or other vehicle to stop within an intersection or on a crosswalk for the purpose of receiving or discharging passengers.

(Code 1964, § 17-14)

Sec. 17-16. One-way streets and alleys.

(a) Upon those streets and parts of streets and in those alleys described and designated by ordinance, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(b) Whenever any ordinance of the city designates any one-way street or alley the city shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(Code 1964, § 17-15)

State law reference—*Similar provisions, RSMo. §§ 300.240, 300.245.*

Sec. 17-17. Unattended motor vehicles.

(a) No person having control or charge of a motor vehicle shall allow such vehicle to stand on a street unattended without first setting the brakes thereon and stopping the motor of such vehicle, and when standing upon a perceptible grade, without turning the wheels of such vehicle to the curb or the side of the road, so as to keep it from going into motion.

(b) No person shall leave a motor vehicle unattended on the highway without first stopping the motor and cutting off the electric current.

(Code 1964, § 17-16)

State law reference—*Similar provisions, RSMo. § 304.150.*

Sec. 17-18. Unauthorized use of or tampering with vehicles.

(a) No person shall drive, operate, use or tamper with a motor vehicle or trailer without the permission of the owner.

(b) No person shall, without the permission of the owner or person in charge thereof, climb upon or into or swing upon any motor vehicle or trailer, whether the same is in motion or at rest, or sound the horn or other sound-producing device thereon, or attempt to manipulate any of the levers, or set the machine in motion.

(c) The provisions of this section apply to any person employed by the owner of such motor vehicle as a chauffeur or registered operator if the motor vehicle is driven, operated, used or tampered with without the owner's knowledge or expressed consent or in violation of his instructions.

(d) No person shall knowingly ride in a motor vehicle which has been stolen or is being used or operated without the consent or knowledge of the owner.

(e) No person shall remove or tamper with any gasoline tank or gasoline tank cap of any vehicle or remove any gasoline from any such tank without the consent or permission of the owner.

(Code 1964, § 17-17)

Sec. 17-19. Throwing or dropping injurious articles in streets.

It shall be unlawful for any person to throw or place or cause to be thrown or placed on or upon any street of this city any tacks, wire, nails, scrap metal, glass, crockery, sharp stones or other substance injurious to the feet of persons or animals or to the tires or wheels of vehicles. Any person who has purposely, accidentally, or by reason of an accident, dropped from his person or any vehicle, any such substances upon any highway shall immediately make all reasonable efforts to clear the highway of the substances.

(Code 1964, § 17-18)

State law reference—*Similar provisions, RSMo. § 304.160.*

Sec. 17-20. Minimum age for operators of motor vehicles.

It shall be unlawful for any person under the age of sixteen (16) years to operate a motor vehicle on the streets of this city. It shall be unlawful for the owner of any motor vehicle to permit any person under the age of sixteen (16) years of age to operate such motor vehicle on the streets of this city.

(Code 1964, § 17-19)

State law reference—Minimum age of operators of motor vehicles, RSMo. §§ 302.060, 302.070.

Sec. 17-21. State driver's license required; driving while suspended or revoked prohibited; permitting unlicensed driver to operate a vehicle prohibited.

(a) It shall be unlawful for any person to operate a motor vehicle on any street in the city unless the operator of such motor vehicle has in his possession a valid, current, state license to operate a motor vehicle of the class being operated.

(b) It shall be unlawful for any person whose license or driving privilege as a resident or nonresident has been canceled, suspended, or revoked by the State of Missouri or the state of such operator's residence to drive any motor vehicle upon any street in the city while such license and privilege is canceled, suspended or revoked and before an official reinstatement notice or termination notice is issued by the responsible licensing official in accord with the applicable law.

(c) It shall be unlawful for any person to authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street in the city by any person who does not have a valid, current state license to operate a motor vehicle of the class being operated.

(Code 1964, § 17-20; Ord. No. 1626, § 1, 10-6-94; Ord. No. 1880 § 1, 6-7-01)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

State law reference—Drivers' and chauffeurs' licenses, RSMo. § 302.010 et seq.

Sec. 17-21.1. Intermediate driver's license.

(a) No person between the ages of sixteen (16) and eighteen (18) years who is qualified to obtain a license pursuant to chapter 302 of the Missouri Revised Statutes (2000) shall operate any motor vehicle as defined in the traffic code of the city of Bellefontaine Neighbors in or upon the streets of the city unless such person has in his/her possession a valid current intermediate driver's license of the appropriate class in accordance with the laws of this state.

(b) No person having an intermediate driver's license shall operate a motor vehicle in or upon the streets of the city between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving driving instruction and who is at least twenty-one (21) years of age; except such a licensee may operate a motor vehicle without being so accompanied if the travel is to or from a school or educational program or activity, a regular place of employment, or in emergency situations as defined by the Missouri Director of Revenue by regulation.

(c) No person having an intermediate driver's license shall operate a motor vehicle in or upon the

City of Bellefontaine Neighbors -- QuickCode

streets of the city unless such driver and all passengers in the licensee's vehicle are wearing safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle.
(Ord. No. 1924 §1, 8-1-02)

Sec. 17-22. State registration plates for motor vehicles.

Except as otherwise provided in this section, it shall be unlawful for any person to operate a motor vehicle on the streets of this city unless there are two (2) state registration number plates for the current year thereon and properly issued in accordance with state law for such vehicle and registration plates must be entirely unobscured, unobstructed, all parts thereof plainly visible and kept reasonably clean and so fastened as not to swing. On all motor vehicles one (1) such registration plate shall be displayed on the rear and another such registration plate on the front of such motor vehicle not less than eight (8) nor more than forty-eight (48) inches above the ground. On trailers, motorcycles and motortricycles, one (1) such registration plate shall be so displayed on the rear. On trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand (12,000) pounds one (1) such plate shall be displayed on the front.
(Code 1964, § 17-21; Ord. No. 800, § 1, 9-16-71)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

State law reference—Registration and licensing of motor vehicles, RSMo. § 301.010 et seq.

Sec. 17-23. Authority of police department to temporarily close streets.

The police department is hereby authorized to close any street, alley, public place or highway and withdraw the same from public use temporarily and during such time or period as public work thereon or other public emergency or expediency shall make such action necessary. No person shall use or attempt to use such street, public place or highway so withdrawn from public use or drive any vehicle or animal thereon. The police department shall place a sign or placard at each end of the portion withdrawn from public use, which shall have the following words printed thereon in letters three (3) inches high: "STREET CLOSED. This street is closed to public use by authority of Section 17-23 of the City Code."
(Code 1964, § 17-22)

Sec. 17-24. Towing vehicles.

When one vehicle is being towed by another, they shall be coupled by a line so that the two (2) vehicles will be separated by not more than fifteen (15) feet, and there shall be displayed on the tow line a white cloth or paper so that the same will be clearly visible to other users of the street. During the time lights are required by this chapter, the required lights shall be displayed by both vehicles.
(Code 1964, § 17-23)

State law reference—Similar provisions, RSMo. § 307.170(6).

Sec. 17-25. School crossing guards; appointment; duties.

The mayor, with the approval of the board of aldermen, shall appoint school crossing guards, whose duties shall be to regulate the flow of vehicular and pedestrian traffic to provide for the safety of pedestrian children going to and from schools within the city, at such locations and during such hours and in such numbers as shall be designated by the mayor, upon recommendation of the traffic commission.

(Code 1964, § 2-34)

Sec. 17-26. Name of owner required on commercial vehicles.

Commercial motor vehicles shall have the name of the owner painted thereon. No person owning any vehicle of any kind or character used for commercial purposes shall use such vehicle for commercial purposes upon the streets of this city unless there shall be painted thereon in a conspicuous place a sign stating the name and address of the owner thereof in letters at least three (3) inches in height; provided that, such sign shall not be required upon vehicles exclusively used for conveyance of passengers.

(Code 1964, § 17-24)

Sec. 17-27. Procedure when violations occur.

(a) Whenever any person is arrested violating any provision of this chapter or any other city traffic ordinance, the arresting officer shall take the violator's name, address, operator's or chauffeur's license number, city license number and the registration number and the name of the motor vehicle involved, and issue to him, in writing on a form provided by the police department, a notice to answer to the charge against him on a day specified in the notice and during the hours and at a place specified in such notice. The officer shall thereupon, upon the giving by the violator of his written promise to answer as specified in the notice, release him from custody; provided that, if such violator is a nonresident of the city, the arresting officer may require that the violator enter into a recognizance with sufficient security conditioned that he will appear before the municipal judge at the time and place appointed before he shall release such violator from custody, and if the violator shall fail or refuse to enter into such recognizance, he may be committed to prison and held to answer such complaint. The arresting officer shall send one (1) copy of such notice to the judge.

(b) Any person who wilfully violates his written promise to appear, given in accordance with this section shall be guilty of a violation of this Code, regardless of the disposition of the charge on which he was originally arrested.

(c) Whenever a motor vehicle without an operator is found parked in violation of any of the parking restrictions of this chapter or any other city ordinance, the officer finding it shall take its registration number, and any other information displayed on the vehicle which may identify its user, and affix conspicuously to such vehicle a notice, in writing, on a form provided by the police department, for the

City of Bellefontaine Neighbors -- QuickCode

operator to answer to the charge against him on a day specified in the notice and during hours and at a place specified in such notice. The officer shall send one (1) copy of such notice to the municipal judge.

(d) Any operator of a motor vehicle who wilfully neglects to answer to the charges set forth in a notice affixed by a police officer, in accordance with this section, to such motor vehicle shall be guilty of a violation of this Code, regardless of the disposition of the charge for which the notice was originally issued.

(Code 1964, § 17-25)

Cross reference—General penalty for Code violations generally, § 1-10.

Sec. 17-28. Reserved.

Editor's note--Ord. no. 2179 §1, adopted June 2, 2011, repealed section 17-28 "schedule of penalties for traffic violations" in its entirety. Former section 17-28 derived from Code 1964, § 17-25.1; ord. no. 1106, §§ 3-4, 1-30-80; ord. no. 1345, §§ 1-2, 3-19-87.

Sec. 17-29. Disposition of fines and forfeitures.

All fines or forfeitures collected upon convictions or upon forfeitures of bail of any person charged with a violation of any of the provisions of this chapter or any other city traffic ordinance shall be paid into the city treasury and deposited in the general fund of the city.

(Code 1964, § 17-26)

Sec. 17-30. Impoundment of vehicles when illegally parked, illegally licensed or abandoned—Authority of police department.

Whenever any vehicle shall be found parked in a place where parking is not permitted, or in violation of other parking regulations, or whenever any vehicle has an expired state license displayed thereon, or whenever any vehicle is abandoned or a derelict, such vehicle may be removed or conveyed by or under the immediate direction of a member of the police department by means of towing the same to a lot or premises owned by the city or other place or places owned or occupied by a party with whom this city has contracted for such purposes and who shall have given a surety bond to this city, in form and content approved by the city attorney, the general condition of such bond to be the safekeeping of such towed automobiles as may be placed thereon by the city.

(Code 1964, § 17-27)

Sec. 17-31. Same—Redemption.

Before the owner or person entitled to any vehicle impounded pursuant to section 17-30 shall be

City of Bellefontaine Neighbors -- QuickCode

permitted to remove it from the custody of the police department, he shall furnish evidence of his identity, title of vehicle, shall sign a release and shall pay the cost of towing of the vehicle and storage charges, if any. The charge for storage of vehicles, if stored on city property, shall be one dollar (\$1.00) per day; if any contract shall be made for storage of towed automobiles on other premises, such contract shall specify the storage charges to be made, and the same shall be reasonable.

(Code 1964, § 17-28)

Sec. 17-32. Same—Sale of unredeemed vehicles; disposition of proceeds.

Whenever a vehicle has been removed pursuant to section 17-31 and has not been redeemed by the owner thereof for a period of ninety (90) days, the mayor may order the same to be sold for cash at public auction to the highest bidder; provided, before any such sale shall take place, the police department shall cause an investigation to be made for the purpose of determining the identity of the owner of such vehicle, and the police department shall advertise such sale by publishing a notice thereof, at least once, in some newspaper of general circulation in this city, not less than five (5) days prior to such sale. Such notice shall give the identity of the record owner, if known, the terms, date, time and place of such sale, together with a particular description of such vehicle. The proceeds of any such sale, less costs incurred by the police department in towing, storing of the vehicle and expenses of sale, shall be deposited with the city treasurer, and the board of aldermen shall be given a statement of the amount so deposited, together with a statement of such costs incurred by the police department in towing, storing of the vehicle and the expenses of sale, a written newspaper publisher's affidavit of publication, together with a police report of the sale, including the name and address of the purchaser. Any owner who makes application to the board of aldermen within one (1) year of the date of sale, upon proof establishing his ownership, shall be given a city warrant for any amount remaining after the aforesaid costs and expenses have been deducted. The owner may redeem any such vehicles before sale by paying all such costs and expenses, or at such sale he shall be afforded prior opportunity to so redeem before any other person is sold such vehicle.

Code 1964, § 17-29)

Sec. 17-33. Operation of unlicensed all-terrain vehicles prohibited.

(a) In order to promote the safe movement of traffic and pedestrians upon the streets and highways of the city, the operation of unlicensed "all-terrain vehicles" upon the public streets and highways of the city is prohibited, unless they have been so modified to meet all licensing requirements for the State of Missouri and are so properly licensed.

(b) For the purposes of this section, the term "all-terrain vehicle" shall include all three (3) and four (4) wheel motorized vehicles designed primarily for use over terrain other than paved streets and highways. For the purposes of this section, "license" refers to a state license that a vehicle receives in order to be operated on a public street or highway within a state.

(c) A protective helmet, such as required for operators of motorcycles, must also be used by operators of such all-terrain vehicles.

City of Bellefontaine Neighbors -- QuickCode

(d) Any person violating the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor and subject to a fine not exceeding one hundred dollars (\$100.00). (Ord. No. 1370, §§ 1—5, 12-3-87)

Editor's note—Ord. No. 1370, §§ 1—5, adopted Dec. 3, 1987, being not specifically amendatory of this Code, has been included as § 17-33 at the discretion of the editor.

Sec. 17-34. Helmet required for users of bicycles and certain other devices.

(a) The regulations in this Section apply to persons operating or riding upon bicycles, scooters, in-line skates, roller skates, or skateboards when such devices are operated upon any highway, roadway, alleyway, sidewalk or upon any path available for the use of such devices.

(b) For purposes of this Section, a "scooter" shall be defined as a device that typically has one (1) front and one (1) rear wheel with a low footboard between, is steered by a handlebar, and is propelled either by pushing one foot against the ground while resting the other foot on the footboard or by a motor. A scooter may have more than two (2) wheels.

(c) For purposes of this Section, a "bicycle" shall be as defined in Section 17-311 of this Code of Ordinances.

(d) For purposes of this Section, the term "helmet" means a piece of headgear which meets or exceeds the impact standard for protective bicycle helmets set by the U.S. Consumer Products Safety Commission federal safety standards, those developed by the American National Standards Institute (ANSI), the Snell Memorial Foundation, or the American Society of Testing and Materials (ASTM).

(e) Every person under the age of seventeen (17) years operating or being a passenger on a bicycle, or using a scooter, in-line skates, roller skates or a skateboard shall wear a bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

(f) No person operating a bicycle shall allow anyone under the age of seventeen (17) years to ride as a passenger unless the passenger is wearing a bicycle helmet; or else is in an enclosed trailer or other device which meets or exceeds current nationally recognized standards of design and manufacture for the protection of the passenger's head from impacts in an accident without the need for a helmet.

(g) No parent, custodian or legal guardian of a person under the age of seventeen (17) years shall knowingly permit said person to operate or be a passenger on a bicycle, or to use a scooter, in-line skates, roller skates and skateboards without wearing a bicycle helmet.

(h) No person operating a bicycle shall allow anyone who is either four (4) years old or younger or weighing forty (40) pounds or less to ride as a passenger on the bicycle other than in a seat which shall adequately retain the passenger in place and protect the passenger from the bicycle's moving parts.

(i) Any operator of or passenger on equipment described in this Section found to be in violation of this Section may be issued an equipment violation notice as prescribed on a Missouri Uniform Complaint

City of Bellefontaine Neighbors -- QuickCode

and Summons. The person responsible for payment of the violation may have the violation dismissed, if the person submits a receipt for a proof of purchase of a bicycle helmet along with the helmet to the Bellefontaine Neighbors Police Department within five (5) calendar days of the date of the violation notice.

(j) Fines assessed to juvenile violators (age sixteen (16) and under) will be the legal responsibility of the violator's parent, custodian or legal guardian; and therefore any summons issued as a result of a violation committed by such a juvenile shall be issued to said violator's parent, custodian or legal guardian.

(k) This Section shall not apply to bicycles, scooters, in-line skates, roller skates or skateboards operated on private residential property.
(Ord. No. 1993, § 1, 1-20-05)

Secs. 17-35—17-45. Reserved.

ARTICLE II. RESERVED

Editor's Note--Ord. no. 2179 §2, adopted June 2, 2011, repealed sections 17-46--17-47 of article II "traffic violations bureau" in their entirety. Former sections 17-46--17-47 derived from ord. no. 1106, §§ 2, 5, 1-3-80.

Secs. 17-46—17-60. Reserved.

ARTICLE III. RESERVED

Editor's Note--Ord. no. 1997 §2, adopted February 3, 2005, repealed this Art. III "Traffic Commission" and sections 17-61 and 17-62. Former Art. III derived from Code 1964 §§17-28 and 17-36; ord. no. 1315 §§2--4, 7-3-86; ord. no. 1560 §1, 7-15-93. At the editor's discretion, these sections have been left reserved for the city's future use.

Secs. 17-61—17-75. Reserved.

ARTICLE IV. TRAFFIC-CONTROL DEVICES

Sec. 17-76. Character and types of signs and signals.

City of Bellefontaine Neighbors -- QuickCode

The board of aldermen shall by resolution determine and designate the character or type of all official traffic signs and signals. Subject to such determination and designation, the police department is hereby authorized, and as to those signs and signals required under this chapter it shall be its duty, to have placed and maintained or cause to be placed and maintained all official traffic signs and signals. All signs and signals required under this chapter for a particular purpose shall so far as practicable be uniform as to location throughout the city. No provisions of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section herein does not state signs are required, such section shall be effective without signs being erected to give notice thereof.

(Code 1964, § 17-39)

State law reference—*Similar provisions, RSMo. §§ 300.130, 300.145.*

Sec. 17-77. Traffic-control signal legend.

(a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one (1) at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) *Green indication.*

- a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited;
- b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;
- c. Unless otherwise directed by a pedestrian control signal as provided in RSMo. section 300.160, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Steady yellow indication.*

- a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection;

City of Bellefontaine Neighbors -- QuickCode

- b. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in Revised Statutes of Missouri, section 300.160, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) *Steady red indication.*

- a. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown except as provided in paragraph b of this subparagraph;
- b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal, may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the state highway commission with reference to an intersection involving a state highway, and the city, with reference to an intersection involving other highways under its jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require. Such prohibition shall be effective when a sign is erected at such intersection giving notice thereof;
- c. Unless otherwise directed by a pedestrian control signal as provided in Revised Statutes of Missouri, section 300.160, pedestrians facing a steady red signal alone shall not enter the roadway.

(b) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made to a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(Code 1964, § 17-39.1)

State law reference—*Similar provisions, RSMo. § 300.155.*

Sec. 17-78. Obedience to traffic-control devices.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(Code 1964, § 17-40)

State law reference—*Similar provisions, RSMo. § 300.140.*

Sec. 17-79. Display of unauthorized signs, signals or markings.

(a) No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct, the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

(b) Every such prohibited sign, signal or device is hereby declared to be a public nuisance, and the police department is hereby empowered to remove the same or cause the same to be removed without notice.

(Code 1964, § 17-41)

State law reference—*Similar provisions, RSMo. § 300.175.*

Sec. 17-80. Interference with official traffic control devices or railroad signs or signals.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

(Code 1964, § 17-42)

State law reference—*Similar provisions, RSMo. § 300.180.*

Sec. 17-81. Designation of crosswalks, establishment of safety zones.

The city police department is hereby authorized:

- (1) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in its opinion there is particular danger to pedestrians crossing the roadway, and at such other places as it may deem necessary;
- (2) To establish safety zones of such kind and character and at such places as it may deem necessary for the protection of pedestrians.

(Code 1964, §§ 17-43, 17-44)

State law reference—*Similar provisions, RSMo. § 300.195.*

Sec. 17-82. Traffic lanes.

(a) The city police department is hereby authorized to mark traffic lanes upon the roadway of any

City of Bellefontaine Neighbors -- QuickCode
street or highway where a regular alignment of traffic is necessary.

(b) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.
(Code 1964, § 17-45)

State law reference—*Similar provisions, RSMo. § 300.200.*

Secs. 17-83—17-95. Reserved.

ARTICLE V. OPERATION OF VEHICLES

DIVISION 1. GENERALLY

Sec. 17-96. Careless driving.

Every person operating a motor vehicle on the streets of the city shall operate or drive the same in a careful and prudent manner, in the exercise of the highest degree of care and at a rate of speed so as not to endanger the property of another or the life or limb of any person, taking into consideration the time of day, the amount of vehicular and pedestrian traffic, the condition of the street or highway, the atmospheric conditions and the location with reference to intersecting streets or highways, curves, residences or schools.
(Code 1964, § 17-54)

Sec. 17-97. Intoxication-related offenses.

(a) *Definitions.* As used in this section, the following terms shall have the following meanings:

Commercial motor vehicle means a motor vehicle designed or used to transport passengers or property:

- (1) If the vehicle has a gross combination weight rating of twenty-six thousand one (26,001) or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand one (10,001) pounds or more;
- (2) If the vehicle has a gross vehicle weight rating of twenty-six thousand one (26,001) or more pounds or such lesser rating as determined by federal regulation;
- (3) If the vehicle is designed to transport more than fifteen (15) passengers, including the driver; or

City of Bellefontaine Neighbors -- QuickCode

- (4) If the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Materials Transportation Act (46 USC 1801 et seq.).

Drive, driving, operates or operating means physically driving or operating or being in actual physical control of a motor vehicle.

Intoxicated condition. A person is in an intoxicated condition when he is under the influence of alcohol, a controlled substance or drug, or any combination thereof.

(b) *Driving while intoxicated.* A person commits the offense of driving while intoxicated if he operates a motor vehicle while in an intoxicated or drugged condition.

(c) *Driving with excessive blood alcohol content.*

(1) A person commits the offense of "driving with excessive blood alcohol content" if such person operates a motor vehicle with eight-hundredths of one percent (.08%) or more by weight of alcohol in such person's blood.

(2) As used in this section, "percent by weight of alcohol" in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood or two hundred ten (210) liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine.

(3) For the purpose of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of state law.

(d) *Driving a commercial motor vehicle with an excessive alcohol concentration.*

(1) A person commits the offense of driving a commercial motor vehicle with an excessive alcohol concentration or under the influence of a regulated substance if he drives:

a. while having an alcohol concentration of four one-hundredths of a percent or more; or

b. While under the influence of any substance so classified under section 102(6) of the Controlled Substances Act (21 UK 802(6)), including any substance listed in schedules I through V of 21 CFR part 1308, as they may be revised from time to time.

(2) The provisions of this subsection shall not apply to any person driving a farm vehicle as defined in Section 302.700 RSMo.; any active duty military personnel, members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, while driving military vehicles for military purposes; any person who drives emergency or fire equipment necessary to the preservation of life or property or the execution of emergency governmental functions under emergency conditions; any person driving or pulling a recreational vehicle, as defined in Sections 301.010 and 700.010 RSMo. for personal use; and any other class of persons

City of Bellefontaine Neighbors -- QuickCode

exempted by rule or regulation of the director of revenue of the state, which rule or regulation is in compliance with the Commercial Motor Vehicle Safety Act of 1986 and any amendments or regulations to said act.

(e) *Consumption of alcoholic beverages in moving motor vehicle.* No person shall consume any alcoholic beverage while operating a motor vehicle upon any public street or roadway.

(f) *Reserved.*

(g) *Reimbursement of certain costs.*

(1) Upon a plea of guilty, a finding of guilty, or a suspended imposition of sentence (SIS) for any offense violating the provisions of Section 17-97, the court shall, in addition to imposition of any penalties provided by law, order the defendant to reimburse the City for the reasonable costs relating to the investigation, arrest, processing and incarceration of said defendant, including the cost of any necessary chemical test.

(2) The city shall establish, maintain, and provide a schedule of costs to the municipal court for its consideration in recouping those costs related to this section. The court has the authority to order any costs reduced if determined to be excessive.

(h) *Punishment.*

(1) Any person found to have violated any of the provisions of subsection (b), (c) or (d) of this section shall be deemed guilty of a city ordinance violation and punished as provided in section 1-10 of this Code of Ordinances.

(2) Any person found to have violated subsection (e) of this section shall be deemed guilty of a city ordinance violation and punished by a fine not to exceed two hundred dollars (\$200.00).

(Code 1964, § 17-55; Ord. No. 1518, § 1, 7-16-92; Ord. No. 1895 §§1--3, 9-20-01)

State law reference-Driving while intoxicated, RSMo. § 577.010.

Sec. 17-98. Leaving the scene of an accident.

No person operating or driving a vehicle on the streets, or on any publicly or privately owned parking lot or parking facility generally open for use by the public knowing that an injury has been caused to a person or damage has been caused to property due to culpability of such operator or to accident, shall leave the place of such injury, damage or accident without stopping and giving his name, residence (including city and street number, motor vehicle number and chauffeur's or registered operator's number, if any, to the injured party, to the operator or owner of the damaged vehicle, to a police officer or if no police officer is in the vicinity, then to the nearest police station or judicial officer.

(Code 1964, § 17-56)

State law reference—*Similar provisions, RSMo. § 577.060.*

Sec. 17-99. Driving through safety zone prohibited.

It shall be unlawful for the operator of a vehicle at any time to drive the same through or within a safety zone.

(Code 1964, § 17-57)

State law reference—*Similar provisions, RSMo. § 300.365.*

Sec. 17-100. Operation of vehicles on approach of and to authorized emergency vehicles.

- (a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- (b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.
- (c) Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:
 - (1) Proceed with caution and yield the right-of-way, if possible, with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or
 - (2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

(Code 1964, § 17-58; Ord. No. 2019 §1, 12-1-05)

State law reference—*Similar provisions, RSMo. § 300.105.*

Sec. 17-101. Following fire apparatus.

It shall be unlawful for the operator of any vehicle, other than one on official business, to follow at a distance closer than five hundred (500) feet any fire apparatus traveling in response to a fire alarm, or to drive into or stop any vehicle within the block where such fire apparatus has stopped in answer to a fire alarm.

(Code 1964, § 17-59)

State law reference—*Similar provisions, RSMo. § 300.300.*

Sec. 17-102. Crossing fire hose.

No vehicle of any type shall be driven over any unprotected hose of the fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

(Code 1964, § 17-60)

State law reference—*Similar provisions, RSMo. § 300.305.*

Sec. 17-103. Parades and processions—Permit required.

No funeral, procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles except the forces of the United States army or navy, the military forces of this state and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth in this chapter which may apply.

(Code 1964, § 17-61)

State law reference—*Similar provisions, RSMo. § 300.325.*

Sec. 17-104. Same—Disturbing worship on Sunday.

All processions (except funeral processions), parades or exhibitions on Sundays at times or places which conflict with or disturb church and religious worship services in the city are prohibited.

(Code 1964, § 17-62)

Sec. 17-105. Funeral processions.

(a) *Definitions:* As used in this section, the following terms shall mean:

Funeral director means a person licensed as a funeral director pursuant to the provisions of chapter 333, RSMo.

Funeral lead vehicle or lead vehicle means any motor vehicle equipped with at least one lighted circulating lamp exhibiting an amber or purple light or lens or alternating flashing headlamps visible under normal atmospheric conditions for a distance of five hundred (500) feet from the front of the vehicle. A hearse or coach properly equipped may be a lead vehicle.

Organized funeral procession means two (2) or more vehicles accompanying the remains

City of Bellefontaine Neighbors -- QuickCode

of a deceased person from a funeral establishment, church, synagogue or other place where a funeral service has taken place to a cemetery, crematory or other place of final disposition, or a funeral establishment, church, synagogue or other place where additional funeral services will be performed, if directed by a licensed funeral director from a licensed establishment.

(b) *Driving rules:*

- (1) Except as otherwise provided for in this section, pedestrians and operators of all other vehicles shall yield the right-of-way to any vehicle which is a part of an organized funeral procession.
- (2) Notwithstanding any traffic control device or right-of-way provision prescribed by state or local law, when the funeral lead vehicle in an organized funeral procession lawfully enters an intersection, all vehicles in the procession shall follow the lead vehicle through the intersection. The operator of each vehicle in the procession shall exercise the highest degree of care toward any other vehicle or pedestrian on the roadway.
- (3) An organized funeral procession shall have the right-of-way at all intersections regardless of any traffic control device at such intersections, except that operators of vehicles in an organized funeral procession shall yield the right-of-way to any approaching emergency vehicle pursuant to the provisions of law or when directed to do so by a law enforcement officer.
- (4) All vehicles in an organized funeral procession shall follow the preceding vehicle in the procession as closely as is practical and safe under the conditions.
- (5) No person shall operate any vehicle as part of an organized funeral procession without the flashing emergency lights of such vehicle being lighted.
- (6) Any person who is not an operator of a vehicle in an organized funeral procession shall not:
 - a. Drive between the vehicles comprising an organized funeral procession while such vehicles are in motion and have the flashing emergency lights lighted pursuant to subsection (b)(5), above, except when required to do so by a law enforcement officer or when such person is operating an emergency vehicle giving an audible or visual signal;
 - b. Join a funeral procession for the purpose of securing the right-of-way; or
 - c. Attempt to pass any vehicle in an organized funeral procession, except where a passing lane has been specifically provided.
- (7) When an organized funeral procession is proceeding through a red signal light as permitted herein, a vehicle not in the organized funeral procession shall not enter the intersection unless such vehicle may do so without crossing the path of the funeral procession.
- (8) No ordinance, regulation or any other provision of law shall prohibit the use of a motorcycle utilizing flashing amber lights to escort an organized funeral procession on the highway.

City of Bellefontaine Neighbors -- QuickCode

- (9) Any person convicted of violating any provision of this section shall be punished by a fine not to exceed one hundred dollars (\$100.00).

(Code 1964, § 17-63; Ord. No. 1840, § 1, 1-20-00)

State law reference—*Similar provisions, RSMo. § 300.310.*

Sec. 17-106. Limitations on backing.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

(Code 1964, § 17-64)

State law reference—*Similar provisions, RSMo. § 300.335.*

Sec. 17-107. Emerging from alley, driveway or building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway.

(Code 1964, §§ 17-65, 17-72(b))

State law reference—*Similar provisions, RSMo. § 300.285.*

Sec. 17-108. Driving on sidewalks.

It shall be unlawful for the driver of any vehicle to drive within any sidewalk area, except at a permanent or temporary driveway.

(Code 1964, § 17-66)

State law reference—*Similar provisions, RSMo. § 300.330.*

Sec. 17-109. Obstructing driver's view or driving mechanism.

(a) It shall be unlawful for the driver of any vehicle to drive the same when such vehicle is so loaded or when there are in the front seat of such vehicle such number of persons as to obstruct the view of the operator to the front or sides or to interfere with the driver's control over the driving mechanism of the vehicle.

(b) It shall be unlawful for any passenger in a vehicle to ride in such position as to interfere with the operator's view ahead or to the sides, or to interfere with the operator's control over the driving

mechanism of the vehicle.
(Code 1964, § 17-67)

Sec. 17-110. Drive on right of highway; traffic lanes; signs.

(a) All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of the city where vehicles are obliged to move in one (1) direction only or parking of motor vehicles is regulated by ordinance.

(b) Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of Revised Statutes of Missouri, sections 304.014 to 304.025 or traffic regulations thereunder or of the city;
- (3) When the right half of a roadway is closed to traffic while under construction or repair; or
- (4) Upon a roadway designated as a one-way street and marked or signed for one-way traffic.

(c) It is unlawful to drive any vehicle upon any highway or road which has been divided into two (2) or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.

(d) The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the highway, and all members of the state highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.

(e) Whenever any roadway has been divided into three (3) or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;
- (2) Upon a roadway which is divided into three (3) lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly

City of Bellefontaine Neighbors -- QuickCode

visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation;

- (3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in Revised Statutes of Missouri, sections 304.014 to 304.025;
- (4) Official signs may be erected by the highway commission or the highway patrol may place temporary signs directing slow moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;
- (5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half ($\frac{1}{2}$) of the main traveled portion of the roadway whenever possible.

(f) All vehicles in motion upon a highway having two (2) or more lanes of traffic proceeding in the same direction shall be driven in the right hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

(g) All trucks registered for a gross weight of more than forty-eight thousand (48,000) pounds shall not be driven in the far left-hand lane upon all interstate highways, freeways, or expressways within urbanized areas of the state having three (3) or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:

- (1) It is necessary for the operator of the truck to follow traffic control devices that direct use of a lane other than the right lane; or
- (2) The right half of a roadway is closed to traffic while under construction or repair.

(h) As used in subsection (g) of this section, "*truck*" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "*truck*" also includes a commercial motor vehicle as defined in section 301.010, RSMo. (Code 1964, § 17-68; Ord. No. 2094 §1, 10-16-08)

State law reference-Similar provisions, RSMo. § 304.015.

Sec. 17-111. Passing regulations.

(a) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:

City of Bellefontaine Neighbors -- QuickCode

- (1) An operator or driver overtaking and desiring to pass a vehicle shall sound his horn before starting to pass except where prohibited by ordinance;
- (2) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle;
- (3) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(b) The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a street with unobstructed pavement of sufficient width for two (2) or more lines of vehicles in each direction;
- (3) Upon a one-way street;
- (4) The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway;
- (5) The provisions of this subsection shall not relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

(c) Except when a roadway has been divided into three (3) traffic lanes, no vehicle shall be driven to the left side of the center line of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

(d) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
- (2) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct, tunnel or when approaching within one hundred (100) feet of or at any intersection or railroad grade crossing.

(Code 1964, § 17-69)

State law reference—Similar provisions, RSMo. § 304.016.

Sec. 17-112. No passing zones.

The operator of a motor vehicle shall not pass another vehicle, nor drive to the left of the center of the roadway, in areas designated, either by posted signs or painted lines on the surface of the roadway, as no passing zones.

(Code 1964, § 17-70)

Sec. 17-113. Distance at which vehicle must follow.

The driver of a vehicle shall not follow another vehicle more closely than is reasonably safe and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the roadway. Vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated, except in a funeral procession or in a duly authorized parade, so as to allow sufficient space between each such vehicle or combination of vehicles as to enable any other vehicle to overtake or pass such vehicles in safety. This section shall in no manner affect Revised Statutes of Missouri, section 304.044, relating to distance between trucks traveling on the highway.

(Code 1964, § 17-71)

State law reference—Similar provisions, RSMo. § 304.017.

Sec. 17-114. Right-of-way at intersection; signs at intersections.

(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway, provided however, there is no form of traffic control at such intersection.

(b) When two (2) vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This subsection shall not apply to vehicles approaching each other from opposite directions when the driver of one of such vehicles is attempting to or is making a left turn.

(c) The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(d) The state highway commission with reference to state highways and the city with reference to other highways under its jurisdiction may designate through highways and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one (1) or more entrances to such intersection.

City of Bellefontaine Neighbors -- QuickCode

Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in this section:

- (1) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic in the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.
- (2) The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable to the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such traffic is moving across or within the intersection.

(e) The driver of a vehicle about to enter or cross a highway from an alley, building or any private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

(f) The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of such left turn would create a traffic hazard.

(Code 1964, §§ 17-72(a), 17-76—17-78, 17-84)

State law reference—Similar provisions, RSMo. § 304.351.

Sec. 17-115. Prima facie evidence of violation of yield-right-of-way signs.

The driver of any vehicle who, after driving past a yield right-of-way sign, collides with or interferes with the safe movement of any vehicle or pedestrian proceeding on the intersecting street shall be deemed prima facie in violation of section 17-114(d)(2).

(Code 1964, § 17-85)

Sec. 17-116. Turns at intersection; turning around.

(a) The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

City of Bellefontaine Neighbors -- QuickCode

- (2) *Left turns.* The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to the traffic moving in the direction of travel of such vehicle and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered.

(b) The highway commission or the city in their respective jurisdictions may cause official traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such devices are so placed no driver of a vehicle shall turn a vehicle at any intersection other than as directed and required by such devices.

(c) It shall be unlawful for the driver of any vehicle to turn such vehicle so as to proceed in the opposite direction at any intersection controlled by a traffic signal or police officer; nor shall such turn be made at any place unless the movement can be made in safety and without interfering with other traffic. The driver of a vehicle shall not turn such vehicle around so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade, or at any place upon a roadway where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction along the roadway within a distance of three hundred (300) feet, or where the same may create a traffic hazard.

(d) No vehicle in a residence district shall be turned left across the roadway or so as to proceed in the opposite direction when any other vehicle is approaching from either direction where the same may create a traffic hazard.

(e) It shall be unlawful for any driver of a motor vehicle to turn such vehicle so as to proceed in the opposite direction while traveling upon Missouri State Highway 367 (Lewis and Clark Boulevard).

(f) It shall be unlawful for any driver of a motor vehicle to turn such vehicle so as to proceed in the opposite direction while traveling upon Comet Drive at any point west of the east curb line of Dwight Drive.

(Code 1964, §§ 17-73, 17-74; Ord. No. 1649, § 1, 5-18-95; Ord. No. 1674, § 1, 11-2-95)

State law reference—Similar provisions, RSMo. § 304.341.

Sec. 17-117. Hand and mechanical signals.

(a) No person shall stop or suddenly decrease the speed of or turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided herein:

- (1) *Stopping, slowing.* An operator or driver when stopping, or when checking the speed of his vehicle, if the movement of other vehicles may reasonably be affected by such checking of speed, shall extend his arm at an angle below horizontal so that the same may be seen in the rear of his vehicle;

City of Bellefontaine Neighbors -- QuickCode

- (2) *Right turns.* An operator or driver intending to turn his vehicle to the right shall extend his arm at an angle above horizontal so that the same may be seen in front of and in the rear of his vehicle, and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which he is proceeding before turning;
- (3) *Left turns.* An operator or driver intending to turn his vehicle to the left shall extend his arm in a horizontal position so that the same may be seen in the rear of his vehicle, and shall slow down and approach the intersecting highway so that the left side of his vehicle shall be as near as practicable to the center line of the highway along which he is proceeding before turning;

(b) The signals herein required shall be given either by means of the hand and arm or by a signal light or signal device in good mechanical condition of a type approved by the state highway patrol; however, when a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle then such signals shall be given by such light or device. A vehicle shall be considered as so constructed or loaded that a hand and arm signal would not be visible both to the front and rear when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereon exceeds fourteen (14) feet, which limit of fourteen (14) feet shall apply to single vehicles or combinations of vehicles. The provisions of this paragraph shall not apply to any trailer which does not interfere with a clear view of the hand signals of the operator or of the signalling device upon the vehicle pulling said trailer; provided, further, that, the provisions of this section as far as mechanical devices on vehicles so constructed that a hand and arm signal would not be visible both to the front and rear of such vehicle as above provided shall only be applicable to new vehicles registered within the state after the first day of January, 1954.

(Code 1964, § 17-75)

State law reference—*Similar provisions, RSMo. § 304.019.*

Sec. 17-118. Driving on yards or lawns of others prohibited.

(a) As used in this section, the terms "yard" or "lawn" shall mean any portion of the real property which is not paved by means of asphalt, concrete, gravel or any other material and not intended for the operation of motor vehicles thereon.

(b) It shall be unlawful for any person to willfully operate a motor vehicle on or upon the yard or lawn of any real property of another person in the city.

(c) For purposes of this section, the owner or person in whose name a motor vehicle which has been operated in violation of paragraph (b) of this section is registered in the records of any city, county or state shall be presumed to be the operator of such motor vehicle.

(Ord. No. 1031, §§ 1—3, 10-20-77)

Sec. 17-119. Use of seat belts required; exceptions, penalty.

City of Bellefontaine Neighbors -- QuickCode

(a) As used in this section the following terms shall mean:

Child booster seat. A seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system.

Child passenger restraint system. A seating system which meets the Federal Motor Vehicle Safety Standards as set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.

Passenger car. Every motor vehicle designed for carrying ten (10) persons or less and used for the transportation of persons; except that the term "passenger car" shall not include motorcycles, motorized bicycles, motortricycles and trucks with a licensed gross weight of twelve thousand (12,000) pounds or more.

(b) Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles or which require frequent entry into and exit from their vehicles and each front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in the city and persons less than eighteen (18) years of age operating or riding in a truck, as defined in Section 301.010, RSMo., on a street or highway in the city shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements. The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. The provisions of this subsection shall not apply to the transporting of children under sixteen (16) years of age as provided in subsection (e3) of this section.

(c) Each person who violates subsection (b) of this section is guilty of an offense for which a fine not to exceed ten dollars (\$10.00) may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section.

(d) If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the passengers who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seated area. Passengers occupying a seat location referred to in this subsection for which there are no seat belts are not in violation of this section. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed under section 302.178, RSMo.

(e) *Child passenger restraint required.* Every driver transporting a child under the age of sixteen (16) years shall be responsible, when transporting such child in a motor vehicle operated by that driver on streets or highways in this city, for providing the protection of such child, as follows:

(1) A child less than four (4) years of age, regardless of weight, shall be secured in a child passenger restraint system appropriate for that child.

City of Bellefontaine Neighbors -- QuickCode

- (2) A child weighing less than forty (40) pounds, regardless of age, shall be secured in a child passenger restraining system appropriate for that child.
- (3) A child at least four (4) years of age but less than eight (8) years of age, who also weighs at least forty (40) pounds but less than eighty (80) pounds and who is also less than four (4) feet, nine (9) inches tall shall be secured in a child passenger restraining system or booster seat appropriate for that child.
- (4) A child at least eighty (80) pounds or a child more than four (4) feet, nine (9) inches in height shall be secured by a vehicle safety belt or booster seat appropriate for that child.
- (5) A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation.
- (6) When a driver is only transporting children in the driver's immediate family and there are more children than there are seating positions in the enclosed area of a motor vehicle, each child who is not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area. A driver transporting children in compliance with this subsection is not in violation of this section. This subsection shall only apply to the use of a child passenger restraining system or vehicle safety belt for children less than sixteen (16) years of age being transported in a motor vehicle.

(f) Any driver who violates subdivisions (1), (2) or (3) of subsection (e) of this section is guilty of an offense and, upon conviction, may be punished by fine of not more than twenty-five dollars (\$25.00) and court costs. Any driver who violates subdivision (4) of subsection (e) of this section shall be subject to the penalty set forth in subsection (c) of this section. If a driver receives a citation for violation of subdivisions (1), (2) or (3) of subsection (e) of this section, the charges shall be dismissed or withdrawn if the driver prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the driver's citation.

(g) The provisions of subsection (e) of this section shall not apply to any public carrier for hire. The provisions of subsection (e) of this section shall not apply to students four (4) years of age or older who are passengers on a school bus designed for carrying eleven (11) passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as school buses are defined in section 301.010, RSMo. The provisions of this subsection (e) of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body. (Ord. No. 1359, §§ 1-4, 8-6-87; Ord. No. 1665, § 1, 9-7-95; Ord. No. 1753, § 1, 9-18-97; Ord. No. 2050 §1, 12-7-06; Ord. No. 2050 §1, 12-7-06; Ord. No. 2200 §1, 11-17-11)

Sec. 17-120. Operator's financial responsibility.

- (a) Proof of financial responsibility shall be carried in all motor vehicles registered in the state and

City of Bellefontaine Neighbors -- QuickCode

operated in the city. The operator of such a motor vehicle shall exhibit proof on the demand of any peace officer who lawfully stops the operator while that officer is engaged in the performance of the duties of his office.

(b) As used in this section "proof of financial responsibility" means proof of the ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of proof, arising out of the ownership, maintenance or use of a motor vehicle. Proof shall exhibit the extent of financial responsibility in dollar amounts not less than those required by Chapter 303, RSMo.

(c) The following items shall constitute proof of financial responsibility:\

(1) An insurance identification card furnished by an insurer issuing a liability policy insuring the motor vehicle subject to the peace officer's lawful stop. The insurance identification card shall include all of the following information.

- a. The name and address of the insurer.
- b. The name and address of the named insured.
- c. The policy number.
- d. The effective dates of the policy, including month, day and year.
- e. A description of the insured motor vehicle, including year and make or at least five (5) digits of the vehicle identification number or the word "Fleet" if the insurance policy covers five (5) or more vehicles.
- f. The statement "THIS CARD MUST BE CARRIED IN THE INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

A motor vehicle liability insurance policy, a motor vehicle liability insurance binder, or a receipt which contains the policy information required in this subsection shall be satisfactory evidence of insurance in lieu of an insurance identification card.

(2) An insurance identification card furnished by the state director of revenue to any self-insurer for each motor vehicle so insured, as provided for in sections 303.024.4 and 303.220, RSMo. Such an insurance identification card shall include all of the following information:

- a. The name and address of the self insurer.
- b. The word "self-insured".
- c. The statement "THIS CARD MUST BE CARRIED IN THE SELF-INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

(3) A certificate furnished by the state treasurer, as provided for in section 303.240, RSMo.,

City of Bellefontaine Neighbors -- QuickCode

establishing that the owner and/or operator of the motor vehicle subject to the peace officer's lawful stop has deposited with the state treasurer cash or marketable securities in an amount sufficient under that statute to satisfy an execution on a judgment issued against such person making the deposit for damages resulting from the ownership, maintenance, use or operation of the motor vehicle after such deposit was made.

- (4) Evidence of a surety bond filed with the state director of revenue as provided by section 303.230, RSMo.

(d) Any person found guilty of violation this section shall upon conviction be punished as provided in section 1-10 of this Code.

(Ord. No. 1521, § 1, 9-3-92)

Sec. 17-121. Shortcutting traffic prohibited.

No driver shall operate a motor vehicle on any private lot, road, driveway, parking lot or any area which is not a public right-of-way, for the purpose of avoiding travel upon the right-of-way at an intersection involving one (1) or more rights-of-way.

(Ord. No. 1607, § 1, 6-16-94)

Sec. 17-122. Failure to keep a proper lookout.

It shall be unlawful for any operator of a motor vehicle to fail to give his or her full attention to the task of driving, or to fail to keep a proper lookout through the windshield, side windows, and rear and side view mirrors of the vehicle, for any motorized or nonmotorized vehicles, or pedestrians, which the operator may be approaching, or which may be approaching the operator, from any direction or from any street, driveway, or pedestrian area.

(Ord. No. 1752, § 1, 9-18-97)

Sec. 17-123. Passengers in trucks.

(a) As used in this section, the term "truck" means a motor vehicle designed, used, or maintained for the transportation of property.

(b) No person shall operate any truck, as defined in subsection (a) of this section, with a licensed gross weight of less than twelve thousand (12,000) pounds on any highway which is part of the state or federal highway system or when such truck is operated within the corporate limits of the city when any person under eighteen (18) years of age is riding in the unenclosed bed of such truck. No person under eighteen (18) years of age shall ride in the unenclosed bed of such truck when the truck is in operation.

(c) The provisions of this section shall not apply to:

City of Bellefontaine Neighbors -- QuickCode

- (1) An employee engaged in the necessary discharge of the employee's duties where it is necessary to ride in the unenclosed bed of the truck;
- (2) Any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck;
- (3) Any person riding in the unenclosed bed of a truck while such truck is being operated in a parade, caravan or exhibition which is authorized by law;
- (4) Any person riding in the unenclosed bed of a truck if such truck has installed a means of preventing such person from being discharged or such person is secured to the truck in a manner which will prevent the person from being thrown, falling or jumping from the truck;
- (5) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purpose of participating in a special event and it is necessary that the person ride in such unenclosed bed due to a lack of available seating. "Special event," for the purposes of this section, is a specific social activity of a definable duration which is participated in by the person riding in the unenclosed bed;
- (6) Any person riding in the unenclosed bed of a truck if such truck is being operated solely for the purposes of providing assistance to, or ensuring the safety of, other persons engaged in a recreational activity; or
- (7) Any person riding in the unenclosed bed of a truck if such truck is the only legally titled, licensed and insured vehicle owned by the family of the person riding in the unenclosed bed and there is insufficient room in the passenger cab of the truck to accommodate all passengers in the truck. For the purposes of this section, the term "family" shall mean any persons related within the first degree of consanguinity.

(Ord. No. 1753, § 2, 9-18-97)

Sec. 17-124. Harassing or alarming a vehicle operator

It shall be unlawful for the operator of any motor vehicle intentionally to harass or alarm another person who is inside a motor vehicle by intentionally or knowingly:

- (1) Abruptly increasing or decreasing the speed of his or her vehicle; or
- (2) Abruptly changing lanes; or
- (3) Following the other person's vehicle more closely than is reasonable and prudent under the totality of the circumstances; or
- (4) Impeding or obstructing the operation of the other person's motor vehicle; or
- (5) Operating his or her vehicle in a manner that endangers or would be likely to endanger any

person or property.
(Ord. No. 1830, § 1, 10-21-99)

Sec. 17-125 Additional fines for offenses in construction zones.

Definitions.

(a) As used in this section, the following terms shall mean:

- (1) *Construction zone* or *work zone* means any area upon or around any highway which is visibly marked as an area where construction, maintenance or other work is occurring, including 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 directing motor vehicles to merge from one (1) lane into another lane are posted.
- (2) *Highway* shall mean any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys.
- (3) *Moving violation* means that character of traffic violation of traffic or motor vehicle operation ordinance of the city where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations relating to sizes and weights of vehicles.

(b) Upon a conviction or a plea of guilty by any person for a moving violation, the court shall assess a fine of thirty-five dollars (\$35.00) in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone. For purposes of this section, it is not necessary that the offense occur (i) when there is a person in the designated zone performing duties related to the reason for which the area was designated or (ii) when construction, maintenance or other work activity is actually taking place within the designated zone.

(c) Upon a conviction or plea of guilty by any person for a speeding violation, or a passing violation pursuant to subsection (f) hereof, the court shall assess a fine of two hundred fifty dollars (\$250.00), 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 person in such zone who was there to perform duties related to the reason for which the area was designated a construction zone or work zone. However, no person assessed an additional fine pursuant to this subsection shall also be assessed an additional fine pursuant to subsection (b) hereof, and no person shall be assessed an additional fine pursuant to this subsection if no signs have been posted pursuant to subsection (d) of this section.

(d) The penalty authorized by subsection (c) of this section shall only be assessed by the court if signs have been erected upon or around a construction or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: \$250 fine for speeding or passing in this work zone".

(e) During any day in which no person is present in a construction zone or a work zone to perform

City of Bellefontaine Neighbors -- QuickCode

duties related to the purpose of the zone, the sign required by subsection (d) hereof shall not be visible to motorists. During any period of two (2) hours or more in which no person is present in such zone on a day in which persons have been or will be present to perform duties related to the reason for which the area was designated as a construction zone or work zone, the sign required by subsection (d) hereof shall not be visible to motorists. The contractor performing the work shall be responsible for posting and removing or concealing the sign required by subsection (d) in compliance with this subsection. Nothing in this subsection shall prohibit warning or traffic control signs necessary for public safety in the construction or work zone being visible to motorists at all times.

(f) The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone. This subsection applies to a construction zone or work zone located upon a highway divided into two (2) 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 by an appropriate sign. (Ord. No. 1898 §1, 11-1-01)

Sec. 17-126. Bicycles, motorized bicycles and other similar devices.

(a) *Definitions.* As used in this Section, the following terms shall mean:

Bicycle. Every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, except scooters and similar devices.

Electric personal assistive mobility device (EPAMD). A self-balancing, two nontandem wheeled device designed to transport only one person, with an electric propulsion system with an average power of seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy pounds, is less than twenty miles per hour. Persons under sixteen years of age shall not operate an electric personal assistive mobility device, except for an operator with a mobility-related disability.

Motorized bicycle. Any two- or three-wheeled device having an automatic transmission and a motor and a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than three (3) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground. A motorized bicycle shall be considered a motor vehicle for purposes of any homeowners' or renters' insurance policy.

Scooter. A device that typically has one (1) front and one (1) rear wheel and a low footboard between, is steered by a handlebar and is propelled either by pushing one foot against the ground while resting the other foot on the footboard or a motor. A scooter may have more than two (2) wheels.

(b) *Scope of regulations.* These regulations apply to bicyclists, motorized bicycle operators, scooter operators, roller bladders, roller skaters, electric personal assistive mobility devices (EPAMD) and skateboarders when such devices are operated upon any highway, roadway or alleyway or upon any path set aside for the exclusive use of such devices subject to those exceptions stated by this Code. Operators of motorized scooters are not required to have vehicle registration, nor required to show proof of financial responsibility.

City of Bellefontaine Neighbors -- QuickCode

(c) *Traffic laws to apply.* Every person operating a bicycle, motorized bicycle, scooter, roller blades, roller skates, EPAMD or skateboards upon a highway, roadway or alleyway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by the laws of this State declaring rules of the road applicable to the driver of a vehicle, except as to special regulations in this Chapter, and except as to those provisions of law and ordinance which by their nature can have no application.

(d) *Obedience to traffic control devices.*

- (1) Any person operating a bicycle, motorized bicycle, scooter, roller blades, skateboards, EPAMD, or roller skates shall obey the instructions of official traffic control devices applicable to vehicles, unless otherwise directed by a law enforcement officer.
- (2) Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle, motorized bicycle, scooter, roller blades, roller skates, EPAMD and skateboards shall disobey the direction of any such sign. Where such person dismounts from such devices to make any such turn, the person shall then obey the regulations applicable to pedestrians.

(e) *Motorized devices license and equipment required.*

- (1) No person shall operate a motorized bicycle or motorized scooter on any highways, streets or roads in this City unless the person has a valid license to operate a motor vehicle.
- (2) No motorized bicycle or motorized scooter may be operated on any public thoroughfare located within this City which has been designated as part of the Federal interstate highway system.
- (3) No person shall operate a motorized bicycle on any highways, streets or roads in this City unless it is equipped in accordance with the minimum requirements for construction and equipment of MOPEDES, Regulation VESC-17, approved July 1977, as promulgated by the Vehicle Equipment Safety Commission, as amended.
- (4) Motorized scooters shall be so equipped and maintained so as not to create excessive noise.

(f) *Riding on bicycles, scooters or skateboards.*

- (1) A person propelling a bicycle or motorized bicycle shall not ride on the seat other than a permanent and regularly attached seat.
- (2) No bicycle, motorized bicycle, scooter, roller blades, roller skates, EPAMD or skateboard shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

(g) *Riding on highways, roads, alleyways.*

- (1) Every person operating a bicycle, motorized bicycle, scooter, or EPAMD on a highway, roadway or alleyway shall ride as near to the right side of the highway, roadway or alleyway

City of Bellefontaine Neighbors -- QuickCode

as practicable and shall exercise due care when passing a standing vehicle or one proceeding in the same direction.

- (2) Persons riding bicycles, motorized bicycles, scooters, roller blades, roller skates, EPAMDs or skateboards shall not ride more than two (2) abreast except when riding on paths or part of roads set aside for the exclusive use of such devices.

(h) *Speed.* No person shall operate a bicycle, scooter, motorized bicycle, roller blades, roller skates, EPAMD or skateboard at a speed greater than is reasonable and prudent under the existing conditions nor shall such operator exceed the legal speed limit for the roadway while riding upon the roadway.

(i) *Emerging from alleyway, private roadway or driveway.* The operator of a bicycle, scooter, motorized bicycle, roller blades, roller skates, EPAMD or skateboard emerging from an alleyway, private roadway, driveway or building shall, upon approaching a sidewalk or the sidewalk area, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area. Upon entering the highway or roadway, the operator shall yield the right-of-way to all vehicles approaching on the highway or roadway.

(j) *Carrying articles.* No person operating a bicycle, scooter, motorized bicycle, roller blades, roller skates, EPAMD or skateboard shall carry any package, bundle or article which prevents the rider from keeping at least one (1) hand upon the handlebars, as applicable.

(k) *Parking.* No person shall park a bicycle, scooter, motorized bicycle, roller blades, roller skates, EPAMD or skateboard upon a highway, roadway, or sidewalk in such a manner as to obstruct vehicular or pedestrian traffic.

- (l) *Lamps and other equipment on bicycles, etc.*

(1) Every bicycle, scooter, motorized bicycle, roller blades, roller skates, EPAMD or skateboard, when in use at nighttime shall be equipped with and shall use a lamp on the front which emits a white light visible from a distance of at least five hundred (500) feet to the front and with a red, white or yellow reflector on the rear of a type which is visible from all directions from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. Alternatively, if the device in use is roller blades, roller skates or a skateboard, then the operator himself shall be equipped with sufficient reflectors or reflective material to make said operator visible from all directions when in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

(2) Every bicycle, scooter, motorized bicycle, roller blades, roller skates, EPAMD or skateboard shall be equipped with a brake, brakes or an appropriate braking mechanism which will enable its driver to stop the device within twenty-five (25) feet from a speed of ten (10) miles per hour on dry, level, clean pavement.

- (m) *Roller skates, roller blades, skateboards and other devices* Use of devices restricted at

City of Bellefontaine Neighbors -- QuickCode

different places.

- (1) No person upon roller skates, roller blades or a skateboard shall go upon any road except while crossing the road. When so crossing, such person shall be granted all of these rights and shall be subject to all of the duties applicable to all other pedestrians.
- (2) It shall be unlawful for any person upon a bicycle, a scooter, a motorized bicycle, EPAMD, or similar device to:
 - a. Ride in or upon any public property (including sidewalks) or private property of another, to include steps, staircases, ramps, banisters, courtyards, fountains, foyers, plazas and other improved areas associated with real property, without specific permission from the property owner or an agent thereof.
- (3) It shall be unlawful for any person upon roller skates, roller blades, a skateboard, a bicycle, a scooter, a motorized bicycle, EPAMD, or similar device to:
 - a. Ride in or upon any school playground, parking garage, or paved lot, if the area has been posted to prohibit such devices or without specific permission from the property owner or an agent thereof.
 - b. Use such devices in a crowd or during a public event, except that a person with a demonstrable mobility-related disability may use an EPAMD unless such use would pose a hazard to public safety.
 - c. Latch onto a motor vehicle with the intent to secure a tow or ride.

(n) *Penalty for violation.* Any person who shall be convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor. If a person seventeen (17) years of age or younger violates a provision of this Section, responding police officers may impound the device involved and retain possession of same until such time as the parent or guardian of the violator shall appear at the police department and claim the impounded device.

(Ord. No. 1996, § 1, 1-20-05; Ord. No. 2008, § 1, 8-4-05)

Sec. 17-127. Through tractor trailer trucks prohibited on certain roads.

Through tractor trailer truck traffic is prohibited on Bellefontaine Road between Jennings Station Road and Interstate Highway 270. When appropriate signs are posted prohibiting such travel, no person shall operate any tractor trailer at any time on Bellefontaine Road except for the purpose of delivering materials, merchandise or service to property having frontage on such road.

(Ord. No. 2020 §1, 12-15-05)

Secs. 17-128—17-130. Reserved.

DIVISION 2. SPEED LIMITS

State law reference—Speed regulations RSMo. § 300.205 et seq.

Sec. 17-131. Generally.

No person shall drive or operate a motor vehicle, except emergency vehicles on emergency runs, on any street, boulevard or thoroughfare in the city at any time at a rate of speed in excess of twenty (20) miles per hour, or at such other rate as may be fixed by this Code or other city ordinance, when signs are in place giving notice of the applicable speed limit.

(Code 1964, § 17-46; Ord. No. 1715, § 1, 11-7-96)

Sec. 17-132. Commercial motor vehicles.

No person shall operate a commercial motor vehicle at a rate of speed in excess of twenty (20) miles per hour, except on those streets or portions thereof designated by ordinance from time to time.

(Code 1964, § 17-47)

Sec. 17-133. Vehicles with metal tires.

No person shall operate a motor vehicle equipped with iron or other metal tires at a greater rate of speed than five (5) miles per hour.

(Code 1964, § 17-48)

Sec. 17-134. Central business districts and school zones.

No person shall drive or operate a motor vehicle in a legally designated central business district at a rate of speed in excess of twenty (20) miles per hour, or in a legally designated school zone at a rate of speed in excess of fifteen (15) miles per hour.

(Code 1964, § 17-49)

Sec. 17-135. Specific streets.

No person shall drive or propel any vehicle at any time at a speed greater than that indicated on any street or portions thereof as established by ordinance from time to time.

(Code 1964, § 17-50)

Sec. 17-136. When signs required.

The police department shall post or cause to be posted, at all entrances to the city, signs complying

City of Bellefontaine Neighbors -- QuickCode

with the state highway commission's manual for traffic control devices, indicating the speed limits provided in sections 17-131, 17-132, and 17-133, and at all entrances to districts and school zones, signs indicating the speed limits provided in section 17-131. Signs shall also be posted at each end of the streets established under section 17-135, showing the maximum speed permitted on each such street.
(Code 1964, § 17-51)

Sec. 17-137. Minimum speed—Generally.

It shall be unlawful for any person unnecessarily to drive at such a slow speed or in such position on the roadway so as to impede or block the normal and reasonable movement of traffic, except when the vehicle is a truck and trailer and reduced speed is necessary for the safe operation, or because upon a grade or when the vehicle is a truck and trailer necessarily or in compliance with law proceeding at reduced speed. Traffic and police officers are hereby authorized to enforce this section by directions to operators, and in the event of apparent disobedience of this section and refusal to comply with direction of any officer in accordance therewith, the continued slow operation by any operator shall be unlawful.
(Code 1964, § 17-52)

Sec. 17-138. Same—Vehicles used for advertising purposes.

No person shall drive or operate a vehicle used primarily for advertising purposes or display of poster or placards or any article for the inspection of the public on such vehicle or as a part thereof, at a rate of speed less than twelve (12) miles per hour, and the operator of such vehicle shall move the same continuously and shall not stop the same except when ordered by any police officer or in obedience to traffic signals or signs.
(Code 1964, § 17-53)

Sec. 17-139. Speed limit on parking lots.

No person shall operate any motor vehicle on any parking lot open or available for use by the public at a speed in excess of fifteen (15) miles per hour at any time; provided however, that no person shall be convicted of violating this section unless signs reflecting this speed limit shall have been posted on the lot where the violation is alleged to have occurred.
(Ord. No. 1501, § 1, 11-21-91)

Secs. 17-140—17-150. Reserved.

ARTICLE VI. STOPPING, STANDING AND PARKING

Sec. 17-151. Prohibited in specified places.

City of Bellefontaine Neighbors -- QuickCode

(a) Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

- (1) Stop, stand or park a vehicle;
 - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - b. On a sidewalk;
 - c. Within an intersection;
 - d. On a crosswalk;
 - e. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the (traffic authority) indicates a different length by signs or markings;
 - f. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 - g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 - h. On any railroad tracks;
 - i. At any place where official signs prohibit stopping.
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - a. In front of a public or private driveway;
 - b. Within fifteen (15) feet of a fire hydrant;
 - c. Within twenty (20) feet of a crosswalk at an intersection;
 - d. Within thirty (30) feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway;
 - e. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of such entrance (when properly signposted);
 - f. At any place where official signs prohibit standing.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while

City of Bellefontaine Neighbors -- QuickCode
actually engaged in loading or unloading merchandise or passengers:

- a. Within fifty (50) feet of the nearest rail of a railroad crossing;
- b. At any place where official signs prohibit parking.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(Code 1964, §§ 17-87, 17-91)

State law reference—*Similar provisions, RSMo. 300.440.*

Sec. 17-152. Standing or parking close to curb.

Except as otherwise provided in sections 17-153 through 17-155, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb.

(Code 1964, § 17-88)

State law reference—*Similar provisions, RSMo. 300.415.*

Sec. 17-153. Signs or markings indicating angle parking.

(a) The city police department shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any federal aid or state highway within the city unless the state highway commission has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any streetcar tracks.

(Code 1964, § 17-89)

State law reference—*Similar provisions, RSMo. § 300.425.*

Sec. 17-154. Obedience to angle parking signs or markers.

On those streets which have been signed or marked by the city police department for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(Code 1964, § 17-88(a))

State law reference—*Similar provisions, RSMo. § 300.425.*

Sec. 17-155. Permits for loading or unloading at an angle to the curb.

(a) The city police department is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege as therein stated and authorized herein.

(b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

(Code 1964, §§ 17-88(b), 17-90)

State law reference—Similar provisions, RSMo. § 300.430.

Sec. 17-156. Parking not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic.

(Code 1964, § 17-91)

State law reference—Similar provisions, RSMo. § 300.445.

Sec. 17-157. Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

(Code 1964, § 17-92)

State law reference—Similar provisions, RSMo. § 300.450.

Sec. 17-158. Parking prohibited during certain hours on certain streets.

When signs are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified by ordinance of any day except Sunday and public holidays, within the district or upon any of the streets described by ordinance.

(Code 1964, § 17-93)

State law reference—Similar provisions, RSMo. § 300.535.

Sec. 17-159. Parking in compliance with time limitations.

It shall be unlawful for any operator to park any vehicle on any street or in any district designated as a place where parking is restricted to a time for a longer period than is permitted.
(Code 1964, § 17-93)

Sec. 17-160. Parking signs required.

Whenever by this chapter or any ordinance of the city any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the city to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.
(Code 1964, § 17-94)

State law reference—Similar provisions, RSMo. § 300.545.

Sec. 17-161. Parking vehicles for purposes of sale or repair.

No person shall park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying such vehicle for sale; or
- (2) Repair such vehicle except repairs necessitated by an emergency.

(Code 1964, § 17-95)

State law reference—Similar provisions, RSMo. § 300.455.

Sec. 17-162. Parking vehicle for primary purpose of displaying advertising prohibited.

It shall be unlawful for any person to park on any street any vehicle for the primary purpose of displaying advertising.
(Code 1964, § 17-96)

Sec. 17-163. Designation of curb loading zones.

The city police department is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.
(Code 1964, § 17-99(a))

State law reference—*Similar provisions, RSMo. § 300.485.*

Sec. 17-164. Standing in passenger curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three (3) minutes.

(Code 1964, § 17-99(b))

State law reference—*Similar provisions, RSMo. § 300.485*

Sec. 17-165. Standing in freight curb loading zones.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight, curb loading zone during hours when the provisions applicable to such zones are in effect.

(Code 1964, § 17-99(c))

State law reference—*Similar provisions, RSMo. § 300.500.*

Sec. 17-166. Designation of public carrier stops and stands.

The city police department is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such number as it shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs.

(Code 1964, § 17-100)

Cross reference—*Taxicabs generally, Ch. 27.*

State law reference—*Similar provisions, RSMo. § 300.505.*

Sec. 17-167. Stopping, standing and parking of busses and taxicabs regulated.

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.
(Code 1964, § 17-102)

Cross reference—*Taxicabs generally, Ch. 27.*

State law reference—*Similar provisions, RSMo. § 300.510.*

Sec. 17-168. Restricted use of bus and taxi cab stands.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.
(Code 1964, § 17-101)

Cross reference—*Taxicabs generally, Ch. 27.*

State law reference—*Similar provisions, RSMo. § 300.515.*

Sec. 17-169. Owner of vehicle prima facie responsible for illegal parking.

If any vehicle is found upon a street or highway in violation of any provision of this chapter relating to the stopping, standing or parking of vehicles, and the identity of the driver cannot be determined, the owner or person in whose name such vehicle is registered shall be prima facie responsible for such violation.
(Code 1964, § 17-103)

Sec. 17-170. Parking of trucks, trailers, etc. in certain districts of the city.

(a) Only motor vehicles which travel by means of four (4) or fewer rubber-tired wheels and which do not exceed six (6) feet eight (8) inches in width or seven (7) feet in height or twenty-one (21) feet in length shall be parked in any street or public right-of-way of the city in front of any area zoned

City of Bellefontaine Neighbors -- QuickCode

residential or multiple-dwelling under the zoning ordinance of the city, except for deliveries or during the duration of a service call or repairs being made to a building which delivery, service call or repair requires the use of a vehicle named above; but in any event such parking time for such delivery, service call or repair shall not exceed eight (8) hours duration.

(b) No commercial vehicle licensed for a gross vehicle weight greater than twelve thousand (12,000) pounds or having a total length, including tractor, if any, in excess of twenty (20) feet, may be parked, stored or kept upon any public or private property, nor shall any person, firm or corporation park, cause to be parked, or permit or suffer to be parked any commercial vehicle upon any public or private property, except in the following circumstances:

- (1) Such commercial vehicles may be parked in driveways or lawful parking areas on public or private streets, highways or roads while delivering, loading or unloading materials or otherwise being utilized to provide service to persons or property adjacent thereto, subject to the restrictions set forth in subsection (a), above. Upon completion of the delivery, loading or unloading, or upon completion of the service requiring such vehicles, they are to be removed immediately.
- (2) Such commercial vehicles may be parked or stored within a fully enclosed garage at any time.
- (3) Such commercial vehicles which are owned by, leased to, or regularly used by the owner or occupant of property in a commercial district may be parked or stored on a paved parking lot located on the same lot as the commercial enterprise for which such vehicles are used, provided that the said vehicles are kept:
 - a. Behind the front building line of the principal structure on the lot; and
 - b. Screened from view from any adjoining public or private street, road or right-of-way and from any adjoining lot located in a residential district by artificial or landscape barriers at least six (6) feet in height.

(Code 1964, § 17-103.1; Ord. No. 1509, § 1, 5-7-92)

Sec. 17-171. Parking of tank trucks prohibited; exception.

The parking of tank trucks containing gasoline, oil or flammable material anywhere in the city is hereby prohibited, except when a delivery from such tank truck of the tank contents is being made at any residence or any commercial or industrial establishment and the time for making such delivery shall not exceed one (1) hour.

(Ord. No. 1252, § 1, 9-20-84)

Sec. 17-172. Physically disabled parking.

- (a) *Parking spaces and signs.*

City of Bellefontaine Neighbors -- QuickCode

- (1) The city may designate parking spaces for the exclusive use of vehicles which display a physically disabled distinguishing license plate or card issued pursuant to state law.
- (2) Owners of private property used for public parking shall designate parking spaces for the exclusive use of vehicles which display a physically disabled distinguishing license plate or card issued pursuant to state law.
- (3) Designated spaces shall meet the requirements of the federal Americans with Disabilities Act, as amended, and any rules or regulations established pursuant thereto, and shall be indicated by a sign upon which shall be inscribed the following information:
 - a. The international symbol of accessibility;
 - b. Any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a physically disabled distinguishing license plate or card; and
 - c. \$50.00 to \$300.00 fine.

Except that the information set forth in subparagraph (3)(c) of this subsection may be contained in an additional sign posted below or adjacent to the sign containing the information set forth in subparagraphs (3)(a) and (3)(b); and that nonconforming signs or spaces which are in use prior to the effective date of this section, as enacted by this section, shall not be in violation of this section during the useful life of such sign or space. However, under no circumstances shall the useful life of the nonconforming sign or space be extended by means other than those means used to maintain any sign or space on the owner's property which is not used for vehicles displaying a disabled license plate.

(b) *Parking regulations.*

- (1) It shall be unlawful for any person to park a vehicle which is not displaying a physically disabled distinguishing license plate or card in any space reserved for physically disabled persons.
- (2) It shall be unlawful for any person who, without authorization, uses a physically disabled distinguishing license plate or card to park in a parking space reserved under authority of this section.
- (3) The police department may cause the removal of any vehicle not displaying a physically disabled distinguishing license plate or card or a "disabled veteran" license plate if there is posted immediately adjacent to, and readily visible from, such space a sign on which is inscribed the international symbol of accessibility and may include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. Any vehicle which has been removed and which is not properly claimed within thirty (30) days thereafter shall be considered to be an abandoned vehicle.

City of Bellefontaine Neighbors -- QuickCode

- (4) The police department may enter upon private property open to the public to enforce the provisions of this section.
- (5) Any person violating any of the provisions of this subsection (b) of this section shall, upon conviction thereof, be subject to a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00).

(Ord. No. 1762, § 1, 12-18-97)

Editor's note—Ord. No. 1762, § 1, adopted Dec. 18, 1997, repealed § 17-172 and enacted new provisions as set out herein. Former § 17-172 pertained to similar subject matter and derived from Ord. No. 1344, §§ 2—3, adopted March 19, 1987.

Sec. 17-173. Parking commercial vehicles along certain portions of Bellefontaine Road prohibited.

It shall be unlawful for any person to park, stop or leave a commercial vehicle over or along the west side of Bellefontaine Road at any location between that point which is two hundred fifty-two (252) feet south of the south side of the intersection of Shepley Drive and Bellefontaine Road and that point which is four hundred twenty-two (422) feet south of the said intersection.

Sec. 17-174. Residential parking zone.

(a) *Definitions.* As used in this section, the following terms shall have the meanings ascribed thereto:

Residential parking zone. A residential parking zone is any street or part thereof which is designated as such with a specified parking time limit.

Resident. A resident shall be any person who lives in property abutting a street designated as a residential parking zone.

Visitor. A visitor shall be any person who is a household guest, a visitor, a workman performing services or providing assistance to a resident.

(b) *Residential parking permit.* On any street which is designated a residential parking zone, parking in excess of the prescribed parking time limit will be permitted by a resident or a visitor with a valid resident or visitor parking permit.

(c) *Issuance of parking permit.* The city clerk shall issue resident parking permits and visitor parking permits to a resident of any street designated as a residential parking zone.

(Ord. No. 1758, § 1, 11-6-97)

Sec. 17-175. Residential parking zones designated; parking limitations.

(a) The following streets or parts of streets are designated as residential parking zones where parking is restricted to thirty (30) minutes except by valid resident and visitor permit:

Gardo Ct, Neighbor Ln, Trio Ln, Bella Ln, and Font Ln

(b) Any person found to have violated the parking restrictions set forth herein shall be guilty of a city ordinance violation and punished by a fine not to exceed fifty dollars (\$50.00).
(Ord. No. 1758, § 1, 11-6-97)

Sec. 17-176. Use of car covers.

(a) No motor vehicle shall be parked, stored or kept outside of an enclosed building on any lot within the city while covered with a cloth, plastic, vinyl or other cover except in conformity with the requirements of this section.

(b) Vehicle covers must be manufactured or constructed for the purpose of covering motor vehicles of the size appropriate for that vehicle. No tarpaulins or other makeshift or adapted covers may be used.

(c) Vehicle covers must be so secured as to not be subject to being blown off or damaged by wind or storms.

(d) Covers which are ripped, torn, tattered, frayed or otherwise damaged may not be used.

(e) Covers must be attached in such a way that the vehicle's license plates are not covered or obscured.

(f) Nothing in this section shall be construed to permit the parking, keeping or storage of unregistered, inoperable or derelict vehicles contrary to any other requirements of the city.
(Ord. No. 2026 §1, 2-16-06)

Sec. 17-177. Emergency snow routes.

(a) *Definitions.* As used in this section, the term "snow emergency routes" shall mean those streets designated as such in accordance with the provisions of this section.

(b) *Parking prohibitions under certain weather conditions.* Whenever there has been a prediction of two (2) inches or more of snow, an emergency will be declared and the snow route procedure will be enforced when the snow begins to fall.

City of Bellefontaine Neighbors -- QuickCode

(c) *Posting of signs.* On each street designated as a snow emergency route, there shall be posted special blue and white signs with the wording: "EMERGENCY SNOW ROUTE--TOW AWAY ZONE".

(d) *Parking prohibited on snow emergency routes during snow emergencies.* While the snow emergency is in effect, no person shall park, or allow to remain parked, any vehicle on any portion of a snow emergency route to which the emergency applies. However, nothing in this Section shall be construed to permit parking at any time or place where it is forbidden by any other provisions of law.

(e) *Stalled vehicles on snow emergency routes.* Whenever a vehicle become stalled for any reason, whether or not it is in violation of this section, on any part of a snow emergency route on which there is a covering of snow, sleet or ice, or on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow emergency route onto the first (1st) cross street which is not a snow emergency route. No person shall abandon or leave his/her vehicle in the roadway of a snow emergency route (regardless of whether he/she indicates, by raising the hood or otherwise, that the vehicle is stalled), except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station or other place of assistance and return without delay.

(f) *Removal, impounding and return of vehicle.*

- (1) Members of the police department are hereby authorized to remove, or have removed, a vehicle from a street to the nearest garage or other place of safety (including another place on a street), or to a garage designated or maintained by the police department or otherwise maintained by this city, when:
 - a. The vehicle is parked on a part of a snow emergency route on which a parking prohibition is in effect.
 - b. The vehicle is parked on a part of a snow emergency route on which there is a covering of snow, sleet or ice, or on which there is a parking prohibition in effect and the person who was operating such vehicle does not take appropriate steps to remove it in accordance with the provisions of this Chapter.
 - c. The vehicle is parked in violation of any parking ordinance or provision of law and is interfering or about to interfere with snow removal operations.
- (2) The removal, impounding and return of obstructing vehicles on a snow emergency route shall be at the direction of the police department in accordance with applicable ordinances pertaining thereto.

(g) *Evidence of violation.* In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provisions of this section, proof that the particular vehicle described in the complain was parked or left in violation of a provision of this section, together with proof that the defendant named in the complaint was at the time the registered owner of the vehicle, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this section.

(h) *Penalty for violation.* Every person convicted of a violation of any provision of this section shall be punished by a fine of twenty-five dollars (\$25.00), plus any towing and/or storage fees. (Ord. No. 2096 §1, 12-4-08)

Secs. 17-178--17-185. Reserved.

ARTICLE VII. PEDESTRIANS

Sec. 17-186. Right-of-way in crosswalks.

(a) When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(c) Paragraph (a) of this section shall not apply under the conditions stated in section 17-188(b) of this article.

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Code 1964, § 17-104(a), (b))

State law reference—Similar provisions, RSMo. § 300.375.

Sec. 17-187. To use right-half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right-half of crosswalks. (Code 1964, § 17-107)

State law reference—Similar provisions, RSMo. § 300.380.

Sec. 17-188. When pedestrian shall yield.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

City of Bellefontaine Neighbors -- QuickCode

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) The foregoing rules in this section have no application under the conditions stated in section 17-189 when pedestrians are prohibited from crossing at certain designated places.
(Code 1964, § 17-104(c))

State law reference—Similar provisions, RSMo. § 300.390.

Sec. 17-189. Prohibited crossing.

(a) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

(b) No pedestrian shall cross a roadway other than in a crosswalk in any business district.

(c) No pedestrian shall cross a roadway other than in a crosswalk upon any street designated by ordinance.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.
(Code 1964, § 17-104(a))

State law reference—Similar provisions, RSMo. § 300.395.

Sec. 17-190. Walking along roadways.

(a) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.
(Code 1964, §§ 17-105, 17-106)

State law reference—Similar provisions, RSMo. § 300.405.

Sec. 17-191. Drivers to exercise highest degree of care.

Notwithstanding the provisions of this chapter, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any

City of Bellefontaine Neighbors -- QuickCode
confused or incapacitated person upon a roadway.
(Code 1964, § 17-109)

State law reference—*Similar provisions, RSMo. § 300.410.*

Sec. 17-192. Soliciting rides.

It shall be unlawful for any person to stand in a roadway for the purpose of soliciting a ride from the operator of any private vehicle.
(Code 1964, § 17-108)

Secs. 17-193—17-205. Reserved.

ARTICLE VIII. SCHOOL BUSES

State law reference—*School busses generally, RSMo. §§ 304.030 through 304.075.*

Sec. 17-206. Definition.

A "school bus" as referred to in this article, shall mean any bus that is used to pick up and discharge children for transportation to and from school.
(Code 1964, § 17-110)

Cross reference—*Definitions and rules of construction generally, § 1-2.*

Sec. 17-207. Stops; passing while stopped; how marked.

(a) The driver of a vehicle upon a highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children and whose driver has in the manner prescribed by law given the signal to stop, shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion, or until signaled by its driver to proceed.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words "school bus" in letters not less than eight (8) inches in height. Each bus shall have lettered on the rear in plain and distinct type the following: "State Law: Stop while bus is loading and unloading." Each school bus subject to the provisions of Revised Statutes of Missouri, sections 304.050 through 304.070 shall be equipped with a mechanical and electrical signaling device, which will display a signal plainly visible from the front and rear and indicating intention to stop.

(c) No driver of a school bus shall take on or discharge passengers at any location upon a highway

City of Bellefontaine Neighbors -- QuickCode

consisting of four (4) or more lanes of traffic, whether or not divided by a median or barrier, in such manner as to require the passengers to cross more than two (2) lanes of traffic; nor shall he take on or discharge passengers while the vehicle is upon the road or highway proper unless the vehicle so stopped is plainly visible for at least three hundred (300) feet in each direction to drivers of other vehicles upon the highway and then only for such time as is actually necessary to take on and discharge passengers.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or overtaking a school bus which is on a different roadway, which is proceeding in the opposite direction on a highway containing four (4) or more lanes of traffic, or which is stopped in a loading zone constituting a part of, or adjacent to, a limited or controlled access highway at a point where pedestrians are not permitted to cross the roadway.

(e) The driver of any school bus driving upon the streets of this city after loading or unloading school children, should remain stopped if the bus is followed by three (3) or more vehicles, until such vehicles have been permitted to pass the school bus, if the conditions prevailing make it safe to do so. (Code 1964, §§ 17-111, 17-112, 17-115, 17-116)

State law reference—Similar provisions, RSMo. § 300.050.

Sec. 17-208. Mechanical condition; drivers.

All school busses operating within the city shall be carefully operated and kept in sound and safe operating condition and be only operated by skilled bus drivers at all times. (Code 1964, § 17-113)

Sec. 17-209. Overcrowding.

No school bus shall be permitted to become overcrowded with passengers so as to hinder the safe and careful operation of the school bus. (Code 1964, § 17-114)

Secs. 17-210—17-220. Reserved.

ARTICLE IX. VEHICLE EQUIPMENT AND CONDITION

DIVISION 1. GENERALLY

Sec. 17-221. Signaling devices.

City of Bellefontaine Neighbors -- QuickCode

Every motor vehicle shall be equipped with a horn directed forward or a whistle in good working order capable of emitting a sound adequate in quantity and volume to give warning of the approach of such vehicle to other users of the street and to pedestrians. Such signal device shall be used for warning purposes only and shall not be used for making any unnecessary noise and no other sound-producing signaling device shall be used at any time.

(Code 1964, § 17-117)

State law reference—*Similar provisions, RSMo. § 307.170(1).*

Sec. 17-222. Mufflers.

Muffler cutouts shall not be used. No vehicle shall be driven in such manner or condition that excessive and unnecessary noise shall be made by its machinery, motor, signaling device or other parts, or by any improperly loaded cargo. The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity or construction as to quiet the maximum possible exhaust noise. Any cutout or opening in the exhaust pipe between the motor and the muffler on any motor vehicle shall be completely closed and disconnected from its operating lever, and shall be so arranged that it cannot automatically open or be opened or operated while such vehicle is in motion.

(Code 1964, § 17-118)

State law reference—*Similar provisions, RSMo. § 307.170(2).*

Sec. 17-223. Brakes.

All motor vehicles, except motorcycles, shall be provided at all times with two (2) sets of adequate brakes, kept in good working order. Motorcycles shall be provided with one (1) set of adequate brakes kept in good working order.

(Code 1964, § 17-119)

State law reference—*Similar provisions, RSMo. § 307.170(3).*

Sec. 17-224. Mirrors.

All motor vehicles which are so constructed or loaded that the operator cannot see the road behind such vehicle by looking back or around the side of such vehicle shall be equipped with a mirror so adjusted as to reveal the road behind and be visible from the operator's seat.

(Code 1964, § 17-120)

State law reference—*Similar provisions, RSMo. § 307.170(4).*

Sec. 17-225. Projections on vehicles.

City of Bellefontaine Neighbors -- QuickCode

All vehicles carrying poles or other objects which project more than five (5) feet from the rear of such vehicle shall, during the period when lights are required by this article, carry a red light at or near the rear end of the pole or other object so projecting. At other times, a red flag or cloth, not less than sixteen (16) inches square, shall be displayed at the end of such projection.
(Code 1964, § 17-121)

State law reference—*Similar provisions, RSMo. § 307.170(5).*

Sec. 17-226. Studded tires, prohibited when.

No person shall operate any motor vehicle upon any road or highway of this city between the first day of April and the first day of November while the motor vehicle is equipped with tires containing metal or carbide studs.
(Code 1964, § 17-122)

State law reference—*Similar provisions, RSMo. § 307.171(1).*

Sec. 17-227. Vision-reducing material prohibited.

(a) Except as provided in subsection (b) below, no person shall operate any motor vehicle registered in the state on any public roadway in the city with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, sidewings, or windows located immediately to the left or right of the driver which reduces visibility from within or without the motor vehicle. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles as defined in Section 700.010 RSMo., provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory-installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield which is normally tinted by the manufacturer of motor vehicle safety glass.

(b) Anything in subsection (a) above, to the contrary notwithstanding, this section shall not prohibit the operation of a motor vehicle with a front sidewing vent or window that has a sunscreening device, in conjunction with safety glazing material, that has a light transmission of thirty-five (35) percent or more plus or minus three (3) percent if a permit for such material has been issued by the Missouri Department of Public Safety to a person having a physical disorder requiring the use of such vision-reducing material. Such vehicles may be operated by the person having such a disorder or by immediate family members who are husband, wife, sons or daughters who reside in the same household.
(Ord. No. 1494, § 1, 9-5-91)

Secs. 17-228—17-238. Reserved.

DIVISION 2. LIGHTING EQUIPMENT

City of Bellefontaine Neighbors -- QuickCode

Editor's note--Ord. No. 1994 § 1, adopted January 20, 2005, repealed sections 17-241--17-256 and enacted new provisions set out herein. Former sections 17-241--17-256 derived from code 1964 §§17-123--17-128, 17-130--17-138.

Sec. 17-239. Definitions.

As used in this Division, unless the context requires another or different construction:

Approved. Approved by the Missouri Director of Revenue and when applied to lamps and other illuminating devices means that such lamps and devices must be in good working order.

Auxiliary lamp. An additional lighting device on a motor vehicle used primarily to supplement the headlamps in providing general illumination ahead of a vehicle.

Headlamp. A major lighting device capable of providing general illumination ahead of a vehicle.

Mounting height. The distance from the center of the lamp to the surface on which the vehicle stands.

Multiple-beam headlamps. Headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of two or more distributions of light on the road.

Reflector. An approved device designed and used to give an indication by reflected light.

Single-beam headlamps. Headlamps or similar devices arranged so as to permit the driver of the vehicle to use but one distribution of light on the road.

Vehicle. Every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

When lighted lamps are required. At any time from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet ahead. Lighted lamps shall also be required any time the weather conditions require usage of the motor vehicle's windshield wipers to operate the vehicle in a careful and prudent manner. The provisions of this Section shall be interpreted to require lighted lamps during periods of fog even if usage of the windshield wipers is not necessary to operate the vehicle in a careful and prudent manner.

(Ord. No. 1994, § 1, 1-20-05)

Sec. 17-240. When lights required--Violation, penalty.

(a) No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway during the times when lighted lamps are required unless such vehicle or combination of vehicles displays lighted lamps and illuminating devices as hereinafter in this chapter

City of Bellefontaine Neighbors -- QuickCode

required. No person shall use on any vehicle any approved electric lamp or similar device unless the light source of such lamp or device complies with the conditions of approval as to focus and rated candlepower.

(b) Violation of this Section shall be deemed an infraction and any person who violates this Section as it relates to violations of the usage of lighted lamps required due to weather conditions or fog shall only be fined ten dollars (\$10.00) and no court costs shall be assessed.

(Ord. No. 1994, § 1, 1-20-05)

Sec. 17-241. Headlamps on motor vehicles--Required.

Except as otherwise provided in this division, every motor vehicle, other than a motor-drawn vehicle and other than a motorcycle, shall be equipped with at least two (2) approved headlamps, mounted at the same level, with at least one (1) on each side of the front of the vehicle. Every motorcycle shall be equipped with at least one (1) and not more than two (2) approved headlamps. Every motorcycle equipped with a sidecar or other attachment shall be equipped with a lamp on the outside limit of such attachment, capable of displaying a white light to the front. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.045.

Sec. 17-242. Same--permissible substitutes; speed limit when substitute used.

Any motor vehicle need not be equipped with approved headlamps; provided that, every such vehicle, during the times when lighted lamps are required, is equipped with two (2) lighted lamps on the front thereof, displaying white or yellow lights, without glare, capable of revealing persons and objects seventy-five (75) feet ahead; provided further, that no such motor vehicle shall be operated at a speed in excess of twenty (20) miles per hour during the times when lighted lamps are required.

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.050.

Sec. 17-243. Same--Single-beam headlamps.

Approved single-beam headlamps shall be so aimed that when the vehicle is not loaded, none of the high intensity portion of the light shall, at a distance of twenty-five (25) feet ahead, project higher than a level of five (5) inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands at a distance of seventy-five (75) feet ahead. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred (200) feet. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.055.

Sec. 17-244. Same--Multiple-beam headlamps.

Except as hereinafter provided, the headlamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations. Such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

- (1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions of loading.
- (2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead; and on a straight level road, under any condition of loading, none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.060.

Sec. 17-245. Beam indicator required on vehicles.

Every new motor vehicle registered in this state after January 1, 1942, which has multiple-beam road lighting equipment, shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted. Such indicator shall be so designed and located that when lighted, it will be readily visible without glare to the driver of the vehicle so equipped. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.065.

Sec. 17-246. Dimming of headlights.

Every person driving a motor vehicle equipped with multiple-beam road lighting equipment during the times when lighted lamps are required shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations of this section. Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, or is within three hundred (300) feet to the rear of another vehicle traveling in the same direction, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the other driver, and in

City of Bellefontaine Neighbors -- QuickCode

no case shall the high intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).
(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.070.

Sec. 17-247. Taillamps, reflectors.

(a) Every motor vehicle and every motor-drawn vehicle shall be equipped with at least two (2) rear lamps, not less than fifteen (15) inches or more than seventy-five (72) inches above the ground upon which the vehicle stands, which, when lighted, will exhibit a red light plainly visible from a distance of five hundred (500) feet to the rear. Either such rear lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration marker and render it clearly legible from a distance of fifty (50) feet to the rear. When the rear registration marker is illuminated by an electric lamp other than the required rear lamps, all such lamps shall be turned on or off only by the same control switch at all times.

(b) Every motorcycle registered in this state, when operated on a highway, shall also carry at the rear, either as part of the rear lamp or separately, at least one (1) approved red reflector, which shall be of such size and characteristics and so maintained as to be visible during the times when lighted lamps are required from all distances within three hundred (300) feet to fifty (50) feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps.

(c) Every new passenger car, new commercial motor vehicle, motor-drawn vehicle and omnibus with a capacity of more than six (6) passengers registered in this state after January 1, 1966, when operated on a highway, shall also carry at the rear at least two (2) approved red reflectors, at least one (1) at each side, so designed, mounted on the vehicle and maintained as to be visible during the times when lighted lamps are required from all distances within five hundred (500) to fifty (50) feet from such vehicle when directly in front of a motor vehicle displaying lawful undimmed headlamps. Every such reflector shall meet the requirements of this chapter and shall be mounted upon the vehicle at a height not to exceed sixty (60) inches nor less than fifteen (15) inches above the surface upon which the vehicle stands.

(d) Any person who knowingly operates a motor vehicle without the lamps required in this section in operable condition shall be guilty of an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).
(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.075.

Sec. 17-248. Auxiliary lamps.

City of Bellefontaine Neighbors -- QuickCode

Any motor vehicle may be equipped with not to exceed three (3) auxiliary lamps, mounted on the front at a height not less than twelve (12) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. §307.080.

Sec. 17-249. Cowl, fender, running board and backup lamps.

Any motor vehicle may be equipped with not more than two (2) side cowl or fender lamps, which shall emit a white or yellow light without glare. Any motor vehicle may be equipped with not more than one (1) running board courtesy lamp on each side thereof, which shall emit a white or yellow light without glare. Any motor vehicle may be equipped with a backup lamp, either separately or in combination with another lamp; except, that no such backup lamp shall be continuously lighted when the motor vehicle is in forward motion. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.085.

Sec. 17-250. Spotlamps.

Any motor vehicle may be equipped with not to exceed one (1) spotlamp, but every lighted spotlamp shall be so aimed and used so as not to be dazzling or glaring to any person. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.090

Sec. 17-251. Colors of various lamps; restriction of red lights.

Headlamps, when lighted, shall exhibit lights substantially white in color. Auxiliary lamps, cowllamps and spotlamps, when lighted, shall exhibit lights substantially white, yellow or amber in color. No person shall drive or move any vehicle or equipment, except a school bus when used for school purposes, or an emergency vehicle, upon any street or highway with any lamp or device thereon displaying a red light visible from directly in front thereof. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.095.

Sec. 17-252. Limitations on lamps other than headlamps; flashing signals prohibited

City of Bellefontaine Neighbors -- QuickCode
except on specified vehicles.

Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spotlamps, front direction signals or auxiliary lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower, shall be directed so that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle. Alternately flashing warning signals may be used on school buses when used for school purposes and on motor vehicles when used to transport United States mail from post offices to boxes of addresses thereof and on emergency vehicles, on buses owned or operated by churches, mosques, synagogues, temples or other houses of worship, and on commercial passenger transport vehicles or railroad passenger cars that are stopped to load or unload passengers, but are prohibited on other motor vehicles, motorcycles and motor-drawn vehicles, except as a means for indicating a right or left turn. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.100.

Sec. 17-253. Limitation on total of lamps lighted at one time.

At the times when lighted lamps are required, at least two (2) lighted lamps shall be displayed, one (1) on each side of the front of every motor vehicle, except a motorcycle and except a motor-drawn vehicle, except when such vehicle is parked subject to the provisions governing lights on parked vehicles. Whenever a motor vehicle equipped with headlamps required by this division is also equipped with any auxiliary lamps or a spotlamp or any other lamp on the front thereof projecting a beam of an intensity greater than three hundred (300) candlepower, not more than a total of four (4) of any such lamps on the front of a vehicle shall be lighted at any one (1) time when upon a highway. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.105.

Sec. 17-254. Parked vehicles; how lighted; exception.

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such street or highway, no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a highway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon the highway, a vehicle so parked or stopped shall be equipped with one (1) or more lamps meeting the following requirements: At least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle,

City of Bellefontaine Neighbors -- QuickCode

and the location of the lamps shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. This section does not apply to a motor-driven cycle. Any lighted headlamp upon a parked vehicle shall be depressed or dimmed. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.110.

Sec. 17-255. Taillight required on horse-drawn vehicles.

(a) Any person who shall place or drive or cause to be placed or driven any horse-driven vehicle whatsoever, whether in motion or at rest, shall, after sunset and until one-half hour before sunrise, have attached to every such vehicle, at the rear thereof, a red taillight or a red reflecting device of not less than three (3) inches in diameter of effective area or its equivalent in area. When such device shall consist of reflecting buttons, there shall be no less than seven (7) of such buttons, covering an area equal to a circle with a three inch diameter. The total subtended effective angle of reflection of every such device shall be no less than sixty (60) degrees, and the spread and efficiency of the reflected light shall be sufficient for the reflected light to be visible to the driver of any motor vehicle approaching such horse-drawn vehicle from the rear of a distance of not less than five hundred (500) feet.

(b) In addition, any person who operates any such animal-driven vehicle during the hours between sunset and one-half hour before sunrise shall have at least one light flashing at all times the vehicle is on any highway of this state. Such light or lights shall be amber in the front and red in the back and shall be placed on the left side of the vehicle at a height of no more than six feet from the ground and shall be visible from the front and the back of the vehicle at a distance of at least five hundred feet. Any person violating the provisions of this section shall be guilty of an ordinance violation and punished by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment for a term not to exceed fifteen (15) days or by both such fine and imprisonment.

(c) Any person operating an animal-driven vehicle during the hours between sunset and one-half hour before sunrise may, in lieu of the requirements of subsection (b) of this Section, use lamps or lanterns complying with the rules promulgated by the Director of the Missouri Department of Public Safety.

(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.125.

Sec. 17-256. Other vehicles.

All vehicles, including agricultural machinery or implements, road machinery, road rollers, traction engines and farm tractors, not specifically required to be equipped with lamps, shall be equipped during the times when lighted lamps are required with at least one (1) lighted lamp or lantern exhibiting a white light visible from a distance of five hundred (500) feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred (500) feet to the rear, and such

City of Bellefontaine Neighbors -- QuickCode
lamps and lanterns shall exhibit lights to the sides of such vehicle. Violation of this Section shall be an infraction punishable by a fine not to exceed two hundred dollars (\$200.00).
(Ord. No. 1994, § 1, 1-20-05)

State law reference--Similar provisions, RSMo. § 307.115.

Secs. 17-257—17-270. Reserved.

ARTICLE X. VEHICLE SIZE AND WEIGHT RESTRICTIONS

Sec. 17-271. Maximum size.

It shall be unlawful to operate on, over or across any street in this city any vehicle, the width of which, including load, is greater than ninety-six (96) inches, or the height of which, including load, is greater than twelve and one-half (12½) feet, or the length of which, including load, is greater than thirty-three (33) feet. No combination of such vehicles coupled together for a total or combined length, including coupling, in excess of forty (40) feet shall be operated on such streets; not more than two (2) vehicles shall be operated in combination. These restrictions as to length shall not apply to vehicles temporarily towing for repair purposes cars that have become disabled upon the street.
(Code 1964, § 17-139)

Sec. 17-272. Maximum weight generally.

It shall be unlawful for any person to drive or convey upon, over or across any public street, highway or other place in this city any engine, tractor, truck, wagon or vehicle of any kind, except a tractor and semitrailer, operated by means of steam, gasoline, electricity or horsepower, which, together with its load, weighs more than twenty-four thousand (24,000) pounds; or a tractor and semitrailer, which, together with its load, weighs more than forty thousand (40,000) pounds; or any vehicles so equipped or loaded that the weight on any one (1) axle shall exceed sixteen thousand (16,000) pounds; or any vehicle so equipped or loaded that the weight on any one (1) wheel exceeds six hundred (600) pounds per inch width of tire upon any wheel concentrated upon the surface of the street, such width, in the case of rubber tires, both solid and pneumatic, to be measured between the flanges of the rim; or any vehicle so equipped or loaded that the weight of the live load shall be more than twenty-five (25) percent in excess of the capacity of the vehicle as rated by the manufacturer.
(Code 1964, § 17-140)

Sec. 17-273. Permits for vehicles of excessive size, weight, etc.

The police department may issue permits for the operation of vehicles exceeding the limits specified in sections 17-271 and 17-272 and for the operation of vehicles referred to in section 17-226, such permit

City of Bellefontaine Neighbors -- QuickCode

to specify the terms and conditions under which such vehicles may be operated and define the streets over which such vehicles may be operated and the hours of the day between which such operation shall be permitted. Each applicant for a permit as herein provided shall first pay to the collector a fee of twenty-five dollars (\$25.00), and an additional fee of ten dollars (\$10.00) per hour or any fraction thereof shall be paid for police assistance before the permit shall be issued. The applicant shall pay a fee of twenty-five dollars (\$25.00) and a deposit of fifty dollars (\$50.00) to cover police assistance. Any unused portion of the fifty dollars (\$50.00) shall be refunded to the applicant upon the completion of such project.

(Code 1964, § 17-141)

Sec. 17-274. Notices restricting loads on bridges and streets.

The police department may post notices on each end of any bridge in this city, stating the maximum load that may be permitted on such bridge, and whenever by reason of thawing, frost, rains or due to new construction or other reason, any street in this city shall be in a soft condition, the maximum gross weight of any vehicle including load, mentioned in this article, including trucks, tractors, trailers, semitrailers and other vehicles therein mentioned to be operated on such street, may be limited by the police department in such manner as will preserve the street under such conditions, and the police department shall give or cause to be given due notice thereof by posting notices at convenient and public places along and near such street subject to such regulations. It shall be unlawful for any person to fail to comply with the limitations or restrictions as to the use of such bridge or street as set forth in such notices.

(Code 1964, § 17-142)

Sec. 17-275. Liability for damage to streets, etc.

Any person violating the provisions of the sections of this article or section 17-226, whether operating under a permit or not, or who shall wilfully or negligently damage a highway, street or bridge of this city shall be liable for the amount of such damage caused to any highway, bridge, culvert or sewer, and any vehicle causing such damage shall be subject to a lien for the full amount of such damage; provided that, such lien shall not be superior to any fully recorded or filed chattel mortgage or other lien previously attached to such vehicle. The amount of such damage may be recovered in an action in any court of competent jurisdiction in the name of the state, to the use of the city.

(Code 1964, § 17-143)

Secs. 17-276—17-290. Reserved.

ARTICLE XI. ABANDONED PROPERTY

Editor's note—Section 3 of Ord. No. 1838, adopted Dec. 16, 1999, amended Art. XI in its entirety, in effect repealing §§ 17-291—17-295 and enacting similar new

City of Bellefontaine Neighbors -- QuickCode
*provisions in lieu thereof as §§ 17-291—17-299. Formerly, such provisions
derived from §§ 17-146—17-150 of the 1964 Code.*

Sec. 17-291. Definitions.

As used in this article, the following terms shall mean:

Abandoned property. Any unattended motor vehicle, trailer, all-terrain vehicle, out-board motor or vessel removed or subject to removal from public or private property as provided in this article, whether or not operational.

Person. Any natural person, corporation, or other legal entity.

Right-of-way. The entire width of land between the boundary lines of a public road or state highway, including any roadway.

Roadway. That portion of a public road or state highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Towing company. Any person or entity which tows, removes or stores abandoned property.
(Ord. No. 1838, § 3, 12-16-99)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 17-292. Abandoned vehicles prohibited.

No person shall abandon any motor vehicle on the right-of-way of any public road or state highway or on any private real property owned by another without his consent.
(Ord. No. 1838, § 3, 12-16-99)

Sec. 17-293. Open storage of inoperable vehicles or public safety hazards prohibited.

The open storage of inoperable vehicles or other vehicles deemed by the city to constitute a public safety hazard is prohibited. Nothing in this subsection shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, junk dealer, towing or storage facility so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.
(Ord. No. 1838, § 3, 12-16-99)

Sec. 17-294. Obstructing the flow of traffic prohibited.

City of Bellefontaine Neighbors -- QuickCode

Except in the case of an accident resulting in the injury or death of any person, the driver of a vehicle which for any reason obstructs the regular flow of traffic on the roadway of any public road or state highway shall make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person who fails to comply with the requirements of this section is guilty of an ordinance violation and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).
(Ord. No. 1838, § 3, 12-16-99)

Sec. 17-295. Towing of abandoned property on public real property.

(a) Any law enforcement officer, or an official of the city where the city's real property is concerned, may authorize a towing company to remove to a place of safety:

- (1) Any abandoned property on the right-of-way of any state highway, or interstate highway or freeway in an urbanized area of the city, left unattended for ten (10) hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this section to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;
- (2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;
- (3) Any abandoned property which has been abandoned under section 17-292 of this Code or RSMo. Section 577.080;
- (4) Any abandoned property which has been reported as stolen or taken without consent of the owner;
- (5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;
- (6) Any abandoned property which due to any other state law or city ordinance is subject to towing because of the owners' outstanding traffic or parking violations;
- (7) Any abandoned property left unattended in violation of a state law or city ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard.

(b) When the city police department authorizes a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity it shall complete a crime inquiry and inspection report.

City of Bellefontaine Neighbors -- QuickCode

(c) Any city agency other than the city police department authorizing a tow under this section where property is towed away from the immediate vicinity shall report the tow to the city police department within two (2) hours of the tow, along with a crime inquiry and inspection report.
(Ord. No. 1838, § 3, 12-16-99)

Sec. 17-296. Towing of abandoned property on private real property.

(a) *Generally:* The city, including the city police department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to section 17-293, or are derelict, junk, scrapped, disassembled, or otherwise harmful to the public health. The city shall perform such tow pursuant to the terms of section 17-297. When a city agency other than the police department authorizes a tow under this subsection, it shall report the tow to the police department within two (2) hours with a crime inquiry and inspection report.

(b) *Towing authorized by city police department:* If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the real property, at the request of the person in possession of the real property, any city police officer may authorize a towing company to remove such abandoned property from the property in the following circumstances:

- (1) The abandoned property is left unattended for more than forty-eight (48) hours; or
- (2) In the judgment of a police officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

(c) *Towing authorized by real property owner, lessee, or property or security manager:*

- (1) The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this subsection may be made only under any of the following circumstances:
 - a. *Sign:* There is displayed, in plain view at all entrances to the property, a sign not less than seventeen (17) by twenty-two (22) inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four (24) hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property;

City of Bellefontaine Neighbors -- QuickCode

- b. *Unattended on owner-occupied residential property:* The abandoned property is left unattended on owner occupied residential property with four residential units or less and the owner, lessee, or agent of the real property in lawful possession has notified the city police department and ten (10) hours have elapsed since that notification; or
 - c. *Unattended on other private real property:* The abandoned property is left unattended on private real property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the city police department, and ninety-six (96) hours have elapsed since that notification.
- (2) Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a city police officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to RSMo. Section 575.060. The report shall be in the form designed, printed and distributed by the Missouri Director of Revenue and shall contain the following:
- a. The year, model, make and abandoned property identification number of the property, and the owner and any lienholders, if known;
 - b. A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;
 - c. The license plate or registration number and the state of issuance, if available;
 - d. The physical location of the property and the reason for requesting the property to be towed;
 - e. The date the report is completed;
 - f. The printed name, address and telephone number of the owner, lessee or property or security manager in possession of the real property;
 - g. The towing company's name and address;
 - h. The signature of the towing operator;
 - i. The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;
 - j. Space for the name of the law enforcement agency notified of the abandoned property and for the signature of the law enforcement official receiving the report; and
 - k. Any additional information the Missouri Director of Revenue deems appropriate.

City of Bellefontaine Neighbors -- QuickCode

- (3) Any towing company which tows abandoned property without authorization from the city police department pursuant to subsection (b) of this section shall deliver a copy of the abandoned property report to the city police department. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the city police department has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two (2) hours if the tow was made from a signed location pursuant to subsection (c)(1)(a) of this section, otherwise the report shall be delivered within twenty-four (24) hours.
 - (4) The city police department, after receiving such abandoned property report, shall record the date on which the abandoned property report is filed with the police department and shall promptly make an inquiry into the national crime information center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The police department shall enter the information pertaining to the towed property into the statewide law enforcement computer system and a police officer shall sign the abandoned property report and provide the towing company with a signed copy.
 - (5) The city police department, after receiving notification that abandoned property has been towed by a towing company, shall search the records of the Missouri Department of Revenue and provide the towing company with the latest owner and lienholder information on the abandoned property. If the abandoned property is not claimed within ten (10) working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the department of revenue.
 - (6) No owner, lessee, or property or security manager of real property shall knowingly authorize the removal of abandoned property in violation of this section.
 - (7) Any owner of any private real property causing the removal of abandoned property from that real property shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:
 - a. Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and
 - b. The removal of property other than the property specified by the owner of the private real property from which the abandoned property was removed.
- (d) *Damage to property.* The owner of abandoned property removed from private real property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.

City of Bellefontaine Neighbors -- QuickCode

(e) *Real property owner liability.* Any owner of any private real property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this article.

(f) *Written authorization required; delegation of authority to tow.*

- (1) Except for the removal of abandoned property authorized by the city police department pursuant to this section, a towing company shall not remove or commence the removal of abandoned property from private real property without first obtaining written authorization from the real property owner. All written authorizations shall be maintained for at least one (1) year by the towing company.
- (2) General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within fifteen (15) feet of a fire hydrant or in a fire lane designated by a fire department or the state fire marshal.

(g) *Towing company liability.* Any towing company, or any affiliate of a towing company, which removes, or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee, or any employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in subsection (f) of this section, is liable to the owner of the property for four (4) times the amount of the towing and storage charges, in addition to any applicable ordinance violation penalty, for a violation of this section.

(Ord. No. 1838, § 3, 12-16-99)

Sec. 17-297. General provisions and procedures.

(a) *Payment of charges.* The owner of abandoned property removed as provided in this article shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 17-298.

(b) *Crime inquiry and inspection report.* Upon the towing of any abandoned property pursuant to section 17-295 or under authority of a law enforcement officer or local government agency pursuant to section 17-296, the city police department, where it authorized such towing or was properly notified by another government agency of such towing, shall promptly make an inquiry with the national crime information center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system.

If the abandoned property is not claimed within ten (10) working days of the towing, the city police department shall submit a crime inquiry and inspection report to the Missouri Director of Revenue. The city police department shall also provide one copy of the report to the storage facility and one copy to the towing company. A towing company in possession of abandoned property after ten (10) working days

City of Bellefontaine Neighbors -- QuickCode

shall report such fact to the city police department. The crime inquiry and inspection report shall be designed by the director of revenue and shall include the following:

- (1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;
- (2) A description of any damage to the property noted by the law enforcement officer authorizing the tow;
- (3) The license plate or registration number and the state of issuance, if available;
- (4) The storage location of the towed property;
- (5) The name, telephone number and address of the towing company;
- (6) The date, place and reason for the towing of the abandoned property;
- (7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system, and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the city police department;
- (8) The signature and printed name of the law enforcement officer authorizing the tow and the towing operator; and
- (9) Any additional information the Missouri Director of Revenue deems appropriate.

(c) *Reclaiming property.* The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

(d) *Lienholder repossession.* If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the city police department within two (2) hours of the repossession and shall further provide the police department with any additional information the police department deems appropriate. The city police department shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

(e) *Notice to owner/tow lien claim.* Any towing company which comes into possession of abandoned property pursuant to this article and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten (10) business days of the date of mailing indicated on the notice sent by the Missouri Department of Revenue pursuant to RSMo. Section

City of Bellefontaine Neighbors -- QuickCode

304.156, by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address and telephone number of the storage facility;
- (2) The date, reason and place from which the abandoned property was removed;
- (3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
- (4) A statement that the storage firm claims a possessory lien for all such charges;
- (5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
- (6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this section to contest the propriety of such towing or removal;
- (7) A statement that if the abandoned property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
- (8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

(f) *Physical search of property.* In the event that the Missouri Department of Revenue notifies the towing company that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents were found and a good faith effort has been made. For purposes of this section, "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and title:

- (1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;
- (2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;
- (3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and
- (4) If there is no address of the owner on the impound report, check the law enforcement report to

City of Bellefontaine Neighbors -- QuickCode

see if an out-of-state address is indicated on the driver license information.

(g) *Petition in circuit court.* The owner of the abandoned property removed pursuant to this article or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to subsection (e) of this section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The Missouri Director of Revenue shall not be a party to such petition but a copy of the petition shall be served on the director of revenue.

(h) *Notice to owner.* Notice as to the removal of any abandoned property pursuant to this article shall be made in writing within five (5) working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and the place to which the property has been removed by either:

- (1) The public agency authorizing the removal; or
- (2) The towing company, where authorization was made by an owner or lessee of real property.

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this section shall include the amount of mileage if available shown on the abandoned property at the time of removal.

(i) *Tow truck requirements.* Any towing company which tows abandoned property for hire shall have the towing company's name, city and state clearly printed in letters at least three (3) inches in height on the sides of the truck, wrecker or other vehicle used in the towing.

(j) *Storage facilities.* Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this article shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property.
(Ord. No. 1838, § 3, 12-16-99)

Sec. 17-298. Maximum charges.

(a) A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of this article.

(b) The board of aldermen may from time to time establish maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the city, and which are consistent with this article and with RSMo. Sections 304.155 to 304.158. Any violation of said

City of Bellefontaine Neighbors -- QuickCode

established maximum charges shall be deemed a violation of this section of the Code and shall be punishable pursuant to section 1-10.

(c) A towing company may impose a charge of not more than one-half (1/2) of the regular towing charge for the towing of abandoned property at the request of the owner of private real property or that owner's agent pursuant to this article if the owner of the abandoned property or the owner's agent returns to the abandoned property before it is removed from the private real property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit. (Ord. No. 1838, § 3, 12-16-99)

Sec. 17-299. Sale of abandoned property by city.

When the city has physical possession of the abandoned property, it may sell the abandoned property in accordance with its established provisions and regulations and may transfer ownership by means of a bill of sale signed by the city clerk and sealed with the official city seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of RSMo. Section 301.218 or RSMo. Section 301.560, or for any other person. (Ord. No. 1838, § 3, 12-16-99)

Secs. 17-300—17-310. Reserved.

ARTICLE XII. BICYCLES

Sec. 17-311. Definition.

As used in this article, the word "bicycle" shall mean every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, except scooters and similar devices. (Ord. No. 1040, § 1, 2-2-78)

Cross reference—Definitions and rules of construction generally, § 1-2

Sec. 17-312. Brakes.

Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within twenty-five (25) feet from a speed of ten (10) miles per hour on dry, level, clean pavement. (Ord. No. 1040, § 2, 2-2-78)

Sec. 17-313. Lights, reflectors.

Every bicycle when in use on a street or highway during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with the following:

- (1) A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred (500) feet;
- (2) A rear-facing red reflector, at least two (2) square inches in reflective surface area, on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred (600) feet;
- (3) Essentially colorless or amber reflectors on both the front and rear surfaces of all pedals. Each pedal reflector shall be recessed below the plane of the pedal or reflector housing. Each reflector shall be at least ninety-one-hundredths square inches in projected effective reflex area, and must be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at two hundred (200) feet; and
- (4) A side-facing essentially colorless or amber reflector visible on each side of the wheel mounted on the wheel spokes of the front wheel within three (3) inches of the inside of the wheel rim and a side-facing essentially colorless or red reflector mounted on the wheel spokes of the rear wheel within three (3) inches of the inside of the wheel rim, or continuous retroreflective material on each side of both tires which shall be at least three-sixteenths of an inch wide. All such reflectors or retroreflective tire sidewalls shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at three hundred (300) feet.

(Ord. No. 1040, § 3, 2-2-78)

Sec. 17-314. Rider's rights and duties.

Every person riding a bicycle upon a street or highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle as provided by Chapter 304, Revised Statutes of Missouri, except as to special regulations in this article and except as to those provisions of Chapter 304, Revised Statutes of Missouri, which by their nature can have no application.

(Ord. No. 1040, § 4, 2-2-78)

Sec. 17-315. Riding on right; duty of care; use of bicycle paths.

City of Bellefontaine Neighbors -- QuickCode

(a) Every person operating a bicycle upon a street or highway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Wherever a usable path for bicycles practical for sustained riding for transportation purposes has been officially designated adjacent to a street or highway, bicycle riders shall use such path and shall not use the street or highway.

(Ord. No. 1040, § 5, 2-2-78)

Sec. 17-316. Penalties.

Any person seventeen (17) years of age or older who violates any provision of this article shall upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine not exceeding twenty-five (\$25.00). If any person under seventeen (17) years of age violates any provision of this article in the presence of a police officer of the city, such police officer may impound the bicycle involved for a period not to exceed five (5) days issuance of a receipt to the child riding it or to its owner.

(Ord. No. 1040, § 6, 2-2-78)

Secs. 17-317—17-319. Reserved.

ARTICLE XIII. SCHEDULES

Sec. 17-320. Schedule I. Speed limits.

The following maximum speed limits are hereby established:

<i>Location</i>	<i>Speed (mph)</i>
Shepley Drive	20 mph
Lilac (from Alcove to Topaz)	25 mph
Chambers Road school zone: from 7:30 a.m. to 4:00 p.m. on school days when children are present from the western city limits to Colonnade Meadows Drive	25 mph
Chambers Road school zone: from 7:30 a.m. to 4:00 p.m. on school days when children are present from Bellefontaine Road to a point five hundred (500) feet west of Toelle Lane	25 mph

City of Bellefontaine Neighbors -- QuickCode

Chain of Rocks Drive	30 mph
Chambers Road	30 mph
Jennings Station Road	30 mph
Lilac (from Kenren Industrial Drive to city limit near Foxpath Drive)	30 mph
Bellefontaine Road	35 mph
Highway 367	45 mph
Interstate 270 limit as shall	60 mph, or such other speed
electronic speed	be displayed at that time by
Department of	limit signs of the Missouri
can be	Transportation (MoDOT) which
conditions by	changed in response to traffic
personnel.	MoDOT traffic center
St. Cyr Road	25 mph

(Ord. No. 1715, § 2, 11-7-96; Ord. No. 1793, § 1, 11-5-98; Ord. No. 2084 §1, 5-15-08; Ord. No. 2093 §1, 10-2-08)

Sec. 17-321. Parking restrictions.

(a) When signs are in place giving notice thereof, it shall be unlawful for any person to stop, stand or park a vehicle at any location except momentarily to pick up or discharge a passenger or passengers along the south and west sides of the roadway of Amaral Circle or on the south side of Forest Home Drive between Birch Manor Court and Bellefontaine Road.

(b) Any person who shall park, stand or stop a vehicle in violation of subsection (a) shall be guilty of a violation of the provisions of section 17-151(A)(2)(f) of the Code and shall be punished as provided in section 1-10 of the Code.

Sec. 17-322. Parking restrictions—school days.

(a) When signs are in place giving notice thereof, it shall be unlawful for any person to stop, stand or park any vehicle other than a school bus between the hours of 3:00 p.m. and 4:00 p.m. on any weekday when school is in session at any location along the east side of Fonda Drive from a point four hundred (400) feet south of Chambers Road southward to the intersection of Fonda Drive and Billings.

(b) Any person who shall park, stand or stop a vehicle in violation of subsection (a) shall be guilty of a violation of the provisions of section 17-151 of the Bellefontaine Neighbors City Code and shall be punished as provided in section 1-10 of the Bellefontaine Neighbors City Code.
(Ord. No. 1878 §§ 1—2, 4-5-01)

Sec. 17-323. Schedule IV. Snow routes.

The following roadways or specified portions thereof are hereby designated as snow routes as to which the prohibitions and requirements for "snow routes" shall apply when conditions specified in the applicable ordinances are satisfied:

- Addision, 1000 block
- Akron, 1400--1500 block
- Avant, 1000 block
- Comet Drive, between Ashbrook and Dwight
- Dwight, 10151
- Hamlet Court
- Kelvin Drive, cul-de-sac only
- Kimball Court
- Laire, 1100--1200 block
- Larue Court
- Southworth Court
- Surf, 10232, 10236

(Ord. No. 2096 §2, 12-4-08)

Chapter 18 -- MUNICIPAL COURT

Cross reference—Administration, Ch. 2.

State law reference—Municipal Courts, RSMo. Ch. 479.

Sec. 18-1. Established.

There is hereby established in this city a municipal court, to be known as the Bellefontaine Neighbors Municipal Court, a Division of the 21st Judicial Circuit Court of the State of Missouri. This court is a continuation of the police court of the city as previously established, and is termed herein "the municipal court."

(Ord. No. 1064, § 1, 12-7-78)

Sec. 18-2. Jurisdiction.

The jurisdiction of the municipal court shall extend to all cases involving alleged violations of the ordinances of the city.

(Ord. No. 1064, § 2, 12-7-78)

State law reference—Similar provisions, RSMo. § 479.020(1).

Sec. 18-3. Judge—Selection.

The judge of the city's municipal court shall be known as a municipal judge of the 21st Judicial Circuit Court, and shall be appointed to his office by the mayor, subject to the confirmation of the board of aldermen.

(Ord. No. 1064, § 3, 12-7-78)

Sec. 18-4. Same—Term of office.

The municipal judge shall hold his office for a period of two (2) years and shall take office biannually from May 1, 1979. If for any reason a municipal judge vacates his office, his successor shall complete that term of office, even if the same be for less than two (2) years.

(Ord. No. 1064, § 4, 12-7-78)

State law reference—Similar provisions, RSMo. § 479.020(1).

Sec. 18-5. Same—Powers and duties generally.

The municipal judge shall be and is hereby authorized to:

- (1) Establish a traffic violations bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and section 479.050 of the Revised Statutes of Missouri.
- (2) Administer oaths and enforce due obedience to all orders, rules and judgments made by him, and may fine and imprison for contempt committed before him while holding court, in the same manner and to the same extent as a circuit judge.
- (3) Commute the term of any sentence, stay execution of any fine or sentence, suspend any fine or sentence, and make such other orders as the municipal judge deems necessary relative to any matter that may be pending in the municipal court.
- (4) Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this chapter, and to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the municipal court and to implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts. Any and all rules made or adopted hereunder may be annulled or amended by an ordinance limited to such purpose; provided that such ordinance does not violate, or conflict with, the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts, or state statutes.
- (5) The municipal judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this state, this chapter or other ordinances of this city.

(Ord. No. 1064, § 10, 12-7-78)

Sec. 18-6. Same—Vacation of office.

In addition to removal pursuant to section 79.240 of the Revised Statutes of Missouri, the municipal judge shall vacate his office during his term of office under the following circumstances:

- (1) Upon removal from office by the state commission on the retirement, removal and discipline of judges, as provided in Missouri Supreme Court Rule 12, or
- (2) Upon attaining his seventy-fifth birthday, or
- (3) If he should lose his license to practice law within the state, or
- (4) If he should resign.

(Ord. No. 1064, § 5, 12-7-78)

Sec. 18-7. Same-Qualifications for office.

The municipal judge shall possess the following qualifications before he shall take office:

- (1) He must be a licensed attorney, qualified to practice law within the state.
- (2) He need not reside within the city.
- (3) He must be a resident of the state.
- (4) He must be between the ages of twenty-one (21) and seventy-five (75) years.
- (5) He may serve as municipal judge for any other municipality.
- (6) He may not hold any other office within the city government.
- (7) The municipal judge shall be considered holding a part-time position, and as such may accept, within the requirements of the Code of Judicial Conduct, Missouri Supreme Court Rule 2, other employment.

(Ord. No. 1064, § 6, 12-7-78)

Sec. 18-8. Compensation of judge and prosecuting attorney.

(a) The municipal judge and the prosecuting attorney of the city shall each receive per month a sum as established by the board of aldermen from time to time as compensation for the duties of such office.

(b) As compensation for the additional duties imposed by section 18-10(b), the municipal judge and the prosecuting attorney shall each receive additional compensation per year, to be paid simultaneously with and in addition to other compensation for such offices pursuant to the provisions of this section and other ordinances of the city relating to the compensation for the performance of the present duties of such offices.

(Ord. No. 1146, § 1, 5-7-81; Ord. No. 1457, § 2, 3-1-90)

Editor's note—Ord. No. 1457, § 2, adopted Mar. 1, 1990, not specifically amendatory of this Code, has been included to read as set out in § 18-8(b) at the discretion of the editor.

Sec. 18-9. Superintending authority.

The municipal court of the city shall be subject to the rules of the circuit court of which it is a part and to the rules of the state supreme court. The municipal court shall be subject to the general administrative authority of the presiding judge of the circuit court, and the judge and court personnel of

such court shall obey his directives.

(Ord. No. 1064, § 7, 12-7-78)

Sec. 18-10. Reports to board of aldermen; payments to treasurer.

(a) The municipal judge shall cause the court clerk to prepare and file with the city clerk and director of finance regular monthly reports conforming to all forms and requirements of rules adopted for such purpose by or pursuant to the authority of the Missouri Supreme Court and/or the 21st Judicial Circuit, copies of which shall be made available to the mayor and board of aldermen promptly thereafter. The municipal court shall, immediately upon reconciliation of the docket by the court clerk, pay to the municipal treasurer the full amount of all fines and costs collected during the preceding month, if they have not previously been paid.

(b) The municipal judge and the prosecuting attorney, either jointly or separately, are hereby directed to prepare and submit to the mayor and board of aldermen reports on the administration of the municipal court and the administration and enforcement of the laws of the city, together with any recommendations for improvements in such matters. The reports required hereby shall be provided not less frequently than semiannually.

(Ord. No. 1064, § 8, 12-7-78; Ord. No. 1457, § 1, 3-1-90; Ord. No. 2188 §1, 8-4-11)

Editor's note—Ord. No. 1457, § 1, adopted Mar. 1, 1990, not specifically amendatory of this Code, has been included to read as set out in § 18-10(b) at the discretion of the editor.

Sec. 18-11. Docket and court records.

The municipal judge shall be a conservator of the peace. He shall keep a docket in which he shall enter every case commenced before him and the proceedings therein and he shall keep such other records as may be required. Such docket and records shall be records of the circuit court of the county. The municipal judge shall deliver the docket and records of the municipal court, and all books and papers pertaining to his office, to his successor in office or to the presiding judge of the circuit.

(Ord. No. 1064, § 9, 12-7-78)

Sec. 18-12. Violations bureau.

(a) Should the Municipal Judge determine that there shall be a Violations Bureau for animal control, housing, parking and traffic violations, the City shall provide all expenses incident to the operation of the same.

(b) The Court Clerk is hereby designated as the Clerk for such Bureau, if established. The Clerk

City of Bellefontaine Neighbors -- QuickCode

shall perform the duties designated by the Court, including accepting appearance, waiver of trial, plea of guilty, and payment of fine and costs for the designated violations, entering the plea on the record, and transmitting the violation record as required by law, subject to the limitations hereinafter prescribed.

- (c) The violations within the authority of the Bureau shall be designated by order of the Municipal Judge. Such designated violations may be amended from time to time but shall, in no event, include the following:
 - (1) Any violation resulting in personal injury or property damage.
 - (2) Operating a motor vehicle while intoxicated or under the influence of intoxicants or drugs.
 - (3) Operating a motor vehicle with a counterfeit, altered, suspended, or revoked license.
 - (4) Fleeing or attempting to elude an officer.
- (d) The Municipal Judge, by order prominently posted at the place where fines are to be paid, shall specify by schedule the amount of fines and costs to be imposed for each violation which the Municipal Judge designates as within the authority of the Bureau.
- (e) Within the time affixed by the Municipal Judge and subject to the Municipal Judge's order, any person charged with an animal control, housing, parking or traffic violation which the Municipal Judge designates as being within the authority of the Bureau and for which the Municipal Judge specified a fine, except violations requiring court appearance, may deliver by mail, automatic teller machine, or as otherwise directed, the specified amount of the fine and costs to the Bureau. Said delivery constitutes a guilty plea and waiver of trial.
- (f) The Bureau shall keep records and submit summarized monthly reports to the Court of all notices issued and arrests made for violation of the specified laws and ordinances of the City and all of the fines collected by the Bureau or the Court, and of the final disposition or present status of every case of violation of the provisions of said laws and ordinances.

(Ord. No. 1064, § 11, 12-7-78; Ord. No. 2179 §3, 6-2-11)

Sec. 18-13. Issuance and execution of warrants.

(a) *Procedures governing arrest warrants.* All warrants issued by a municipal judge shall be directed to the chief of police or any other police officer of the municipality or to the sheriff of the county. The warrant shall be executed by the chief of police, police officer or sheriff any place within the limits of the county and not elsewhere unless the warrants are endorsed in the manner provided for warrants in criminal cases and, when so endorsed, shall be served in other counties, as provided for in warrants in criminal cases.

(b) *Procedures governing administrative warrants.*

(1) *Administrative warrant defined--who may issue, execute.*

City of Bellefontaine Neighbors -- QuickCode

- a. An administrative warrant is a written order of the municipal judge permitting the entry of city officials on or into private property to enforce the city's housing, zoning, health and safety regulations when government entry on or into such private property is otherwise authorized by Missouri law. A warrant may issue only in conformance with this section and only for the enforcement of the city's housing, zoning, health and safety regulations, specifically:
 - (1) To abate such physical conditions on private property constituting a public nuisance or otherwise in violation of a specified regulation as provided herein,
 - (2) To inspect private property to determine or prove the existence of physical conditions in violation of such a specified regulation, and
 - (3) To seize, photograph, copy or record evidence of the violation of such a specified regulation.
 - b. The municipal judge having original and exclusive jurisdiction to determine violations against the ordinances of the municipality may issue an administrative warrant when:
 - (1) The property to be entered is located within the city, and
 - (2) The owner or occupant of the property to be entered:
 - (a) Has refused to allow same after official request by the city, or
 - (b) Is not available, after reasonable investigation and effort, to consent to such entry or inspection, and
 - (3) The city establishes probable cause to determine that a public nuisance or other violation of a specified regulation as provided herein may exist.
 - c. Any such warrant shall be directed to the chief of police or any other police officer of the city and shall be executed by the chief of police or said police officer, in conjunction with the appropriate code enforcement officer or other appropriate official, within the city limits and not elsewhere.
- (2) *Who may apply for warrant--contents of application.*
- a. Any code enforcement officer or police officer may prepare an application for the issuance of an administrative warrant. Following review and approval by the chief of police or the chief's designee, the applicant may then request that the city's prosecuting attorney or city attorney submit a warrant application on behalf of the applicant to the municipal judge.
 - b. The application shall:
 - (1) Be in writing;
 - (2) State the time and date of the making of the application;

City of Bellefontaine Neighbors -- QuickCode

- (3) Identify the property to be entered, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - (4) State that the owner or occupant of the property:
 - (a) Has been requested by the city to allow such action and has refused to allow such action, or
 - (b) Is not available, after reasonable investigation and effort, to consent to such entry or inspection, and in such case the application shall include details of the city's investigation and effort to request such consent;
 - (5) State facts sufficient to show probable cause for the issuance of a warrant to enter the private property, including the specification of the housing, zoning, health, or safety regulation sought to be enforced;
 - (6) Be verified by the oath or affirmation of the applicant; and
 - (7) Be signed by the applicant and filed in the municipal court.
- c. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a warrant and in filling out any deficiencies in the description of the property or place to be entered. Oral testimony shall not be considered. The application may be submitted by facsimile or other electronic means.
- (3) *Hearing and procedure--contents of warrant--execution and return.*
- a. *Hearing and procedure.*
 - (1) The municipal judge shall determine whether probable cause exists to enter the private property for the purposes noted herein.
 - (2) In doing so the municipal judge shall determine whether the action to be taken by the city is reasonable in light of the facts stated. The municipal judge shall consider the goals of the ordinance or code section sought to be enforced and such other factors as may be appropriate including, but not limited to, the known or suspected violation of any relevant city ordinance or code section, the passage of time since the property's last inspection, and the law, statute or ordinance authorizing government entry onto private property. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a city ordinance or code section.
 - (3) If it appears from the application and any supporting affidavit that there is probable cause to enter the private property for the enforcement of the city's housing, zoning, health and safety regulations, a warrant shall immediately be issued.
 - (4) The warrant shall issue in the form of an original and two (2) copies, and the application, any supporting affidavit and one (1) copy of the warrant as issued shall be retained in the records of the municipal court.

City of Bellefontaine Neighbors -- QuickCode

- b. *Contents of warrant.* The warrant shall:
- (1) Be in writing and in the name of the city;
 - (2) Be directed to any police officer in the city;
 - (3) State the time and date the warrant was issued;
 - (4) Identify the property to be entered in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - (5) Command that the described property be entered for one (1) or more specified enforcement purposes as provided herein, identify the regulation sought to be enforced, and direct that any evidence of any suspected property violations be seized, recorded or photographed, and a description of such property be returned, within ten (10) days after filing of the application, to the clerk of the municipal court, to be dealt with according to law;
 - (6) Be signed by the judge, with his title of office indicated.
- c. *Execution and return.*
- (1) A warrant issued under this ordinance shall be executed only by a city police officer, provided however, that one (1) or more designated city officials shall accompany the officer, and the warrant shall be executed in the following manner:
 - (a) The warrant may be issued by facsimile or other electronic means.
 - (b) The warrant shall be executed by conducting the private property entry as commanded and shall be executed as soon as practicable and in a reasonable manner.
 - (c) The officer shall give the owner or occupant of the property entered a copy of the warrant.
 - (d) If any property is seized incident to the entry, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, or if no such person is ascertainable, the officer shall leave the receipt at the site of the entry in a conspicuous place.
 - (i) A copy of the itemized receipt of any property taken shall be delivered to an attorney for the city within two (2) working days of the execution of the warrant.
 - (ii) The disposition of property seized pursuant to a warrant under this section shall be in accordance with an applicable city ordinance or code section, but in the absence of same, then with Section 542.301 of the Revised Statutes of Missouri.
 - (e) The officer may summon as many persons as he deems necessary to assist him in executing the warrant.

City of Bellefontaine Neighbors -- QuickCode

- (f) An officer executing an invalid warrant, the invalidity of which is not apparent on its face, may use such force as he would be justified in using if the warrant were valid.
 - (g) A warrant shall expire if it is not executed and the required return made within ten (10) days after the date of the making of the application.
- (2) After execution of the warrant, the warrant, with a return thereon signed by the officer executing the warrant, shall be delivered to the municipal court in the following manner:
- (a) The return shall show the date and manner of execution and the name of the possessor and of the owner, when not the same person, if known, of the property entered.
 - (b) The return shall be accompanied by any photographs, copies or recordings made, and by any property seized, along with a copy of the itemized receipt of such property required by this section; provided however, that seized property may be disposed of as provided herein, and in such a case a description of the property seized shall accompany the return.
- (3) The court clerk, upon request, shall deliver a copy of the return to the possessor and the owner, when not the same person, of the property entered or seized.
- (4) *Warrant invalid, when.* A warrant shall be deemed invalid:
- a. If it was not issued by the municipal judge;
 - b. If it was issued without a written application having been filed and verified;
 - c. If it was issued without sufficient probable cause in light of the goals of the ordinance to be enforced and such other factors as provided in subsection (c)(1)(b) hereof;
 - d. If it was not issued with respect to property in the city;
 - e. If it does not describe the property or places to be entered, inspected or seized with sufficient certainty;
 - f. If it is not signed by the judge who issued it; or
 - g. If it was not executed and the required return made within ten (10) days after the date of the making of the application.

(Ord. No. 1064, § 12, 12-7-78; Ord. No. 1874 §1, 2-15-01; Ord. No. 2102 §1, 4-2-09)

State law reference—*Similar provisions, RSMo. § 479.100.*

Sec. 18-14. Arrests without warrants.

The chief of police or other police officer of the city may, without a warrant, make arrest of any person who commits an offense in his presence, but such officer shall, before the trial file a written

City of Bellefontaine Neighbors -- QuickCode
complaint with the judge hearing violations of municipal ordinances.
(Ord. No. 1064, § 13, 12-7-78; Ord. No. 1874 § 1, 2-15-01)

State law reference—*Similar provisions, RSMo. § 479.110.*

Sec. 18-15. Jury trials.

Any person charged with a violation of a municipal ordinance of this city shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an associate circuit judge. Whenever a defendant accused of a violation of a municipal ordinance demands trial by jury, the municipal court shall certify the case to the presiding judge of the circuit court for reassignment, as provided in RSMo., subsection 2 of Section 517.520.

(Ord. No. 1064, § 14, 12-7-78)

Sec. 18-16. City to designate attorney to prosecute violation; duties.

It shall be the duty of an attorney designated by the city to prosecute the violations of the city's ordinances before the municipal judges or before the associate circuit judges hearing the violations of the city's ordinances. The salary or fees of the attorney and his necessary expenses incurred in such prosecutions shall be paid by the city.

(Ord. No. 1064, § 15, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.120.*

Sec. 18-17. Summoning of witnesses.

It shall be the duty of municipal judge to summon all persons whose testimony may be deemed essential as witnesses at the trial, and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before associate circuit judges and shall be taxed as other costs in the case. When a trial shall be continued by a municipal judge it shall not be necessary to summon any witnesses who may be present at the continuance; but the municipal judge shall orally notify such witnesses as either party may require to attend before him on the day set for trial to testify in the case, and enter the names of such witnesses on his docket, which oral notice shall be valid as a summons.

(Ord. No. 1064, § 16, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.160.*

Sec. 18-18. Transfer of complaint to associate circuit judge.

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.

(Ord. No. 1064, § 17, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.170.*

Sec. 18-19. Jailing of defendants.

If, in the opinion of the municipal judge, the city has no suitable and safe place of confinement, the municipal judge may commit the defendant to the county jail or other suitable and safe place, and it shall be the duty of the sheriff or officer in charge, if space for the prisoner is available in the county jail or such other jail upon receipt of a warrant of commitment from the judge to receive and safely keep such prisoner until discharged by due process of law. The municipality shall pay the board of such prisoner at the same rate as may not or hereafter be allowed to such sheriff for the keeping of such prisoner in his custody. The same shall be taxed as cost to be paid by the defendant in addition to all other court costs as are provided in this ordinance.

(Ord. No. 1064, § 18, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.180.*

Sec. 18-20. Parole and probation.

Any judge hearing violations of municipal ordinances may, when in his judgment it may seem advisable grant a parole or probation to any person who shall plead guilty or who shall be convicted after a trial before such judge.

(Ord. No. 1064, § 19, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.190.*

Sec. 18-21. Right of appeal.

In all cases tried before the municipal court, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of trial de novo, before a circuit judge or an assignment before an associate circuit judge. An application for a trial de novo shall be filed within ten (10) days after judgment and shall be filed in such form and perfected in such manner as provided by supreme court rules.

(Ord. No. 1064, § 20, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.200(2).*

Sec. 18-22. Appeal from jury verdicts.

City of Bellefontaine Neighbors -- QuickCode

In all cases in which a jury trial has been demanded, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate appellate court.
(Ord. No. 1064, § 21, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.200(3).*

Sec. 18-23. Breach of recognizance.

In the case of a breach of any recognizance entered into before a municipal judge or an associate circuit judge or an associate circuit judge hearing a municipal ordinance violation case, the same shall be deemed forfeited and the judge shall cause the same to be prosecuted against the principal and surety, or either of them, in the name of the municipality as plaintiff. Such action shall be prosecuted before a circuit judge or associate circuit judge, and in the event of cases caused to be prosecuted by a municipal judge, such shall be on the transcript of the proceedings before the municipal judge. All monies recovered in such actions shall be paid over to the municipal treasury to the general revenue fund of the municipality.

(Ord. No. 1064, § 22, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.210.*

Sec. 18-24. Disqualification of municipal judge from hearing a particular case.

A municipal judge shall be disqualified to hear any case in which he is anyway interested, or, if before the trial is commenced, the defendant or the prosecutor files an affidavit that the defendant or the municipality, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the judge. Neither the defendant nor the municipality shall be entitled to file more than one affidavit of disqualification in the same case.

(Ord. No. 1064, § 23, 12-7-78; Ord. No. 1121, § 1, 6-5-80)

Sec. 18-25. Provisional judge.

There is hereby created the office of provisional municipal judge of the Bellefontaine Neighbors Municipal Division of the St. Louis County Circuit Court. The position of provisional municipal judge shall have the same qualification and appointment process as those for the municipal judge. The provisional municipal judge shall serve a term of office of two (2) years concurrent with the municipal judge, beginning on May 1 of each odd-numbered year and until a successor is appointed and qualified. The duties of the provisional municipal judge shall be to serve as municipal judge in all cases in which the Bellefontaine Neighbors Municipal Judge shall be disqualified or unable to serve, and to preside over sessions of the Bellefontaine Neighbors Municipal Division for which the municipal judge is unavailable. In the event the provisional municipal judge shall perform the duties of the municipal judge due to the absence or unavailability of the municipal judge, the municipal judge shall receive no compensation for performing such duties, rather the provisional municipal judge shall receive that compensation which would otherwise have been paid to the municipal judge for those duties. In the event the provisional

City of Bellefontaine Neighbors -- QuickCode

municipal judge shall preside over one (1) or more cases due to the disqualification or other removal of the municipal judge, the provisional municipal judge shall receive such compensation as may be provided by the board of aldermen by ordinance from time to time.

(Ord. No. 1797, § 1, 11-5-98)

Editor's note—Section 1 of Ord. No. 1797, adopted Nov. 5, 1998, amended § 18-25 in its entirety, in effect repealing §18-25 and enacting new provisions as herein set out. Formerly, § 18-25 pertained to temporary municipal judges and § 24 of Ord. No. 1064, adopted Dec. 7, 1978 and § 2 of Ord. No. 1121, adopted June 5, 1980.

Sec. 18-26. Clerk.

The city court clerk is hereby designated as the clerk of the municipal court. The duties of such clerk shall be as follows:

- (1) To collect such fines for violations of such offenses as may be described, and the court costs thereof.
- (2) To take oaths and affirmations.
- (3) To accept signed complaints, and allow the same to be signed and sworn to or affirmed before him.
- (4) Sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas duces tecum.
- (5) Accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in traffic violation bureau cases or as directed by the municipal judge; generally act as violation clerk of the traffic violation bureau.
- (6) Perform all other duties as provided for by ordinance, by rules of practice and procedure adopted by the municipal judge and by the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and by statute.
- (7) Maintain, properly certified by the city clerk, a complete copy of the ordinances of the city which shall constitute prima facie evidence of such ordinances before the court; further, to maintain a similar certified copy of such file with the clerk serving the circuit court of this county.

(Ord. No. 1064, § 25, 12-7-78)

Sec. 18-27. Costs—Generally

City of Bellefontaine Neighbors -- QuickCode

(a) The following words and phrases, as used in this chapter, shall have the following respective meanings:

- (1) *Court costs*: The total of fees, miscellaneous charges and surcharges, imposed in a particular case.
- (2) *Fees*: The amount charged for services to be performed by the municipal court.
- (3) *Miscellaneous charges*: The amount allowed by law for services provided by individuals or entities other than the municipal court.
- (4) *Surcharges*: Additional charges allowed by law which are allowed for specific purposes designated by law.

(b) In addition to or in lieu of any fine or other punishment that may be imposed by the municipal judge the following court costs shall be assessed against the defendant as hereinafter provided:

- (1) Court fees in the amount of twelve dollars (\$12.00).
- (2) In addition to any other court costs, an additional surcharge in the sum of three dollars (\$3.00) shall be assessed, provided that no such surcharge shall be collected in any proceeding when the proceeding of the defendant has been dismissed by the court. One dollar (\$1.00) of such surcharge shall be collected by the court clerk and shall be transmitted monthly to the Treasurer of the State of Missouri to the credit of the Peace Officer Standards and Training Commission Fund created by RSMo., Section 590.178. Two dollars (\$2.00) of such surcharge shall be collected by the court clerk and transmitted monthly to the treasurer of the city and used to pay for police officer training as provided by RSMo., Section 590.100 to Section 590.180. The city shall not retain for training purposes more than one thousand five hundred dollars (\$1,500.00) of such funds for each certified law enforcement officer or candidate for certification employed by the city. Any excess funds shall be transmitted quarterly to the city's general fund.
- (3) In addition to any and all other court costs which may be assessed, an additional fee in the sum of three dollars (\$3.00) shall be collected in each case for which the defendant is liable for the payment of court costs for each occasion on which the case is continued, rescheduled, postponed or otherwise delayed or reset on a later docket, other than a postponement or rescheduling for the purpose of establishing an initial trial setting or a postponement requested by the prosecution, in order to recoup the cost to the city of rescheduling such case and providing reminder notices or courtesy rescheduling notices in such case.
- (4) In addition to any and all court costs which may be assessed, for each occasion on which a warrant is issued by reason of a defendant's failure to appear at a scheduled court setting an additional fee of thirty-five dollars (\$35.00) shall be assessed against the defendant.
- (5) In addition to any and all other court costs which may be assessed, any other court costs, including, but not limited to charges for issuance of a commitment or summons or other process, shall be determined by the municipal judge or shall be equivalent to those

City of Bellefontaine Neighbors -- QuickCode
provided in similar instances before associate circuit judges in criminal prosecutions.

- (6) In addition to any and all other court costs which may be assessed, actual charges assessed against the city by the county sheriff for apprehension or confinement in the county jail, or by any other agency, institution, entity or municipality for the lodging, care or processing of prisoners under order of the court.
- (7) In addition to any and all other court costs which may be assessed, charges for mileage, in the same amount as provided to the sheriff in criminal prosecutions, for each mile and fraction thereof an officer must travel (both directions) in order to serve any warrant or commitment order of the court.
- (8) An additional surcharge in the sum of seven dollars fifty cents (\$7.50) shall be assessed as costs, provided that no such surcharge shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the court. All sums collected pursuant to this subsection shall be distributed as follows:
 - a. Ninety-five percent (95%) of such surcharge shall be paid to the Director of Revenue of the State of Missouri for deposit to the Crime Victims' Compensation Fund as provided in section 595.045, RSMo.
 - b. Five percent (5%) of such surcharge shall be paid to the city treasury.
- (9) In addition to any other court costs provided in this code pertaining to criminal cases filed in the Bellefontaine Neighbors municipal court, an additional surcharge in the sum of two dollars (\$2.00) shall be assessed in each case filed in the Bellefontaine Neighbors municipal court for the violation of the ordinances of the city.

No surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the city. All sums collected pursuant to this subsection shall be distributed on a monthly basis to St. Louis County to be used only for the purpose of providing operating expenses for shelters for battered persons as provided in RSMo. Section 479.261.

- (10) In addition to any other court costs provided in this code pertaining to criminal cases filed in the Bellefontaine Neighbors municipal court, an additional surcharge in the sum of two dollars (\$2.00) shall be assessed in each case filed in the Bellefontaine Neighbors municipal court for violation of the ordinances of the city.

No surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the city. Such cost shall be collected by the Clerk of the Court and deposited into the "Inmate Security Fund" and utilized to develop, install and maintain a biometric verification system to ensure that inmates can be properly identified and tracked within the City's detention system, and to pay for any expenses related to custody and housing and other expenses for prisoners, all in accord with RSMo., Section 488.5026.

(11) *Reserved.*

(Ord. No. 1064, § 26, 12-7-78; Ord. No. 1635, § 1, 12-15-94; Ord. No. 1653, § 1, 6-15-95; Ord. No. 1673, § 1, 10-5-95; Ord. No. 1725, § 1, 12-19-96; Ord. No. 1837, § 1, 12-16-99; Ord. No. 1893 §1, 9-6-01; Ord. No. 1929 §§1--2, 10-17-02; Ord. No. 2177 §1, 6-2-11)

State law reference—*Similar provisions, RSMo. §§ 479.260, 590.140.*

Sec. 18-28. Same—Assessment against prosecuting witness.

The costs of any action may be assessed against the prosecuting witness and judgment be rendered against him that he pay the same and stand committed until paid in any case where it appears to the satisfaction of the municipal judge that the prosecution was commenced without probable cause and from malicious motives.

(Ord. No. 1064, § 27, 12-7-78)

Sec. 18-29. Installment payment of fine.

When a fine is assessed for violating an ordinance, it shall be within the discretion of the judge assessing the fine to provide for the payment of a fine on an installment basis under such terms and conditions as he may deem appropriate.

(Ord. No. 1064, § 28, 12-7-78)

State law reference—*Similar provisions, RSMo. § 479.240.*

Sec. 18-30. Bail, bond, etc.; admitting to.

Any person arrested for any violation of this Code or any other ordinance may be admitted to bail by executing a bond to the city, with sufficient security, to be approved by the municipal judge, the chief of police or his deputies in such an amount as in the discretion of the officer approving the bond will secure the defendant's presence, but not exceeding the sum of five hundred dollars (\$500.00), conditioned that such person appear upon a day named before the municipal judge, or at such times as the case may be continued by motion of the person arrested or by order of the municipal judge. Every bond taken as above shall be forthwith filed with the municipal judge by the officer approving and taking out such bond; provided that, no attorney-at-law, police officer, constable or his deputies, or any officer of the city, whether elected or appointed, shall be accepted as security upon the bond; and provided, further, that no one shall be accepted as bondsman who shall have standing against him an unsatisfied judgment rendered on a forfeiture of bond.

(Code 1964, § 22-36; Ord. No. 1874 § 1, 2-15-01)

Sec. 18-31. Effect of defects in complaints, writs, etc.

City of Bellefontaine Neighbors -- QuickCode

No suit in the police court shall be dismissed or abated on account of any formal defect in the statement of complaint or in any other matter of form in the verdict or otherwise whereby the defendant shall not have been prejudiced, but the same may be amended at any time prior to the rendition of the judgment in the case upon leave of court; and the court shall have the power to prescribe the terms of all process, writs and necessary forms of proceedings in the court not inconsistent with the existing laws of the state or the ordinances of the city and to compel the return of and obedience to any process issued by the court or by its authority.
(Code 1964, § 22-39)

Sec. 18-32. Separate trial for persons jointly charged.

Persons jointly charged shall have a separate trial if they demand it before the trial is gone into or before the jury is impaneled.
(Code 1964, § 22-43)

Sec. 18-33. Officers to attend as witnesses.

Officers shall attend as witnesses against persons whom they have arrested without being summoned, and if they fail to appear at the time of trial, they may be attached and punished for contempt, as witnesses summoned.
(Code 1964, § 22-46)

Sec. 18-34. Failure to appear on charged offense.

(a) In addition to the forfeiture of any security which was given or pledged for the release of any person charged with an offense in the municipal division of the county circuit court, it shall be unlawful for any person who has been charged with an offense in the municipal division of the county circuit court to willfully fail to appear before such court as required.

(b) Any person violating any of the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor and subject to punishment as provided in section 1-10 of this Code of Ordinances except that the maximum fine cannot exceed the maximum fine permitted on the municipal ordinance violation on which he had been charged and on which he had failed to appear. This penalty shall not diminish in any way the contempt powers of the municipal judge.
(Ord. No. 1274, §§ 1—2, 7-18-85)

Chapter 19 -- OFFENSES—MISCELLANEOUS PROVISIONS

Cross references—General penalty for Code violations, §1-10; police, ch. 21.

ARTICLE I. IN GENERAL

Sec. 19-1. False reports.

- (a) A person commits the offense of making a false report if he knowingly:
- (1) Gives false information to a law enforcement officer for the purpose of implicating another person in a crime; or
 - (2) Makes a false report to a law enforcement officer that a crime has occurred or is about to occur; or
 - (3) Makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred.

(b) It is a defense to a prosecution under paragraph (a) of this section that the actor retracted the false statement or report before the law enforcement officer or any other person took substantial action in reliance thereon.

(c) The defendant shall have the burden of injecting the issue of retraction under paragraph (b) of this section.

(d) It shall be unlawful for a person to make a False report as defined in this section.
(Code 1964, § 19-11)

State law reference—Similar provisions, RSMo. § 575.080.

Sec. 19-1.1. False declaration in writing.

(a) It shall be unlawful for any person to make a false declaration in writing for the purpose of misleading a police officer in the performance of his duty in the city, if he submits any written false statement which he does not believe to be true or submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity, or any sample, specimen, map, boundary mark or other object which he knows to be false.

(b) The falsity of the statement or the item under paragraph (a) above must be as to a fact which is material to the purposes for which the statement is made or the item submitted.

(c) It is a defense to a prosecution herein that the actor retracted the false statement or item, but this

City of Bellefontaine Neighbors -- QuickCode

defense shall not apply if the retraction was made after the falsity or the statement or item was exposed or the police officer took substantial action in reliance on such statement or item.

(d) The defendant shall have the burden of injecting the issue of retraction herein.
(Ord. No. 1377, §§ 1—4, 5-19-88)

Editor's Note-Ord. No.1377, §§ 1—4, adopted May 19, 1988, being not specifically amendatory of this Code, has been included as § 19-1.1 at the discretion of the editor.

Sec. 19-2. False impersonation.

- (a) A person commits the offense of false impersonation if such person:
- (1) Falsely represents himself or herself to be a public servant with purpose to induce another to submit to his or her pretended official authority or to rely upon his or her pretended official acts, and
 - a. Performs an act in that pretended capacity; or
 - b. Causes another to act in reliance upon his or her pretended official authority; or
 - (2) Falsely represents himself or herself to be a person licensed to practice or engage in any profession (for which a license is required by the laws of this state) with the intent to induce another to rely upon such representation, and
 - a. Performs an act in that pretended capacity; or
 - b. Causes another to act in reliance upon such representation; or
 - (3) Upon being arrested, falsely represent himself or herself, to a law enforcement officer, with the first and last name, date of birth, or Social Security number, or a substantial number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction, misdemeanor, or felony that contains the first and last name, date of birth, and Social Security number, or a substantial number of identifying factors or characteristics to that of such other person as to cause such other person to be identified as the actual person arrested or convicted.

(b) Any person convicted of committing an offense established by this section shall be subject to punishment by a fine not to exceed five hundred dollars (\$500.00), by imprisonment not to exceed 90 days, or both, unless the person represents himself to be a law enforcement officer, in which case any fine imposed shall not exceed one thousand dollars (\$1,000.00).

(c) If a violation of subdivision (3) of subsection (a) of this section is discovered prior to any conviction of the person actually arrested for an underlying charge, the prosecuting attorney shall notify the court thereof, and the court shall order the arrest and court records of the underlying charge amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate

City of Bellefontaine Neighbors -- QuickCode

identifying factors from the arrest and court records.

(d) If a violation of subdivision (3) of subsection (a) of this section is discovered after any conviction of the person actually arrested for an underlying charge, the prosecuting attorney shall file a motion in the underlying case with the court to correct the arrest and court records after discovery of the fraud upon the court. The court shall order the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

(e) Any person who is the victim of a false impersonation and whose identity has been falsely reported in arrest or conviction records may move for expungement and correction of said records under the procedures set forth in Sections 575.120 and 610.123 of the Revised Statutes of Missouri. (Code 1964, § 19-18; Ord. No. 1987, § 2, 9-16-04)

State law reference—Similar provisions, RSMo. § 575.120.

Sec. 19-3. Resisting or interfering with arrest.

(a) It shall be unlawful for anyone who is lawfully placed under arrest by a law enforcement officer to resist such arrest by use or threat of violence, physical force or flight from the officer.

(b) It shall further be unlawful for anyone to interfere with the lawful arrest of another by a law enforcement officer by using or threatening the use of violence, physical force or physical interference. (Code 1964, § 19-24; Ord. No. 1094, §§ 2—3, 8-2-79)

Sec. 19-4. Posters, signs, etc.—posting on poles or public property prohibited.

It shall be unlawful to paste, tack, or stick or in any way otherwise to place upon poles or public property any signs, placards, posters, or paper. (Code 1964, § 19-25)

Sec. 19-5. Harassment.

(a) A person commits the offense of harassment if for the purpose of frightening or disturbing another person, he

- (1) Communicates in writing or by telephone a threat to commit any felony; or
- (2) Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibility; or
- (3) Makes a telephone call anonymously; or
- (4) Makes repeated telephone calls.

(b) It shall be unlawful for any person to engage in harassment.
(Code 1964, § 19-29.1)

State law reference—Similar provisions, RSMo. § 565.090.

Sec. 19-6. Moving of furniture during night time restricted.

It shall be unlawful to move furniture or household goods exceeding three hundred (300) pounds in total weight or size of twenty-five (25) cubic feet in or out of any premises in the city between the hours of sunset and 7:00 a.m. the following morning.
(Ord. No. 920, § 1, 6-6-74)

Sec. 19-7. Disorderly conduct.

Any person who commits any of the following acts shall be guilty of disorderly conduct, which is hereby declared unlawful:

- (1) Interferes with any person in any place by jostling against such person or unnecessarily crowding him or by placing his hand in the proximity of such person's pocket, pocketbook or handbag.
- (2) Interferes with general business operations of a business concern on the premises of such business concern by unnecessarily crowding or jostling the business concern's employees, agents or customers.
- (3) Causes a disturbance in any railroad car, omnibus or other public conveyance by unnecessarily running through it, climbing through windows or upon the seats.
- (4) Wanders, prowls or loiters upon the private property of another or peeks or peers in the door or window of any building or structure located therein which is inhabited by a person or persons without any visible or lawful business with the owners or occupants thereof.
- (5) Knowing the same to be false, circulates or transmits to another or others, with intent that it be acted upon, any statement or rumor, written, printed or by word of mouth, covering the location of a bomb or other explosive.
- (6) Willfully making any loud noise or by loud shouting, rude or indecent behavior or profane discourse within a place of assembly as to disturb the order or sobriety thereof; or willfully extinguishing the light in any hall or building occupied by an audience or assemblage of persons or by attempting to break up same.
- (7) Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed.

City of Bellefontaine Neighbors -- QuickCode

(8) In a public place, being under the influence of intoxicating liquor or drug and in such condition as to be unable to exercise care for his own safety or the safety of others.

(9) Deliberately interfering with or damaging publicly owned or privately owned railroad cars, buses and other vehicles.

(10) Addresses abusive language, or threats to any member of the city police department, any other authorized law enforcement official of the city who is engaged in the lawful performance of his duties, when such words have a direct tendency to cause acts of violence by others.

(11) Deliberately interferes with any official emergency medical personnel in the performance of their official duties in treating or attempting to treat any sick or injured person or who climbs in or upon any ambulance without authorization from the emergency medical personnel in charge of same.

(12) Deliberately interferes with any official emergency fire department personnel in the performance of their official duties or who climbs in or upon any fire fighting equipment without authorization from the emergency fire department personnel in charge of same.

(Ord. No. 1181, § 1, 7-1-82; Ord. No. 1204, § 1, 4-7-83)

Sec. 19-8. Abuse of police canines.

It shall be unlawful for any person to willfully, maliciously, intentionally or knowingly:

(1) Taunt, torment, tease or otherwise provoke,

(2) Administer to or otherwise apply any desensitizing drug, chemical or substance,

(3) Beat, strike, injure or kill, or

(4) Interfere with or endanger,

any canine trained for and used by a police officer for purposes of law enforcement; provided, however, with regard to subsection (b) of this section, a duly-licensed veterinarian may prescribe and administer such substances necessary for veterinary treatment, including but not limited to euthanasia. (Ord. No. 1679, § 1, 12-21-95)

Secs. 19-9—19-20. Reserved.

ARTICLE II. OFFENSES AGAINST MORALS

Sec. 19-21. Indecent exposure (sexual misconduct).

(a) A person who knowingly or intentionally, in a public place, to include, but not be limited to, indoor and outdoor entertainment establishments, restaurants, theaters, bars, bookstores and places of public accommodation where one (1) or more other persons is present:

(1) Engages in sexual intercourse;

(2) Engages in deviate sexual intercourse;

(3) Appears in a state of nudity;

(4) Engages in sexual contact; or

(5) Exposes his/her genitals under circumstances in which he/she knows such conduct is likely to cause affront or alarm;

commits the unlawful act of public indecency and is subject to punishment pursuant to this Code.

(b) *Definitions.* For this Section of the Code the following terms are defined as follows:

Nude or nudity: The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a full opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.

(Code 1964, § 19-19; Ord. No. 2018 §1, 12-1-05)

State law reference—*Similar provisions, RSMo. § 566.130.*

Sec. 19-22. Promoting pornography in the second degree.

(a) *Definitions.* As used in this section:

Material: Anything printed or written, or any picture, drawing, photograph, motion picture film, or pictorial representation, or any statute or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication. "Material" includes undeveloped photographs, molds, printing plates and other latent representational objects.

Performance: Any play, motion picture film, videotape, dance or exhibition performed before an audience.

Pornographic: any material or performance is pornographic if, considered as a whole, applying contemporary community standards:

City of Bellefontaine Neighbors -- QuickCode

- (1) Its predominant appeal is to a prurient interest in sex; and
- (2) It depicts or describes sexual conduct in a patently offensive way; and
- (3) It lacks serious literary, artistic, political or scientific value.

In determining whether any material or performance is pornographic, it shall be judged with reference to its impact upon ordinary adults.

Promote: To manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

Sexual conduct: Act of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification.

Cross reference—Definitions and rules of construction generally, § 1-2.

(b) What constitutes. A person commits the offense of promoting pornography in the second degree if, knowing its content and character, he:

- (1) Promotes or possesses with the purpose to promote any pornographic material for pecuniary gain; or
- (2) Produces, presents, directs or participates in any pornographic performance for pecuniary gain.

(c) *Prohibited.* It shall be unlawful for any person to promote pornography in the second degree. (Code 1964, § 19-19)

State law reference—Similar provisions, RSMo. §§ 573.010(5), (8), (9), (11) and (13), 573.030.

Sec. 19-23. Invasion of privacy.

(a) As used in this Section, the following terms mean:

Full or partial nudity: The showing of all or any part of the human genitals or pubic area or buttock; or any part of the nipple of the breast of any female person, with less than a fully opaque covering.

Photographs or films: The making of any photographs, motion picture film, videotape, or any other recording or transmission of the image of a person.

City of Bellefontaine Neighbors -- QuickCode

Place where a person would have reasonable expectation of privacy: Any place where a reasonable person would believe that a person could disrobe in privacy, without being concerned that the person's undressing was being viewed surreptitiously, photographed or filmed by another.

Views: The looking upon of another person, with the unaided eye or with any device designed or intended to improve visual acuity, for the purpose of arousing or gratifying the sexual desire of any person.

(b) It shall be unlawful and a person shall commit the crime of invasion of privacy if such person:

- (1) Knowingly photographs or films another person, without the person's knowledge and consent, while the person being photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy, and the person subsequently distributes the photograph or film to another or transmits the image contained in the photograph or film in a manner that allows access to that image via a computer; or
- (2) Knowingly disseminates or permits the dissemination by any means, to another person, of a videotape, photograph, or film obtained in violation of subdivision (1), (3) or (4) of this subsection; or
- (3) Knowingly views, photographs or films another person, without that person's knowledge and consent, while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy; or
- (4) Knowingly uses a concealed camcorder or photographic or digital camera of any type to secretly videotape, photograph, or record by electronic means another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

(c) The provisions of subsection (b) of this section shall not apply to:

- (1) Viewing, photographing or filming by law enforcement officers during a lawful criminal investigation; or
- (2) Viewing, photographing or filming by law enforcement officers or by personnel of the department of corrections or of a local jail or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the department of corrections or the local jail or correctional facility.

(Ord. No. 1950 §1, 10-2-03)

Secs. 19-24—19-35. Reserved.

ARTICLE III. OFFENSES AGAINST PROPERTY

Sec. 19-36. Stealing.

(a) *Definitions.* As used in this section:

Appropriate: To take, obtain, use, transfer, conceal or retain possession of.

Coercion: A threat; however communicated:

- (1) To commit any crime; or
- (2) To inflict physical injury in the future on the person threatened or another; or
- (3) To accuse any person of any crime; or
- (4) To expose any person to hatred, contempt or ridicule; or
- (5) To harm the credit or business repute of any person; or
- (6) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or
- (7) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat.

Credit device: A writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

Dealer: A person in the business of buying and selling goods.

Deceit: Purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

City of Bellefontaine Neighbors -- QuickCode

Deprive means:

- (1) To withhold property from the owner permanently; or
- (2) To restore property only upon payment of reward or other compensation; or
- (3) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely.

Of another: Property or services is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

Property: Anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument.

Receiving: Acquiring possession, control or title or lending on the security of the property.

Services: Transportation, telephone, electricity, gas, water, cable television services, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles.

Writing: Printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

Cross reference—Definitions and rules of construction generally, § 1-2.

(b) *Prohibition.* A person commits the offense of stealing, which shall be unlawful, if he appropriates property or services of another with the purpose to deprive him thereof, either without his consent or by means of deceit or coercion. Evidence of the following is admissible in any prosecution under this section on the issue of the requisite knowledge or belief of the alleged stealer:

- (1) That he failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;
- (2) That he gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;
- (3) That he left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;
- (4) That he surreptitiously removed or attempted to remove his baggage from a hotel, inn or boardinghouse.

City of Bellefontaine Neighbors -- QuickCode

(c) *Exemptions.* This section shall not be applicable where:

- (1) Reserved;
- (2) The actor physically takes the property appropriated from the person of the victim; or
- (3) The property appropriated consists of:
 - a. Any motor vehicle, watercraft or air craft; or
 - b. Any will or unrecorded deed affecting real property; or
 - c. Any credit card or letter of credit; or
 - d. Any firearms; or
 - e. Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or
 - f. A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or
 - g. Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or
 - h. Any book of registration or list of voters required by RSMo., Chapter 115; or
 - i. Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or
 - j. Live fish raised for commercial sale with a value of seventy-five dollars (\$75.00); or
 - k. Any narcotic drugs as defined by RSMo., Section 195.010.

(Ord. No. 1046, §§ 2—3, 5-18-78; Ord. No. 1802, §1, 1-7-99)

State law references-Similar provisions, RSMo. §§ 570.010, 570.030.

Sec. 19-37.--19.37.1. Reserved.

Editor's Note--Ord. no. 2140 § 2, adopted August 5, 2010, repealed sections 19-37 "possession of marihuana" and 19-37.1 "drug paraphernalia prohibited" in their entirety. Former sections 19-37--19-37.1 derived from ord. no. 1102 §§ 1--2, 12-6-79; ord. no. 1953 § 1, 12-4-03. These sections have been reserved for the city's future use. Regulations concerning "possession of marijuana" can now be found at § 19-61 and "drug

City of Bellefontaine Neighbors -- QuickCode
paraphernalia prohibited" can be found at § 19-62.

Sec. 19-38. Trespass.

(a) No person shall knowingly enter unlawfully or knowingly remain unlawfully in any building or inhabitable structure or upon real property in the city.

(b) No person shall be guilty of violating this section by entering or remaining upon real property, unless such real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given either by actual communication to the defendant or by the posting of one (1) or more signs in a manner reasonably calculated to come to the attention of intruders stating that trespassing thereon is not allowed.

(c) For purposes of this section, a person enters unlawfully or remains unlawfully upon premises if he or she is not licensed or privileged to so enter or remain.
(Ord. No. 678, § 2, 8-17-67; Ord. No. 798, § 2, 8-30-71; Ord. No. 799, § 1, 8-30-71; Ord. No. 1390, § 1, 7-21-88)

Sec. 19-39. Passing bad checks.

(a) A person commits the offense of passing a bad check when, with purpose to defraud, he issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee.

(b) If the issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, this fact shall be prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.

(c) If the issuer has an account with the drawee, failure to pay the check or order within ten (10) days after notice in writing that it has not been honored because of insufficient funds or credit with the drawee is prima facie evidence of his purpose to defraud and of his knowledge that the check or order would not be paid.

(d) Notice in writing means notice deposited as first class mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check or to his last known address.

(e) The face amounts of any bad checks passed pursuant to one (1) course of conduct within any ten-day period, may be aggregated in determining the grade of the offense.

(f) This section shall not be applicable where:

(1) The face amount of the check or sight order or the aggregated amounts is five hundred fifty dollars (\$500.00) or more; or

City of Bellefontaine Neighbors -- QuickCode

- (2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued.

(g) It shall be unlawful for any person to pass a bad check.
(Ord. No. 1088, §§ 2, 2A, 6-7-79; Ord. No. 1931 §1, 12-19-02)

State law reference—Similar provisions, RSMo. § 570.120.

Sec. 19-40. Use of other than lawful coin in vending machine.

Any person who shall operate or cause to be operated or who shall attempt to operate or attempt to cause to be operated any lawful automatic vending machine, coin box telephone or other receptacle designed to receive lawful coins of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin or by any means, method, trick or device whatsoever, not lawfully authorized by the owner, lessee, or licensee of such machine, coin box telephone or receptacle or who shall take, obtain or receive from or in connection with any lawful automatic vending machine, coin box telephone or other receptacle designed to receive lawful coins of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value or the use or enjoyment of any telephone or telegraph facilities or service or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin box telephone or receptacle, lawful coin of the United States of America to the amount required thereof by the owner, lessee or licensee of such machine, coin box telephone or receptacle, shall be guilty of a misdemeanor, and punishable as provided in section 1-10 of this Code. (Ord. No. 1088, § 3, 6-7-79)

Sec. 19-41. Damage to property.

(a) It shall be unlawful for any person to:

- (1) Knowingly cause damage to the property of another; or
- (2) Damage any property for the purpose of defrauding an insurer; or
- (3) Tamper or interfere with the normal use or function of the property of another for the purpose of causing inconvenience to that person or to another; or
- (4) Tamper or make unauthorized connection with the property of a utility.

(b) A person does not commit the offense of property damage or tampering or interference with property as set forth above if such person does so under a claim of right and has reasonable grounds to believe that he or she has such right. The defendant shall have the burden of injecting the issue of a claim of right.

(Ord. No. 1391, § 1, 7-21-88)

Sec. 19-42. Failure to return leased or rented personal property; notice required, contents, exception, penalty.

(a) A person commits the offense of failing to return leased or rented property if, with the intent to deprive the owner of said property, he wilfully fails to return the leased or rented personal property within the time and to the place specified in a written agreement providing for the leasing or renting of such personal property.

(b) At trial for a violation of this section, it shall be prima facie evidence of the offense of failing to return leased or rented personal property that a person who has leased or rented personal property of another wilfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner within ten (10) days after proper notice following the expiration of the lease or rental agreement.

(c) Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that failure to return the property may subject the lessee to criminal prosecution.

(d) No person shall be guilty of failure to return leased or rented personal property if such property is a motor vehicle and a defect in such vehicle rendered the vehicle inoperable, thus causing the return of such vehicle to be made more difficult or expensive, if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement or within ten (10) days after proper notice of the expiration of said agreement.

(e) Any person convicted of violating this section shall be guilty of a misdemeanor and shall be punished as provided under section 1-10 of this Code of Ordinances.
(Ord. No. 1424, § 1, 7-20-89)

Sec. 19-43. Identity theft.

(a) A person commits the offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, possess, transfer or use, one or more means of identification not lawfully issued for his or her use. Any person accused of identity theft may be prosecuted in the municipal court provided:

- (1) The offense was committed wholly or partly within the City, or
- (2) The victim resides in the City, or
- (3) The property obtained, or attempted to be obtained, was located in the City.

(b) The term "means of identification" as used in this code includes, but is not limited to, the following:

City of Bellefontaine Neighbors -- QuickCode

- (1) Social Security numbers;
- (2) Driver's license numbers;
- (3) Checking account numbers;
- (4) Savings account numbers;
- (5) Credit card numbers;
- (6) Debit card numbers;
- (7) Personal identification (PIN) code;
- (8) Electronic identification numbers;
- (9) Digital signatures;
- (10) Any other numbers or information that can be used to access a person's financial resources;
- (11) Biometric data;
- (12) Fingerprints;
- (13) Passwords;
- (14) Parent's legal surname prior to marriage;
- (15) Passports; or
- (16) Birth certificates.

(c) Any person convicted of committing an offense established by this section shall be subject to punishment as follows:

- (1) If the offense does not result in the theft or appropriation of credit, money, goods, services, or other property, the person shall be punished by a fine not to exceed \$500.00, by imprisonment not to exceed 90 days, or both.
- (2) If the offense results in the theft or appropriation of credit, money, goods, services, or other property, the person shall be punished by a fine not to exceed \$1,000.00, by imprisonment not to exceed 90 days, or both.

(d) In addition to the punishment under subsection (c) of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

- (1) In clearing the credit history or credit rating of the victim; and
- (2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

City of Bellefontaine Neighbors -- QuickCode

- (e) This section shall not apply to the following activities:
- (1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;
 - (2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;
 - (3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
 - (4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.

(f) Nothing herein contained shall be construed as preventing or limiting the right of an identity theft victim to recover civil damages and attorneys' fees as allowed by Section 570.223 of the Revised Statutes of the State of Missouri.
(Ord. No. 1987, § 1, 9-16-04)

Sec. 19-44. Trafficking in stolen identities.

(a) A person commits the offense of trafficking in stolen identities when such person manufactures, sells, transfers, purchases, or possesses with intent to sell or transfer means of identification or identifying information for the purpose of committing identity theft.

(b) Unauthorized possession of means of identification of five or more separate persons shall be evidence that the identities are possessed with intent to manufacture, sell, or transfer means of identification or identifying information for the purpose of committing identity theft. In determining possession of five or more identification documents of the same person or possession of identifying information of five or more separate persons for the purposes of evidence pursuant to this subsection, the following do not apply:

- (1) The possession of his or her own identification documents;
- (2) The possession of the identification documents of a person who has consented to the person at issue possessing his or her identification documents.

(c) Any person convicted of committing an offense established by this section shall be subject to a fine not to exceed \$1,000.00, by imprisonment not to exceed 90 days, or both.

- (d) This section shall not apply to the following activities:
- (1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;

City of Bellefontaine Neighbors -- QuickCode

- (2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;
 - (3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
 - (4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.
- (Ord. No. 1987, § 1, 9-16-04)

Secs. 19-45—19-55. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Sec. 19-56. Electric fences.

Electrically charged fences are prohibited within the city.
(Code 1964, § 19-9)

Cross reference—Building and building regulations regarding fences and similar structures, § 5-51 et seq.

State law reference—Authority of city to regulate fences, RSMo. § 79.400.

Sec. 19-57. Excavation, opening, etc.; to be covered after certain time.

No person who has excavated any opening in the ground in excess of a depth of three (3) feet and no owner of the land upon which the opening may be located shall permit the same to be and remain uncovered for any period in excess of thirty (30) days. No person shall cause or permit a foundation to remain open or permit the open spaces therein to remain uncovered when no work shall have been done toward completion of the building for thirty (30) days prior thereto.
(Code 1964, § 19-10)

Cross reference—Street and sidewalk excavations, § 23-46 et seq.

Sec. 19-58. Abandonment of airtight or semi-airtight containers.

(a) A person commits the offense of abandonment of airtight icebox if he abandons, discards, or knowingly permits to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semi-airtight container which has a

City of Bellefontaine Neighbors -- QuickCode

capacity of one and one-half (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.

(b) Paragraph (a) of this section does not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouseman or repairman.

(c) The defendant shall have the burden of injecting the issue under paragraph (b) of this section.

(d) It shall be unlawful for any person to abandon an airtight icebox.
(Code 1964, § 19-17)

Cross reference—Minors, Ch. 16.

State law reference—Similar provisions, RSMo. § 577.100.

Sec. 19-59. Warning lights in streets; unauthorized removal, etc.

No person, without authority, shall remove, break or extinguish any lantern or danger signal which has been placed on any street or alley to protect the lives and property of others from injury or accident.
(Code 1964, § 19-34)

Sec. 19-60. Glass containers in parks prohibited.

It shall be unlawful for any person to bring any glass beverage container into or upon the premises of any park or recreational facility operated by the city, or to have in his or her possession any such container while in or upon any such premises or facility.
(Ord. No. 1615, § 1, 7-7-94)

Sec. 19-61. Possession of marijuana.

(a) As used in this Section, "marijuana" means all parts of the plant genus Cannabis in any species or form thereof, including, but not limited to, Cannabis Sativa L., Cannabis Indica, Cannabis Americana, Cannabis Ruderalis and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

(b) It shall be unlawful for any person within the City to grow, cultivate, process, possess, have

City of Bellefontaine Neighbors -- QuickCode

under his control or compound thirty-five (35) grams or less of the plant Cannabis Sativa L. (commonly known as marijuana).

(Ord. No. 2140 §1, 8-5-10)

Sec. 19-62. Drug paraphernalia prohibited.

(a) As used in this Section, "*drug paraphernalia*" shall mean all equipment, products, substances and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of Sections 195.005 to 195.425, RSMo., 2000. The term shall include all items and considerations specified in Section 195.010, RSMo., 2000.

(b) It is unlawful for any person to use, or to possess 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 Sections 195.005 to 195.425, RSMo., 2000.

(c) It is unlawful for any person to deliver, possess with intent to deliver or manufacture 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 Sections 195.005 to 195.425, RSMo., 2000. Possession of more than twenty-four (24) grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this Subsection. This Subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.
(Ord. No. 2140 §1, 8-5-10)

Sec. 19-63. Prohibiting the possession, sale or offering for sale of products containing synthetic cannabinoids.

(a) *Definitions.* As used in this Section, the following terms shall have these prescribed meanings:

Person: An individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.

Illegal smoking product: Any controlled substance, controlled substance analogue, counterfeit substance, imitation controlled substance and synthetic cannabinoid as those terms are defined by Section 195.010, RSMo.

(b) *Unlawful to Sell, Offer, Gift or Display.* Except as authorized by Sections 195.005 to 195.425, RSMo., it shall be unlawful for any person to sell, offer to sell, gift or publicly display for sale

any illegal smoking product.

- (c) *Possession Prohibited.* Except as authorized by Sections 195.005 to 195.425, RSMo., the possession of any illegal smoking product by any person is hereby prohibited.
(Ord. No. 2140 §1, 8-5-10; Ord. No. 2233 §1, 11-15-12)

Sec. 19-64. Possession, distribution or delivery of MDPV prohibited.

- (a) For purposes of this section, the following words mean:

Deliver: The actual, constructive, or attempted transfer from one person to another of MDPV, whether or not there is an agency relationship, and includes a sale;

Distribute: To deliver other than by administering or dispensing MDPV;

MDPV: Includes any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers of 3,4-Methylenedioxypiperone, Mephedrone, 4-methoxymethcathinone, 4-Fluoromethcathinone, and 3-Fluoromethcathinone; and

Possess: Means with the knowledge of the presence and nature of a substance, either actually or constructively in control of a substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it.

- (b) It shall be unlawful for any person to possess, distribute or deliver any substance containing MDPV.

(Ord. No. 2169 §1, 5-5-11)

Secs. 19-65—19-75. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE

DIVISION 1. GENERALLY

Sec. 19-76. Peace disturbance.

A person commits the crime of peace disturbance if:

- (1) He/she unreasonably and knowingly disturbs or alarms another person or persons by:

City of Bellefontaine Neighbors -- QuickCode

- a. Loud noise; or
 - b. Offensive and indecent language which is likely to produce an immediate, violent response from a reasonable recipient; or
 - c. Threatening to commit a crime against any person if such threats are communicated in such a fashion or under such circumstances as would lead a reasonable person to believe that criminal activity may be imminent or that a substantial likelihood of such criminal conduct exists, and such a threat is likely to produce an immediate and violent response from a reasonable recipient; or
 - d. Fighting; or
 - e. Creating a noxious and offensive odor; or
- (2) He/she is in a public place, or on private property of another without consent, and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
- a. Vehicular or pedestrian traffic; or
 - b. The free ingress or egress to or from a public or private place.
- (Code 1964, § 19-7; Ord. No. 1239, § 1, 6-21-84; Ord. No. 1415, § 1, 6-1-89)

State law reference—Similar provisions, RSMo. § 574.010.

Sec. 19-77. Unlawful assembly.

A person commits the crime of unlawful assembly if he knowingly assembles with six (6) or more other persons and agrees with such persons to violate any of the criminal laws of this state or of the United States with force or violence.
(Code 1964, § 19-30)

State law reference—Similar provisions, RSMo § 574.040.

Sec. 19-78. Misuse of 911 emergency telephone services.

- (a) *Definitions.* As used in this section, the following terms shall have the meanings and definitions hereinafter provided:

Emergency: Any incident involving danger to life or property that calls for an emergency response dispatch of police, fire, EMS, or other public safety organization.

Misuse of 911 emergency telephone service: Calling "911" for a situation that is not an emergency, causing dispatchers, operators or equipment to be in use for such non-emergency situations.

City of Bellefontaine Neighbors -- QuickCode

Repeatedly: Three (3) or more times within a thirty-day period.

- (b) It shall be unlawful for any person to repeatedly misuse the 911 emergency telephone service.
- (c) It shall be unlawful for any person to misuse the 911 emergency telephone service after receiving a written warning regarding the misuse of the 911 system from police or emergency personnel, regardless of the number of calls during any one period of time.

(Ord. No. 2172 §1, 5-19-11)

Secs. 19-79—19-90. Reserved.

DIVISION 2. NOISE

Sec. 19-91. Generally.

The creation of any unreasonably loud, disturbing or unnecessary noise in the city is prohibited. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

- (1) *Horns, signals, etc.* The sounding of any horn or signal device on any motor bus, motorcycle, automobile or other vehicle while not in motion on a public street or highway, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion, the excessive or prolonged sounding except only as a danger signal, after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary or unreasonable period of time.
- (2) *Radio, phonograph, etc.* The playing of any radio, phonograph, loudspeaker, sound amplifier, musical instrument or other device in such manner or with such volume which would reasonably annoy or disturb the peace, quiet, comfort or repose of persons located outside the structure, vehicle or premises where the noise is generated; provided that any such noise that can be distinctly heard at a distance of more than one hundred (100) feet from its source shall be deemed unreasonably loud, disturbing and unnecessary.
- (3) *Animals and fowl.* Any animal, bird or fowl which by causing frequent or long continued noise shall tend to disturb the comfort and repose of any person in the vicinity; provided that any such noise that can be distinctly heard at a distance of more than one hundred (100) feet from its source shall be deemed excessive.
- (4) *Vehicles.* The use of any automobile, motorcycle, streetcar or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

City of Bellefontaine Neighbors -- QuickCode

- (5) *Whistles and sirens.* The blowing of any steam whistle attached to any stationary boiler, or any other whistle or siren, except to give notice of the time to begin or stop work or as a warning of danger; or the use of steam under pressure for cleaning purposes in any establishment between the hours of 10:00 p.m. and 7:00 a.m., when the windows of such establishment are open.
- (6) *Blow-off, exhaust, etc.* The discharge into the open air of the blow-down of any steam engine or of the exhaust of any stationary internal combustion engine or motor vehicle, or of the escape valve from the unloader of any air compressor except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) *Construction on Sunday.* The erection (including excavating), demolition, alteration or repair of any building or other structure on Sunday, except in case of urgent necessity from the city engineer, which permit may be renewed for a period of three (3) days or less while the emergency continues.
- (8) *Hospitals, churches, schools.* The creation of any excessive or unnecessary noise within one hundred fifty (150) feet of any portion of the grounds and premises on which is located a hospital or other institution reserved for the sick, or any church or any school or other institution of learning, which unreasonably interferes with the proper functioning of any such place; provided that conspicuous signs are placed in the public highways indicating the zones within which such noises are prohibited. The police department is authorized to cause to be placed as many signs as it may deem necessary to properly indicate such quiet zones and to call attention to the prohibition against excessive or unnecessary noises within such zones.
- (9) *Sound trucks, advertising, etc.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise, or for advertising purposes.
- (10) *Construction equipment and yard maintenance equipment.* The use, between the hours of 10:00 p.m. and 7:00 a.m., of construction equipment such as power saws, power hammers, drills, and similar loud power tools; or lawnmowers, grass trimmers, chain saws, shredders, or similar yard or exterior maintenance equipment powered by internal combustion engines; or the use of leaf or grass blowers or yard vacuums powered by internal combustion or electric engines.
(Code 1964, § 19-21; Ord. No. 1506, § 1, 2-2-92; Ord. No. 1773, § 1, 5-21-98)

State law reference—Authority of city to restrain and prohibit noises, disturbances, etc., RSMo § 79.450.

Sec. 19-92. Marching, playing of instruments in streets, etc.

(a) It shall be unlawful for any procession or body of persons accompanied with martial music to march or pass through, or for any person to play any musical instrument in any of the streets of the city within one (1) block of any house of worship on Sunday during the hours of worship. It shall be unlawful for any band of music to play in the streets for any procession with advertising devices or to move on the streets without a permit from the police department.

(b) No person shall carry about the streets, alleys or other public highways of the city any hand organ or other musical instrument for the purpose of playing music thereon for gain; provided that, this section shall not be construed to refer to music required for a military parade, funeral or other procession, or serenading party in possession of a proper permit therefor.
(Code 1964, § 19-22)

Sec. 19-93. Use of bell, etc., to attract persons to auction, etc.

No person shall use or cause to be used any bell or other sounding instrument as a means of attracting persons to an auction or other place of business.
(Code 1964, § 19-23)

Secs. 19-94—19-105. Reserved.

ARTICLE VI. OFFENSES AGAINST THE PERSON

Sec. 19-106. Assault in the third degree.

(a) A person commits the offense of assault in the third degree if:

- (1) He attempts to cause or recklessly causes physical injury to another person; or
- (2) With criminal negligence he causes physical injury to another person by means of a deadly weapon; or
- (3) He purposely places another person in apprehension of immediate physical injury; or
- (4) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or
- (5) He knowingly causes physical contact with another person knowing that other person will regard the contact as offensive or provocative.

(b) It shall be unlawful for any person to commit an act of assault in the third degree.
(Code 1964, § 19-2)

Secs. 19-107—19-120. Reserved.

Editor's note--Ord. No. 2000 § 1, adopted April 7, 2005, repealed section 19-107

City of Bellefontaine Neighbors -- QuickCode
"domestic abuse" in its entirety. Former § 19-107 derived from ord. no. 1442,
§ 1, 12-7-89.

ARTICLE VII. WEAPONS

Editor's Note—Section 1 of Ord. No. 1597, adopted Apr. 21, 1994, amended this article to read as set out in §§ 19-121--19-130. The article formerly consisted of §§19-121, 19-122 and was derived from Code 1964, §§ 19-12, 19-13.

Sec. 19-121. Definitions.

As used in this article, the following terms shall have the meanings indicated herein:

Antique, curio or relic firearm: Any firearm so defined by the National Gun Control Act, 18 U.S.C. Title 26, Section 5845, and the United States Treasury/Bureau of Alcohol, Tobacco and Firearms, 27 CFR Section 178.11:

- (1) *Antique firearm:* Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof.
- (2) *Curio or relic firearm:* Any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or at least fifty (50) years old, associated with a historical event, renown personage or major war.

Blackjack: Any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use.

Concealable Firearm: Any firearm with a barrel less than sixteen (16) inches in length, measured from the face of the bolt or standing breech.

Deface: To alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark.

Explosive Weapon: Any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon.

Firearm: Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

Firearm Silencer: Any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

City of Bellefontaine Neighbors -- QuickCode

Gas Gun: Any gas ejection device, weapon, cartridge, container or contrivance other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellant or temporary incapacitating substance.

Intoxicated: Substantially impaired mental or physical capacity resulting from the introduction of any substance into the body.

Knife: Any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purpose of this chapter, "knife" does not include any ordinary pocketknife with no blade more than four (4) inches in length.

Knuckles: Any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

Machine Gun: Any firearm that is capable of firing more than one (1) shot automatically, without manual reloading, by a single function of the trigger.

Projectile Weapon: Any bow, crossbow, pellet gun, slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.

Rifle: Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

Short Barrel: A barrel length of less than sixteen (16) inches for a rifle and eighteen (18) inches for a shotgun, or an overall rifle or shotgun length of less than twenty-six (26) inches.

Shotgun: Any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth-bore barrel by a single function of the trigger.

Spring Gun: Any fused, timed or non-manually-controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

Switchblade Knife: Any knife which has a blade that folds or closes into the handle or sheath, and:

(1) That opens automatically by pressure applied to a button or other device located on the handle;
or

(2) That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

(Ord. No. 1597, § 1, 4-21-94; Ord. No. 1960 §1, 3-4-04)

Sec. 19-122. Possession, manufacture, transport, repair, sale, of certain weapons.

City of Bellefontaine Neighbors -- QuickCode

(a) It shall be unlawful for any person to knowingly possess, manufacture, transport, repair, or sell:

- (1) An explosive weapon;
- (2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;
- (3) A machine gun;
- (4) A gas gun;
- (5) A short-barreled rifle or shotgun;
- (6) A firearm silencer;
- (7) A switchblade knife;
- (8) A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or
- (9) Knuckles.

(b) A person does not violate this section if his conduct:

- (1) Was incident to the performance of official duty by the Armed Forces, National Guard, a governmental law enforcement agency, or a penal institution; or
- (2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subdivision (1) of this subsection; or
- (3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or
- (4) Was incident to displaying the weapon in a public museum or exhibition; or
- (5) Was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is the type described in subdivision (1), (4) or (6) of subsection (a) of this section, it must be in such a non-functioning condition that it cannot readily be made operable. No short-barreled rifle, short-barreled shotgun, or machine gun may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C. Title 18, or unless such firearm is an "antique firearm" as defined in Subsection (3) of Section 571.080, RSMo., or unless such firearm has been designated a "collector's item" by the secretary of the treasury pursuant to the U.S.C. Title 26, Section 5845(a). (Ord. No.

Sec. 19-123. Unlawful use of weapons; exceptions.

- (a) A person commits the crime of unlawful use of weapons if he or she knowingly:
- (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or
 - (2) Sets a spring gun; or
 - (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in Section 302.010, RSMo., or any building or structure used for the assembling of people; or
 - (4) Exhibits, in the presence of one (1) or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or
 - (5) Possesses or discharges a firearm or projectile weapon while intoxicated; or
 - (6) Discharges a firearm within one hundred (100) yards of any occupied schoolhouse, courthouse, or church building; or
 - (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or
 - (8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government or political subdivision thereof; or
 - (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in Section 301.010, RSMo., discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or
 - (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

(b) Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection (a) of this section shall not apply to or affect any of the following:

- (1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
- (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

City of Bellefontaine Neighbors -- QuickCode

- (3) Members of the armed forces or national guard while performing their official duty;
- (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
- (5) Any person whose bona fide duty is to execute process, civil or criminal;
- (6) Any federal probation officer;
- (7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;
- (8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340, RSMo.; and
- (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner.

(c) Subdivisions (1), (5), (8), and (10) of subsection (a) of this section do not apply when the actor is transporting such weapons in a non-functioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection (a) of this section does not apply to any person twenty-one (21) years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this State. Subdivision (10) of subsection (a) of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

(d) Subdivisions (1), (8) and (10) of subsection (a) of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo., or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

(e) Subdivisions (3), (4), (5), (6), (7), (8), (9) and (10) of subsection (a) of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031, RSMo.

(f) Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

(g) Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection (a) of this section shall be subject to the same penalty as that prescribed by this section for

violations by other persons. (Ord. No. 1597, § 1, 4-21-94; Ord. No. 1960 §3, 3-4-04)

Sec. 19-124. Defacing firearm; possession of a defaced firearm.

(a) It shall be unlawful for any person to knowingly deface a firearm.

(b) It shall be unlawful for any person to knowingly be in possession of a firearm which has been defaced.

(Ord. No. 1597, § 1, 4-21-94)

Sec. 19-125. Unlawful transfer of weapons.

A person commits the crime of unlawful transfer of weapons if he:

- (1) Knowingly, sells, leases, loans, gives away or delivers a firearm or ammunition for a firearm to any person who, under the provisions of RSMo. section 571.070, is not lawfully entitled to possess such;
- (2) Knowingly sells, leases, loans, gives away or delivers a blackjack to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian, or recklessly, as defined in RSMo. section 562.016, sells, leases, loans, gives away or delivers any firearm to a person less than eighteen (18) years old without the consent of the child's custodial parent or guardian; provided, that this does not prohibit the delivery of such weapons to any peace officer or member of the armed forces or national guard while performing his official duty; or
- (3) Recklessly, as defined in RSMo. section 562.016, sells, leases, loans, gives away or delivers a firearm or ammunition for a firearm to a person who is intoxicated.

(Ord. No. 1597, § 1, 4-21-94)

Sec. 19-126. Possession of concealable firearm unlawful for certain persons.

A person commits the crime of unlawful possession of a concealable firearm if he has any concealable firearm in his possession and:

- (1) He has pled guilty to or has been convicted of a dangerous felony, as defined in RSMo. section 556.061, or of any attempt to commit a dangerous felony, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a dangerous felony, or confined therefor in this state or elsewhere during the five year period immediately preceding the date of such possession; or
- (2) He is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

Sec. 19-127. Carrying concealed firearms prohibited; penalty for violation.

Editor's Note--Ord. no. 1960 §4, adopted March 4, 2004, repealed section 19-127 "unlawful transportation or carrying of certain firearms, weapons or air guns" and enacted the new provisions set out herein. Former section 19-127 derived from ord. no. 1597 §1, 4-21-94.

(a) It shall be a violation of this section, punishable as hereinafter provided, for any person to carry any concealed firearm into:

- (1) Any police, sheriff or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (2) Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution, prison or jail shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (4) Any courthouse, courtrooms, administrative offices, libraries or other rooms of any court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by court rule pursuant to state law. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of subsection (2) of section 571.030, RSMo., while within their jurisdiction and on duty, those persons listed in subdivisions (2) and (4) of subsection (2) of section 571.030, RSMo., or such other persons who serve in a law enforcement capacity for a court as may be specified by court rule pursuant to state law, from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (5) Any meeting of the Bellefontaine Neighbors board of aldermen. Possession of a firearm in a vehicle on the premises shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

City of Bellefontaine Neighbors -- QuickCode

- (6) Any building owned, leased or controlled by the city of Bellefontaine Neighbors identified by signs posted at the entrance to the building. This subdivision shall not apply to any building used for public housing by private persons, highways or rest areas, firing ranges and private dwellings owned, leased or controlled by the city of Bellefontaine Neighbors. Persons violating this subdivision may be denied entrance to the building, ordered to leave the building and, if employees of the city, be subjected to disciplinary measures for violation;
- (7) Any establishment licensed to dispense intoxicating liquor or non-intoxicating beer for consumption on the premises, which portion is primarily devoted to that purpose without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one percent (51%) of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;
- (8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (9) Any place where the carrying of a firearm is prohibited by federal law;
- (10) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (11) Any portion of a building used as a child care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a driver's license or non-driver's license containing a concealed carry endorsement;
- (12) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (13) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (14) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one (1) or more signs displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than

City of Bellefontaine Neighbors -- QuickCode

one (1) inch. The owner, business or commercial lessee, manager of a private business enterprise or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(15) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a violation so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

(b) Any other provisions of this article to the contrary notwithstanding, any person violating any of the provisions of subsection (a) of this section shall be punished as follows:

(1) If the violator holds concealed carry endorsement issued pursuant to state law, the violator may be subject to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars (\$100.00) for the first (1st) offense. If a second (2nd) citation for a similar violation occurs within a six (6) month period, such person shall be fined an amount not to exceed two hundred dollars (\$200.00). If a third (3rd) citation for a similar violation is issued within one (1) year of the first (1st) citation, such person shall be fined an amount not to exceed five hundred dollars (\$500.00). Upon conviction of charges arising from a citation issued pursuant to this section, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue.

(2) If the violator does not hold a current valid concealed carry endorsement issued pursuant to state law, upon conviction of a charge of violating this section the defendant shall be punished as provided in section 1-10* of this Code of Ordinances.

(c) It shall be a violation of this section, punishable by a citation for an amount not to exceed thirty-five dollars (\$35.00), for any person issued a concealed carry endorsement pursuant to state law to fail to carry the concealed carry endorsement at all times the person is carrying a concealed firearm, or to fail to display the concealed carry endorsement upon the request of any peace officer. (Ord. No. 1960 §4, 3-4-04)

**Editor's Note--In the original ordinance this read 100.060.*

Sec. 19-128. Discharge of firearms, weapons or air guns a crime.

City of Bellefontaine Neighbors -- QuickCode

Notwithstanding any other ordinance or law to the contrary, it shall be unlawful for any person to knowingly fire or discharge any firearm, weapon or air gun within the city.

(Ord. No. 1597, § 1, 4-21-94)

Sec. 19-129. Penalties.

Any person convicted of violating any of the provisions of this article shall be punished as provided in section 1-10 of this Code of Ordinances.

(Ord. No. 1597, § 1, 4-21-94)

Sec. 19-130. Permits for shooting galleries.

Nothing contained in this article shall be construed to prohibit the carrying on or conducting of a shooting gallery or shooting contest where firearms are used, provided a permit is first obtained from the chief of police. In issuing such a permit, the chief of police shall examine the place where such shooting gallery or shooting contest is proposed to be held, the conditions under which it is to be conducted, and the precautions proposed to be taken, and shall only issue the same if he is satisfied that due regard will be had for the safety of persons and property.

(Ord. No. 1597, § 1, 4-21-94; Ord. No. 1874 § 1, 2-15-01)

Secs. 19-131—19-139. Reserved.

ARTICLE VIII. DOMESTIC AND FAMILY VIOLENCE

Sec. 19-140. Construction.

This Article is to be construed to promote:

(1) The protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner;

(2) The prevention of future violence in all families; and

(3) Batterer accountability.

(Ord. No. 2000, § 2, 4-7-05)

Sec. 19-141. Definitions, general.

Unless the context otherwise requires, as used in this Article, the following terms shall mean:

City of Bellefontaine Neighbors -- QuickCode

Abuse. When used in regard to acts of domestic violence between adults, includes but is not limited to the occurrence of any of the following acts, attempts, or threats against a person who may be protected under a valid protective order issued by the State of Missouri or any other state within the United States:

- (1) *Assault.* Purposely or knowingly placing or attempting to place another in fear of physical harm.
- (2) *Battery.* Purposely or knowingly causing physical harm to another with or without a deadly weapon.
- (3) *Coercion.* Compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage.
- (4) *Harassment.* Engaging in a purposeful or knowingly course of conduct involving more than one (1) incident that alarms or causes distress to another person and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:
 - (a) Following another about in a public place or places;
 - (b) Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity.
- (5) *Sexual assault.* Causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress.
- (6) *Unlawful imprisonment.* Holding, confining, detaining or abducting another person against that person's will.

Abuse. When used in regard to acts of domestic violence against a child, means any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child. Discipline, including spanking, administered in a reasonable manner shall not be construed to be abuse.

Adult. Any person eighteen (18) years of age or older or otherwise emancipated.

Adult household member. Any person eighteen years of age or older, or an emancipated child, who resides with a child in the same dwelling unit.

Child. Any person under eighteen years of age.

Court. The circuit or associate circuit judge or a family court commissioner.

Domestic or family violence. Occurs when a family or household member commits one or more of the following against another family or household member: assault; theft, destruction, damage or vandalism of property; peace disturbance; trespass; domestic stalking, as defined in this Article; domestic harassment, as defined in this Article; domestic tampering, as defined in this Article, or violation of an order of protection; provided, however, that acts of self-defense are not included.

City of Bellefontaine Neighbors -- QuickCode

Ex parte order of protection. An order of protection issued by a court before the respondent has received notice of the petition or an opportunity to be heard on it.

Family or household members. Include:

- (1) Persons who are current or former spouses;
- (2) Persons who live together or who have lived together;
- (3) Persons who are dating or who have dated;
- (4) Persons who are or have been in a continuing social relationship of a romantic nature or who are engaged in or who have engaged in a sexual relationship;
- (5) Persons who are related by blood or adoption;
- (6) Persons who are related or formerly related by marriage;
- (7) Persons who have a child in common.

Full order of protection. An order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard.

Order of protection. Either an ex parte order of protection or a full order of protection.

Petitioner. A family or household member or a person who has been the victim of domestic violence who has filed a verified petition under the provisions of Chapter 455, RSMo.

Respondent. The family or household member or person alleged to have committed an act of domestic violence, against whom a verified petition has been filed under the provisions of Chapter 455, RSMo.

Stalking. When an adult purposely and repeatedly engages in an unwanted course of conduct with regard to a child that causes another adult to believe that a child would suffer alarm by the conduct, or when an adult purposely and repeatedly engages in an unwanted course of conduct that causes another alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct. As used in this subdivision:

- (1) *Course of conduct.* A pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact.
 - (2) *Repeated.* Two (2) or more incidents evidencing a continuity of purpose.
 - (3) *Alarm.* To cause fear of danger of physical harm.
- (Ord. No. 2000, § 2, 4-7-05)

Sec. 19-142. Prohibited conduct with regard to ex parte or full orders of protection.

(a) Violation of the terms and conditions of an ex parte order of protection of which the respondent has notice, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit, is hereby prohibited.

(b) Violation of the terms and conditions of a full order of protection, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit, is hereby prohibited.

(c) Violation of the terms and conditions of an ex parte order of protection of which the respondent has notice for a child, with regard to abuse, child custody, or entrance upon the premises of the victim's dwelling unit, is hereby prohibited.

(d) Violation of the terms and conditions of a full order of protection for a child, regarding abuse, child custody or entrance upon the premises of the petitioner's dwelling unit, is hereby prohibited.
(Ord. No. 2000, § 2, 4-7-05)

Sec. 19-143. Reports of domestic or family violence or violation of orders of protection and arrest therefor.

(a) When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to an offense involving domestic violence 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.

(b) When an officer declines to make arrest pursuant to this section, 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.

(c) 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 of law amounting to an offense involving domestic violence against a family or household member against the same or any other family or household member, 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.

(d) When a law enforcement officer has probable cause to believe that a party, against whom an order of protection has been entered and who has notice of such order being 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.

City of Bellefontaine Neighbors -- QuickCode

(e) When an officer makes an arrest, he is not required to arrest two (2) 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 he or she 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 of domestic violence from continuing abuse;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury or harm;
- (3) The history of domestic violence between the persons involved.

(f) No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all parties for the purpose of discouraging requests of law enforcement intervention by any party.

Where complaints are received from two (2) or more opposing parties, the officer shall evaluate each complaint separately to determine whether he or she should apply for issuance of charges. No law enforcement officer shall base the decision to arrest or not to arrest on the specific request or consent of the victim or the officer's perception of the willingness of a victim or of a witness to the domestic or family violence to testify or otherwise participate in a judicial proceeding.

(g) 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.

(h) 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.

(i) 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.

(j) Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering.

(k) Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

(Ord. No. 2000, § 2, 4-7-05)

Sec. 19-144. Domestic harassment.

No person shall, for the purpose of frightening or disturbing another family or household member:

City of Bellefontaine Neighbors -- QuickCode

- (a) Communicate in writing or by telephone a threat to commit any felony or act of violence; or
 - (b) Make a telephone call or communicate in writing and use coarse language offensive to one of average sensibility; or
 - (c) Make a telephone call anonymously; or
 - (d) Make repeated telephone calls to the same person or telephone number.
- (Ord. No. 2000, § 2, 4-7-05)

Sec. 19-145. Domestic stalking.

- (a) As used in this section, the following terms shall mean:

Course of conduct. A pattern of conduct composed of a series of acts, which may include electronic or other communications, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct." Such constitutionally protected activity includes picketing or other organized protests.

Credible threat. A threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause physical injury to, a person and may include a threat communicated to the targeted person in writing, including electronic communications, by telephone, or by posting of a site or message that is accessible via computer.

Harasses. To engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person.

- (b) Any person who purposely and repeatedly harasses or follows with the intent of harassing another family or household member commits the violation of stalking, which is hereby prohibited.

- (c) Any person who purposely and repeatedly harasses or follows with the intent of harassing another family or household member or harasses another family or household member, and makes a credible threat with the intent to place that person in reasonable fear of death or serious physical injury commits the violation of aggravated stalking, which is hereby prohibited.
- (Ord. No. 2000, § 2, 4-7-05)

Sec. 19-146. Domestic tampering, witness or victim.

- (a) A person commits the offense of domestic witness tampering if, with a purpose to induce a witness who is a family or household member or a prospective witness who is a family or household member in an official proceeding to disobey a subpoena or other legal process, or to absent himself or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he:

City of Bellefontaine Neighbors -- QuickCode

- (1) Threatens or causes harm to any person or property; or
- (2) Uses force, threats or deception; or
- (3) Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
- (4) Conveys any of the foregoing to another in furtherance of a conspiracy.

(b) A person commits the violation of domestic victim tampering if, with a purpose to do so, he prevents or dissuades or attempts to prevent or dissuade any person who is a family or household member who has been a victim of any ordinance violation or a person who is acting on behalf of any such victim from:

- (1) Making any report of such victimization to any peace officer, or state, local or federal law enforcement officer or prosecuting agency or to any judge;
- (2) Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof;
- (3) Arresting or causing or seeking the arrest of any person in connection with such victimization.

(Ord. No. 2000, § 2, 4-7-05)

Sec. 19-147. Law enforcement officer may seize weapons.

Incident to an arrest for a crime involving domestic or family violence, a law enforcement officer:

- (a) May seize all weapons that are alleged to have been involved or threatened to be used in the commission of a crime.
- (b) May seize a weapon that is in plain view of the officer or was discovered pursuant to a consensual search, as necessary for the protection of the officer or other persons.

(Ord. No. 2000, § 2, 4-7-05)

Sec. 19-148. Advocate--victim privilege applicable in cases involving domestic or family violence.

(a) Except as otherwise provided in subsection (b) below, a victim of domestic or family violence may refuse to disclose, and may prevent an advocate from disclosing, confidential oral communication between the victim and the advocate and written records and reports concerning the victim if the privilege is claimed by:

- (1) The victim; or
- (2) The person who was the advocate at the time of the confidential communication, except that the advocate may not claim the privilege if there is no victim in existence or if the privilege

City of Bellefontaine Neighbors -- QuickCode
has been waived by the victim.

(b) The privilege does not relieve a person from any duty imposed pursuant to state laws regarding reporting child abuse or neglect. A person may not claim the privilege when providing evidence in proceedings concerning child abuse or neglect pursuant to state law.

(c) As used in this section, "advocate" means an employee of or volunteer for a program for victims of domestic or family violence who:

(1) Has a primary function of rendering advice, counseling, or assistance to victims of domestic or family violence; supervising the employees or volunteers of the program; or administering the program;

(2) Works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program.

(Ord. No. 2000, § 2, 4-7-05)

Sec. 19-149. Conditions of probation for perpetrator convicted of crime involving domestic or family violence; required reports by probation department.

(a) Before placing a perpetrator who is convicted of an offense involving domestic or family violence on probation, the court shall consider the safety and protection of the victim of domestic or family violence and any member of the victim's family or household.

(b) The court may condition the suspension of sentence or granting of probation to a perpetrator on compliance with one or more orders of the court, including but not limited to:

(1) Enjoining the perpetrator from threatening to commit or committing acts of domestic or family violence against the victim or other family or household member.

(2) Prohibiting the perpetrator from harassing, annoying, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly.

(3) Requiring the perpetrator to stay away from the residence, school, place of employment, or a specified place frequented regularly by the victim and any designated family or household member.

(4) Prohibiting the perpetrator from possessing or consuming alcohol or controlled substances.

(5) Prohibiting the perpetrator from using or possessing a firearm or other specified weapon.

(6) Directing the perpetrator to surrender any weapons owned or possessed by the perpetrator.

(7) Directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment; and/or an evaluation for such intervention or treatment.

City of Bellefontaine Neighbors -- QuickCode

- (8) Directing the perpetrator to pay restitution to the victim.
 - (9) Imposing any other condition necessary to protect the victim of domestic or family violence and any other designated family or household member or to rehabilitate the perpetrator.
- (c) The perpetrator shall be responsible for the costs related to fulfilling any condition of probation, and such costs may be taxed as additional court costs.
- (d) The court may establish policies and procedures for responding to reports of nonattendance or noncompliance by a perpetrator with the conditions of probation imposed pursuant to subsection (b), including requiring compliance reviews and any violations may serve as a basis for revoking probation. (Ord. No. 2000, § 2, 4-7-05)

Chapter 20 -- PLUMBING

Sec. 20-1. Plumbing code adopted.

(a) That a certain document, three (3) copies of which are on file in the office of the city clerk of the city of Bellefontaine Neighbors, Missouri, being marked and designated as "The Uniform Plumbing Code, 2009 (IAPMO/ANSI UPC-1 2003) International Building Code, 2009 Edition" as published by the International Association of Plumbing and Mechanical Officials and as further adopted, amended and modified by St. Louis County, Missouri, pursuant to Ordinance No. 24,441, approved July 14, 2010, and as further supplemented, amended and revised as provided in this Article, is hereby adopted as the plumbing code of the City of Bellefontaine Neighbors for the control of such systems and devices as referenced therein; and each and all of the regulations, provisions, conditions and terms of said Plumbing Code are hereby referred to, adopted and made a part hereof as if fully set out in here in full.

(b) The city engineer, with the approval of the board of aldermen, is hereby authorized to contract with other jurisdictions to provide appropriate plumbing code enforcement and, further, to issue and collect fees for applicable permits and inspections issued or made pursuant to such contracts.

(c) Contracts shall be approved by the city engineer and shall be approved as to legal form by the city attorney. No contract shall be entered into until both jurisdictions desiring to contract with each other shall first have duly adopted appropriate legislation authorizing said contract (a certified copy to be attached to and made a part of the contract) and duly adopted a plumbing code identical in substance to this code.

(d) All plans reviewed pursuant to any such contract shall be reviewed and approved by the city and the applicable fire district for compliance with the zoning and other local regulatory ordinances or provisions prior to the submission for processing. (Ord. No. 1330, § 2, 11-20-86; Ord. No. 1407, § 2, 2-2-89; Ord. No. 1663, § 2, 8-3-95; Ord. No. 1794, § 1, 11-5-98; Ord. No. 1888 §2, 7-5-01; Ord. No. 2053 §1, 1-18-07; Ord. No. 2160 §1, 2-3-11)

Cross references—*Building code, § 5-21; property maintenance code, § 5-71; mechanical code relative to elevators, § 5-81; electrical code, § 8-31 et seq.*

Secs. 20-2--20-9. Reserved.

Sec. 20-10. Violations; penalty

Persons who shall violate any provision of the Code adopted by this Article, fail to comply with any of the requirements thereof, or erect, install, alter or repair work in violation of the approved construction documents or direction of the code official, or of a permit or certificate issued under the provisions of the Code adopted by this Article, shall be guilty of an ordinance violation, punishable as provided in Section 1-10 of this Code of Ordinances. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. No. 2053 §1, 1-18-07; Ord. No. 2160 §1, 2-3-11)

Chapter 21 -- POLICE

Editor's note—*The city, by the provisions of Ordinance No. 221, has agreed to an interchange of police service with the City of Jennings. Such ordinance is on file in the office of the city clerk. Also the city, by the provisions of Ordinance No. 688, has agreed to cooperate with the county, the other cities in the county and the City of St. Louis in certain police services. Such ordinance is on file in the office of the city clerk.*

Cross references—*General penalty for code violations, § 1-10; duty of police to abate nuisances, § 13-38; motor vehicles and traffic, Ch. 17; offenses and miscellaneous provisions, Ch. 19.*

ARTICLE I. IN GENERAL

Sec. 21-1. Reserved.

Editor's note--*Ord. No. 2208 §1, adopted February 2, 2012, repealed section 21-1 "definitions" in its entirety. Former section 21-1 derived from Code 1964, § 21-1.*

Sec. 21-2. Department established; composition.

There is hereby established in the city a police department, which shall consist of the chief of police, one (1) or more regular policemen and as many majors, captains, lieutenants, sergeants, corporals, patrolmen, clerks and employees of the police department as the board of aldermen may from time to time determine to be necessary for the proper and efficient policing of the city.
(Code 1964, § 21-2; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-3. Appointment of personnel.

The chief of police shall have power, with the approval of the board of aldermen, to appoint one (1) or more regular policemen as may from time to time be determined necessary for the proper and efficient policing of the city.
(Code 1964, § 21-3; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-4. Qualifications of officers.

(a) No person shall be employed or appointed as a peace officer by the city, unless he has been certified by the director of the state department of public safety as a peace officer as provided in sections 590.100 to 590.150 of the Revised Statutes of Missouri.

(b) The chief of police shall notify the director of the appointment of any new officer not later than thirty (30) days after the date of the appointment.
(Code 1964, § 21-5; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

State law reference-Similar provisions, RSMo. § 590.110.

Sec. 21-5. Oath of office.

The chief of police, as well as all policemen appointed under the provisions of this chapter, shall, before entering upon the duties of their office, take and subscribe to an oath or affirmation before the city clerk that he possesses all the qualifications prescribed for his office by law; that he will support the Constitution of the United States and the laws and constitution of this state, the provisions of all laws of the state affecting the city, the ordinances of the city, Law Enforcement Code of Ethics, and faithfully demean himself in office, which official oath or affirmation shall be filed with the city clerk.
(Code 1964, § 21-6; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-6. Failure to take oath.

If the chief of police or any person appointed as a policeman shall fail to take and subscribe to

City of Bellefontaine Neighbors -- QuickCode

the oath or affirmation provided for in section 21-5, such office may be deemed vacant in accordance with law.

(Code 1964, § 21-8; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-7. Positions and rank within department.

The regular policemen provided for in this chapter shall include such majors, captains, lieutenants, sergeants and corporals as may from time to time be appointed or transferred to such rank in the police department. Majors, captains, lieutenants, sergeants or corporals shall be commissioned as such. The appointment, removal, promotion, demotion or transfer of any major, captain, lieutenant, sergeant or corporal shall be made in the same manner as herein provided generally for members of the police department; namely, upon recommendation of the chief of police with approval of the board of aldermen. The order of rank in the police department from the highest downward shall be as follows: Chief of police, major, captain, lieutenant, sergeant, corporal, patrolman.

(Code 1964, § 21-9; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-8. Compensation.

The compensation to be paid to the police officers and employees of the police department shall be as fixed by ordinance from time to time by the board of aldermen.

(Code 1964, § 21-10; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-9. Duties of police -- Law enforcement and arrest generally.

It is hereby expressly made the duty of the chief of police and all members of the police department to acquaint themselves and to be familiar with this Code and other ordinances of the city. They shall be alert at all times to detect obstructions and defects in any street, sidewalk, tree, lawn or public place, the maintenance of any nuisance, the construction or alteration of any building or activity where a permit or a license is required by ordinance, traffic violations, the violation of the law relating to the sale of intoxicating liquor, disturbance of the peace or disorderly conduct and the violation of any other provisions of this Code or other ordinances of the city and the laws of the state. They shall make arrests as may be provided for in this chapter or other ordinances of the city and shall report violations to the chief of police who shall, in proper cases, promptly report the same to the appropriate department of the city government for action.

(Code 1964, § 21-15; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-10. Same -- Service of process and preservation of order.

The chief of police and police officers shall be conservators of the peace, and shall be active and vigilant in the preservation of good order within the city. They shall also serve and execute all warrants, subpoenas, writs, orders or other process lawfully placed in their hands for service.

City of Bellefontaine Neighbors -- QuickCode
(Code 1964, § 21-16; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-11. Same -- Obedience to orders, rules and regulations.

It shall be the duty of the members and employees of the police department to obey and adhere to all rules and regulations established for the police department by the chief of police, all personnel rules and regulations applicable to city employees, ordinances and polices adopted by the board of aldermen, and all orders or directives of the chief of police or other officers of the police department of superior rank.

(Code 1964, § 21-17; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-12. Removal of personnel.

All police officers, as well as all employees of the police department, may be removed from office or employment by the mayor with the consent of a majority of the members elected to the board of aldermen or they may be removed by a two-thirds vote of all the members elected to the board of aldermen, independently of the mayor's approval or recommendation. The chief of police shall be able to recommend or not recommend the removal of any police officer or employee of the police department to the mayor and board of aldermen, but in any event, the power of removal shall rest in the mayor and board of aldermen in accordance with section 79.240 of the Revised Statutes of Missouri, and as set out heretofore.

(Code 1964, § 21-18; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-13. Drinking alcoholic beverages while on duty prohibited.

The drinking of any alcoholic beverage by any police officer or employee of the police department while on duty or in uniform is hereby prohibited. Any member or employee violating this regulation shall be subject to suspension or dismissal from service.

(Code 1964, § 21-19; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-14. Authority of chief of police to promulgate rules and regulations.

The chief of police may promulgate rules and regulations for the government of the police department and the members or employees thereof which must coordinate with any rules and regulations adopted by the board of aldermen, and may in like manner from time to time amend or repeal such rule, rules or regulations or adopt a new rule, rules or regulations.

(Code 1964, § 21-20; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-15. Powers of arrest.

City of Bellefontaine Neighbors -- QuickCode

The chief of police shall have power at all times to make arrests on process or warrant duly issued, for any offense against this Code or other ordinances of the city or against the laws of the state, and keep the offender in the city or county jail or other proper place to prevent his escape until a trial can be had before the proper officer, unless such offender shall give a good and sufficient bond for his appearance for trial as provided by ordinance or laws of the state, and, in case of violation of state law, then as provided by the laws of the state. The chief of police and police officers shall have the power and shall make arrests without warrant where violations of any provisions of this Code or other ordinances of the city or the laws of the state are committed in the presence of the chief of police or police officers. (Code 1964, § 21-21; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-16. Reserved.

Editor's note-Ord. No. 1352, enacted July 2, 1987, in adopting this Code of Ordinances, provided in § 10 of the ordinance for the repeal of § 21-16, relative to use of private vehicles for police work, which provisions derived from § 21-22 of the city's 1964 Code.

Sec. 21-17. Participation in major case squad and other cooperative enforcement operations.

(a) For the purpose of this section the major case squad shall mean any formation, operation, organization or cooperative action group between any county governing body, any municipal government and the city, the purpose of which is intensive professional investigation of certain individual crimes that may occur in their general geographical area, and which is operated and activated on request of a county sheriff, county police superintendent or the police chief of a political subdivision wherein a crime has occurred.

(b) For purposes of this Section, multi-jurisdictional cooperative law enforcement operation means a joint police undertaking to address a specific regional law enforcement goal such as combating drug abuse, reducing traffic accidents, etc., involving certified law enforcement personnel from more than one agency in a coordinate and continuing or recurring program of investigation or enforcement which the Board of Aldermen has approved for participation.

(c) The police officers of the city police department are authorized to participate in and cooperate with any law enforcement officers of jurisdictions in any major case squad operation or multi-jurisdictional cooperative law enforcement operation or formation. The police officers designated to so act will be so designated by the chiefs of police of their jurisdictions and when acting outside of the city as a member unit, shall be considered to be on active duty the same as if acting within the boundaries of the city.

(Ord. No. 1332, §§ 1, 2, 12-18-86; Ord. No. 2208 § 1, 2-2-12)

Editor's note-Ord. No. 1332, adopted Dec. 18, 1986, did not specifically amend this Code; hence, inclusion of §§ 1 and 2, pertaining to major case squad

City of Bellefontaine Neighbors -- QuickCode
participation, as § 21-17 was at the discretion of the editor.

Secs. 21-18-21-30. Reserved.

ARTICLE II. CHIEF OF POLICE

Sec. 21-31. Office created; appointment.

There is hereby created the office of chief of police of the city. The chief of police shall be appointed by the mayor, with the approval of a majority of the members of the board of aldermen, and shall serve at the pleasure of the mayor and board. Salary for the office of chief of police shall be established by the board of aldermen from time to time.

(Code 1964, § 2-33; Ord. No. 1874 §§1-2, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

State law reference-Appointment of chief of police, RSMo. § 79.050.

Sec. 21-32. Duties generally.

(a) *Jurisdiction of police department.* The chief of police shall, except as otherwise provided in this chapter, have jurisdiction of the management, control and operation of the police department, but shall at no time incur expenses or obligate the police department or the city for any amount of expenses in excess of appropriation made by the board of aldermen for the operation of the police department.

(b) *Custody of records.* The chief of police shall have custody of and be responsible for all the books, records, property, weapons, badges, furniture, vehicles, equipment, supplies and merchandise of the police department and shall keep an accurate up-to-date record of same. Such records are to be made available to authorized personnel of the city.

(c) *Direction of police department.* The chief of police shall direct and have the full responsibility for the good conduct and proper and efficient performance of the duties of the members and employees of the police department, and provide a proper training program for all police department personnel and refresher training at regular intervals.

(d) *Attendance at meetings.* The chief of police shall, unless excused, attend all regular meetings of the board of aldermen and such other meetings requested by the mayor or the board of aldermen.

(e) *Monthly reports to mayor and board of aldermen.* The chief of police shall make a report monthly to the mayor and the board of aldermen of all the activities of the police department and shall make such other reports as may be requested by the mayor and board of aldermen.

(f) *Suspension of members or employees of police department.* The chief of police shall have the

City of Bellefontaine Neighbors -- QuickCode

right to temporarily suspend any police officer or employee of the police department for failure to perform his duties or comply with or carry out any lawful orders of the chief of police or superior officers or the rules and regulations applicable to members of the police department. A meeting on such suspension shall be held by the mayor and board of aldermen at such time and place as may be set by the mayor upon proper application for review by the officer involved. Upon such review the suspension may either be confirmed, revoked or the disciplinary action can be modified in any manner as may be determined by the mayor and board of aldermen.

(g) *Other duties.* The chief shall perform such other duties as may be provided by the laws of the state, the ordinances of the city or as may from time to time be directed by the mayor.
(Code 1964, § 21-11; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-33. To be provided with office and supplies.

The city shall provide the chief of police with suitable office space, also with the necessary equipment, furniture, stationery and supplies for the proper conduct and operation of the police department.

(Code 1964, § 21-12; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-34. Badge.

The chief of police shall, when on duty, wear a metallic badge or shield on which shall be inscribed the words "Chief of Police, Bellefontaine Neighbors, Missouri".

(Code 1964, § 21-13; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-35. Chapter not in conflict with state law relative to chief of police.

Nothing in this chapter shall conflict with the statutes of the state pertaining to the office of chief of police.

(Code 1964, § 21-14; Ord. No. 1874 §1, 2-15-01; Ord. No. 2208 § 1, 2-2-12)

Secs. 21-36-21-50. Reserved.

ARTICLE III. RESERVED

Editor's note--Ord. no. 1997, § 3, adopted February 3, 2005, repealed Art. III "police advisory board" and sections 21-51--21-54. Former §§ 21-51--21-54 derived from code 1964, §§ 21-28.1--21-28.4; ord. no. 1707, § 1, 9-5-96; ord. no. 1874 §1, 2-15-01.

Secs. 21-51-21-65. Reserved.

ARTICLE IV. RESERVED

Editor's note--Ord. no. 2208 § 1, adopted February 2, 2012, repealed Art. IV "special deputy policemen" sections 21-66--21-69 in their entirety. Former sections 21-66--21-69 derived from Code 1964, §§ 21-29--21-30, 21-33; ord. no. 1352 § 11, 7-2-87; ord. no. 1874 §1, 2-15-01.

Secs. 21-66-21-85. Reserved.

ARTICLE V. STOLEN, LOST OR ABANDONED PROPERTY

Sec. 21-86. Custody.

All property or money alleged or supposed to have been feloniously obtained, which is not required by law to be turned over, surrendered or delivered to some officer, official or department of the county, state, or some political subdivision thereof, or which shall be lost or abandoned, and which shall be thereafter taken into the custody of any member of the police force, or the police court of the city, or which shall come into such custody, shall be, by such member, or by order of the police court, given into the custody of the chief of police, and kept by him.

(Code 1964, § 21-38; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-87. Records.

All stolen, lost or abandoned property and money delivered to the custody of the chief of police shall be particularly registered by the chief of police in records kept for that purpose, which shall contain a description of the property, the name or names of the person or persons from whom such property or money was taken, the name or names of all claimants thereto, the place where found, the time of the seizure, the date of the receipt, the general circumstances connected therewith and any final disposal of such property and money.

(Code 1964, § 21-39; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-88. Return generally.

Upon satisfactory evidence of the ownership of stolen, lost or abandoned property given into the custody of the chief of police under the provisions of section 21-86, the chief of police shall deliver the

City of Bellefontaine Neighbors -- QuickCode

same to the owner, his heirs or legal representatives, and to him or them only; except that if it be proved impracticable for such owner, his heirs or legal representatives to appear, then the property or money may be delivered and receipted for upon such proof of ownership, and the filing with the chief of police of a duly executed power of attorney from the owner, his heirs or legal representatives.
(Code 1964, § 21-40; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-89. Return of property to accused upon acquittal.

Whenever property or money shall be taken from any person arrested, and shall be alleged to have been feloniously obtained, or to be the proceeds of crime, and whenever so brought with such claimant, and the person arrested, before any court for trial, and the court shall be satisfied from evidence that the person arrested is innocent of the offense alleged, and that the property rightfully belongs to such person, the chief of police shall, upon satisfactory evidence or proof of ownership of the property or money, deliver the property or money, if he has it, to the accused person.
(Code 1964, § 21-41; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-90. Property to remain in custody of chief of police until accused is convicted or released.

If any claim to the ownership of any property or money taken from an arrested person, as provided in section 21-89, shall be made on oath to the chief of police or any court, by or in behalf of any other person than the person arrested, and the accused person shall be held for trial or examination, such property or money shall remain in the custody of the chief of police until the discharge or conviction of the person accused.
(Code 1964, § 21-42; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-91. Property coming into possession of police to be transmitted to chief of police.

All property or money taken on suspicion of having been feloniously obtained, or of being the proceeds of crime, and for which there is no other claimant than the person from whom such property or money was taken, and all lost property coming into possession of any member of the police force, and all property and money taken from pawnbrokers as the proceeds of crime or from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves, shall be transmitted as soon as practicable to the chief of police to be fully registered, as provided for in section 21-87, and advertised as provided in section 21-103 for the benefit of all parties interested.
(Code 1964, § 21-43; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-92. Disposition of property of deceased persons.

All property or money of deceased persons coming into the custody of the chief of police or member of the police force shall be delivered to the legal representative or representatives of the

deceased person or to the public administrator in the absence of a legal representative.
(Code 1964, § 21-44; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-93. Disposition of unclaimed animals.

Horses or other animals coming into the custody of members of the police force or the chief of police, which are unclaimed and the owner cannot be readily located, shall be turned over to rabies control of the county or other proper governmental agency thereof.
(Code 1964, § 21-45; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-94. Delivery of property to owner pending trial.

When animals or articles of property (except perishable property) other than money, delivered into the custody of the chief of police as the proceeds of crime, are shown by sufficient evidence to be necessary for the current use of the owner, and not for sale, the chief of police may place the same in the custody of the owner, upon sufficient bond being given by the owner in the sum of double the value of the property, conditioned for the production of the same at any time within one (1) year, when required for use in court as evidence in any proceedings thereon; provided, that where such property is evidence in any case pending before any court other than the police court of the city, such property shall not be released without a written order from such court or officers in charge of the prosecution of such case.
(Code 1964, § 21-46; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-95. Delivery of perishable property to owner.

Perishable property coming into the custody of the chief of police may be delivered to the owner on ample security being taken for his appearance to prosecute the case; provided that, when such property is evidence in any case pending any court, other than the police court of the city, such property shall not be released without a written order from such court or the official in charge of the prosecution of such case.
(Code 1964, § 21-47; Ord. No. 2208 §1, 2-2-12)

Sec. 21-96. When large quantities of goods held for sale by owner may be delivered.

When large quantities of goods held for sale by the owner come into the custody of the chief of police as the proceeds of crime, the same may be delivered to the owner, his heirs or legal representative upon ample security to prosecute the case; provided, that when such property is evidence in any case pending in any court, other than the police court of the city, such property shall not be released without a written order from such court or the official in charge of the prosecution of such case.
(Code 1964, § 21-48; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-97. Use of property as evidence.

If any property or money placed in the custody of the chief of police shall be desired as evidence in any police or other criminal or civil court, such property shall be delivered to any officer who shall present an order to that effect from such court; but such property shall not be retained in the court, but shall be returned to the chief of police to be disposed of according to the provisions of this article. (Code 1964, § 21-49; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-98. Property and money not called for within one year to be treated as abandoned.

Any property or money returned to the chief of police as the proceeds of crime, and which shall not be called for as evidence by a proceeding by any court within one (1) year from the date of the receipt of the property by the chief of police, unless specially claimed by the owner within that time, shall be thereafter treated as other unclaimed, abandoned or lost property or money, as provided in this article. (Code 1964, § 21-50; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-99. Sales of foods, vegetables or fruits.

All foods, vegetables or fruits, referred to herein as perishable property, coming into the custody of the chief of police under the provisions of this article, and which are unclaimed, shall be sold at once and the proceeds of such sale turned over to the treasurer of the city for deposit in the general revenue fund. (Code 1964, § 21-51; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-100. Reserved.

Editor's note--Ord. no. 2208 § 1, adopted February 2, 2012, repealed section 21-100 "abandoned motor vehicles or other vehicles to be removed from public streets and alleys" in its entirety. Former section 21-100 derived from Code 1964, § 21-52.

Sec. 21-101. Disposition of money coming into custody.

All money coming into the custody of the chief of police under the provisions of this article shall be turned over to the city treasurer for deposit in the general revenue fund. (Code 1964, § 21-53; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-102. Police chief to restore property to rightful owner.

Except as otherwise provided by law, if within one (1) year any rightful owner or his legal representative appears and proves ownership to any property or money in the custody of the chief of police, as provided for in this article, and pays all reasonable charges, the chief of police shall restore such property or money, or the proceeds from the sale of such property, to such owner, and take a receipt therefor; provided, that if the money has been turned over to the city treasurer, or if the property has been sold and the proceeds turned over to the city treasurer for deposit in the general revenue fund prior to the time the rightful owner provided ownership to such money or property, then the city treasurer shall restore to the rightful owner the money or the proceeds from the sale of the property, less any expense or other reasonable charges incurred by the city in making the sale or caring for the property. (Code 1964, § 21-54; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-103. Advertising of property.

(a) The chief of police after retaining for forty (40) days the receipt of all stolen, lost or abandoned property other than motor vehicles, having a value of twenty dollars (\$20.00) or more or money in the amount of twenty dollars (\$20.00) or more coming into his custody shall cause within thirty (30) days thereafter such property or money to be advertised by three (3) consecutive insertions in a weekly newspaper, or one (1) insertion each week for three (3) consecutive weeks in a daily newspaper of general circulation in the city or the county.

(b) If no owner appears and proves such money or property within forty (40) days, and the value exceeds twenty dollars (\$20.00), the finder, if he be other than a police officer, or police official, shall, within thirty (30) days thereafter cause a copy of the description to be inserted in some newspaper in this state for three (3) weeks; and if no owner proves the money or property within one (1) year after such publication, the same shall vest in the finder, if he be other than a police officer or police official. (Code 1964, § 21-55; Ord. No. 2208 § 1, 2-2-12)

Sec. 21-104. Sale at public auction.

All property, except perishable property as herein defined, animals and motor vehicles, and other vehicles as defined in section 21-98 that shall remain in the custody of the chief of police for a period of one (1) year, without any lawful claimant thereto, over the amount of twenty dollars (\$20.00) shall be sold at public auction and the proceeds from such sale shall be turned over to the city treasurer for deposit in the general revenue fund; provided, that such public auction is advertised for three (3) weeks immediately preceding such auction sale by three (3) consecutive insertions in a weekly paper, or one (1) insertion each week for three (3) consecutive weeks in a daily newspaper having general circulation in the city or the county. (Code 1964, § 21-56; Ord. No. 2208 § 1, 2-2-12)

Chapter 22 -- SEWERS AND SEWAGE DISPOSAL

Cross references—*Flood damage prevention and control, Ch. 11; garbage, trash and refuse, Ch. 12; health and sanitation, Ch. 13; utility companies, §15-216 et seq.; plumbing, Ch. 20; streets and sidewalks, Ch. 23; subdivisions, Ch. 24; swimming pools, Ch. 25.*

Sec. 22-1. Definitions.

The following definitions of terms shall apply whenever such terms are used in this chapter, unless the context clearly indicates another meaning or unless elsewhere expressly stated for specific application:

Industrial connection sewer. That portion of sewer line required to carry the sewage of any industrial or commercial establishment from the last point of sewage entry on the premises to a sewer or to carry the discharge from any industrial pretreatment facility to a sewer.

Industrial waste. Any industrial liquid waste water, garbage or toxic substance from any industrial process.

Industrial waste treatment plant. Any treatment plant used or intended to be used for the specific treatment of industrial wastes in which other wastes may or may not be present; except, that a treatment plant in a public sewage system shall not be so designated.

Sewage. Any water-borne waste, industrial waste or human excrement which may exist or accumulate on any premises.

Sewage treatment plant. Any works or device for treatment of sewage.

Sewer. Any public, semipublic or private lateral or main sewer, constructed in a street, alley, place or right-of-way, exclusive of a building or industrial connection sewer.

Sewerage system. Any sewage treatment facility, sewer, appurtenance equipment or any combination thereof used or intended to be used for the purpose of conveying, treating or disposing of any waste water, industrial waste or human excrement accumulating on any premises, in the city, except a "building sewer", as defined in the county plumbing code.

Storm water. Any water resulting from precipitation mixed with the accumulation of dirt, soil and other debris or substances collected from the surfaces on which such precipitation falls or flows. (Code 1964, § 23-1)

Cross reference—*Definitions and rules of construction generally, § 1-2.*

Sec. 22-2. Sewer district regulations to prevail over chapter provisions.

All regulations of the St. Louis Metropolitan Sewer District shall prevail over any sections of this chapter which are in conflict with such sewer district's regulations.

Sec. 22-3. Findings by city; purpose of chapter.

The city hereby finds, determines and declares that it is necessary and conducive for the protection of public health, safety and welfare of the people of the city to provide regulations for the disposal of human and industrial waste within the city. The purpose of this chapter is to regulate and control the disposal of human and industrial waste in the city, to the end that the public health, safety and welfare of the people of the city will be protected and enhanced and to prevent the indiscriminate and uncontrolled disposal of human and industrial waste in violation of recognized public health standards.

Sec. 22-4. Approval of sewerage systems, etc., by county health department required.

(a) Every person, public utility, public agency or institution desiring to install or enter into a contract for the installation of a public, semiprivate or private sewerage system or industrial sewer or to make additions or alterations in any sewage or industrial waste treatment plant shall make application to and shall receive written approval from the county health department before proceeding with the proposed work. The county health department shall conduct such inspections as may be necessary to insure compliance with the approved plans.

(b) Every application referred to in this section shall contain three (3) sets of complete plans and specifications, fully describing such sewerage system or additions and alterations or extension contemplated in the application. One (1) set shall be filed with the county health department. The approval by the county health department may contain such terms and conditions as may be reasonable and necessary to insure compliance with the provisions of this chapter.

(Code 1964, § 23-3)

Editor's note—Sewers are now under the jurisdiction of the Metropolitan Sewer District.

Sec. 22-5. Permit and bond required for sewage treatment plants, sewerage systems and disposal of sewage, sludge, etc., by mobile or portable containers; exceptions.

(a) Every person who owns, maintains or operates any sewage treatment plant or sewerage system, except an individual home disposal system, or who removes, disposes or intends to remove, transport or dispose of any sewage, sludge, industrial waste or human excrement by portable or mobile container

City of Bellefontaine Neighbors -- QuickCode

shall hold an unrevoked permit for that purpose from the city director of public health and sanitation. Such permit shall be issued by the city director of public health and sanitation upon application to the city health department and compliance with the provisions of this chapter and any rule or regulation adopted under this chapter and upon payment of annual fee of twenty-five dollars (\$25.00), payable to the city treasurer and to be deposited by him in the special deposit fund, and upon delivery to the city of a cash or corporate bond in the amount of one thousand dollars (\$1,000.000). The cash or corporate bond shall run to the city and shall be conditioned that the permittee, his agents and servants shall comply with all of the terms, conditions, provisions, requirements and specifications of this chapter and the rules and regulations adopted under this chapter.

(b) Before acceptance, all such bonds shall be approved by the board of aldermen. If a corporate bond is offered, it shall be executed by a surety or guaranty company qualified to transact business in the state. If a cash bond is offered, it shall be deposited with the city clerk, who shall give his official receipt therefor, reciting that the cash has been deposited in compliance with and subject to the provisions of this chapter and the rules and regulations adopted under this chapter.

(Code 1964, § 23-4)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 22-6. When connections with public sewers required.

Every building in which plumbing fixtures are installed and every premises having drainage piping thereon shall connect to a public sewer, if available. A sewer shall be deemed available when a sewer line is in place within any street, alley, right-of-way or easement that adjoins or abuts such premises. When connection is not made to a sewer, an individual sewage disposal system approved by the city director of public health and sanitation shall be installed. Any such installation shall comply with the provisions of the county plumbing code, the provisions of this chapter and any rule or regulation adopted under this chapter.

(Code 1964, § 23-5)

Sec. 22-7. Approval by county health commissioner of building and plumbing permits for structures on premises not served by approved sewer.

No building or plumbing permit providing for the construction, alteration of or addition to any structure on a premises not served by an approved sewer, when such alteration or addition may affect the volume of sewage, shall be issued by the city engineer without prior approval of the sewage disposal plans by the county health commissioner pursuant to article V, section 54(1), of the county charter.

(Code 1964, § 23-6)

Sec. 22-8. Persons operating sewerage systems or sewage treatment plants to furnish records to director of public health and sanitation.

It shall be the duty of every person, public utility, or institution holding a permit to operate a sewerage system or sewage treatment plant to furnish records for ascertaining compliance with this chapter as may be required by the city director of public health and sanitation.
(Code 1964, § 23-7)

Sec. 22-9. Surveys, investigations and studies by director of public health and sanitation.

The city director of public health and sanitation shall cause to be made such surveys, investigations and studies of sewage, sewerage systems and streams receiving sewage as may be necessary to determine that all sewerage systems are installed, operated and maintained in compliance with the provisions of this chapter and any rule or regulation adopted under this chapter.
(Code 1964, § 23-8)

Sec. 22-10. Authority of director of public health and sanitation to promulgate rules and regulations.

(a) The city director of public health and sanitation shall promulgate rules and regulations to carry out the purposes and intent of this chapter to protect the public health. Such rules and regulations shall become effective upon approval of the board of aldermen and shall be filed with the city clerk as a public record. Such rules and regulations may provide:

- (1) The minimum standards of design for any sewerage system or treatment facility.
- (2) The minimum standards for operation and maintenance of any sewerage system or treatment facility and to provide for the revocation of any permit for failure to conform with the minimum standards.
- (3) For the pretreatment of certain wastes which may injuriously affect the operation of sewage treatment plants or cause contamination of surface or ground waters.
- (4) The size of any sewer and the velocity of flow for any sewer or sewerage system.
- (5) The data to be submitted with an application for construction of any sewerage system, and provide the manner and terms upon which such application shall be granted or modified.
- (6) The detailed specifications for cars, vehicles, cans, tanks or containers and equipment used for the purpose of removing, transporting or disposing of any sewage, sludge, industrial waste or human excrement by portable or mobile container.
- (7) The minimum standards for soil porosity, ground water levels, location and area required for installation of an individual home sewage disposal system; and the minimum standards for

City of Bellefontaine Neighbors -- QuickCode

construction of individual sewage disposal systems where special conditions require higher requirements than contained in the provisions of the county plumbing code.

- (8) The minimum standards necessary to prevent injury to the public health from dangerous and unsanitary conditions resulting from exposed sewage, sludge effluent or human excreta; contamination of drinking water; damage to storm water drains and channels; contamination of streams and their beds and margins, underground water and bodies of water; storm or surface or process or cooling water in sanitary sewers; gases, chemicals, oils, sludge and other materials which may clog or interfere with the operation of sewers or adversely affect the treatment of sewage; sewage and industrial waste in storm water sewers bypassing around its treatment plant; contamination of the surface of the ground with sewage; and interference with the proper treatment of sewage in treatment plants.

(b) Any such rule or regulation shall meet the minimum standards of the state division of health; provided, that nothing herein shall be construed to prevent the city director of public health and sanitation from requiring compliance with higher requirements than those contained herein where such higher requirements are essential to maintain a sanitary condition.

(c) Prior to presentation of any such rule or regulation for approval to the board of aldermen the city director of public health and sanitation shall give appropriate notice of the proposed regulations, setting the time and place of a public hearing, and conduct a public hearing on any proposed rule or regulation. Any hearing required or authorized herein may be conducted by the city director of public health and sanitation or such other officer or agent or employee of the city department of public health and sanitation as the city director of public health and sanitation may designate. Any such rule or regulation may be amended or repealed in the same manner as provided for approval.

(Code 1964, § 23-9)

Sec. 22-11. Sewage, etc., discharged into ground or surface water to meet standards and requirements of chapter.

No sewage, human excrement or industrial waste shall be discharged, deposited or permitted to flow on, in or under the surface of the ground or into any surface water or ground water flowing through, in or bordering the city, unless such disposal or condition of sewage, human excrement or industrial waste meets the standards and requirements of this chapter or any rule or regulation adopted under this chapter.

(Code 1964, § 23-10)

Sec. 22-12. Sewage, etc., discharged into sewers and drains to meet standards and requirements of chapter.

No sewage, human excrement, industrial waste or other material shall be discharged into any sewer, storm water sewer or drain unless it conforms to the standards and requirements of this chapter and any rule or regulation adopted under this chapter.

(Code 1964, § 23-11)

Sec. 22-13. Injury to sewer systems prohibited.

No person shall injure or cause to be injured any portion of any sewer system.
(Code 1964, § 23-12)

Sec. 22-14. Disposal of garbage, surface waters and other unauthorized substances through manholes prohibited.

No person shall open or enter or cause to be opened or entered any manhole in any sewer to dispose of garbage or other deleterious substance or storm or surface waters, or for any other like purpose not provided for by permits issued under the provisions of this chapter.
(Code 1964, § 23-13)

Sec. 22-15. Sewage, wastes, etc., removed, transported or disposed of contrary to provisions of chapter declared nuisance.

Any sewage, sludge, industrial waste, human excrement, liquid putrescible material or liquid toxic material removed, transported or disposed of in any other manner than as may be provided for by the provisions of this chapter or the rules and regulations adopted under this chapter shall be deemed to be an offensive material dangerous or prejudicial to the public health and is hereby declared to be a nuisance.
(Code 1964, § 23-14)

Sec. 22-16. Establishing a fee for repair of lateral sewer service lines.

(a) *Annual fee.* There is hereby levied and imposed on all residential property having six (6) or less dwelling units an annual fee of twenty-eight dollars (\$28.00) to provide funds to pay the cost of certain repairs of defective lateral sewer service lines of those dwelling units.

(b) *Repair fund.* The funds collected pursuant to this section shall be deposited in a special account to be used solely for the purpose of paying for all or a portion of the costs reasonably associated with and necessary to administer and carry out the defective lateral sewer service line repairs. All interest generated on deposited funds shall be accrued to the special account established for the repair of lateral sewer service lines.

(c) *Additional fund sources.* The collector of revenue of the city may add such fee to the general tax levy bills of property owners within the city. All revenues received on such combined bill which are for the purpose of providing for, ensuring or guaranteeing the repair of lateral sewer lines, shall be separated from all other revenues so collected and credited to the appropriate fund or account of the city, as specified above.

(Ord. No. 1827, §§ 1—3, 8-5-99)

Chapter 23 -- STREETS AND SIDEWALKS

Cross references—City engineer, § 2-131 et seq.; parks and recreational facilities, § 2-166 et seq.; planning and zoning commission, § 2-186 et seq.; buildings and building regulations, Ch. 5; civil defense and disaster, Ch. 6; excavations generally, Ch. 9; flood damage prevention and control, Ch. 11; motor vehicles and traffic, Ch. 17; police, Ch. 21; sewers and sewage disposal, Ch. 22; subdivision regulations, Ch. 24.

State law references—Authority of city over streets, alleys, avenues and public highways in the city generally, RSMo. § 88.673; authority of city to prevent encroachments into and upon sidewalks, streets, alleys and other public places, RSMo. § 79.410; authority of city to open and improve streets, alleys, highways, etc., authority to make sidewalks, RSMo. § 88.673.

ARTICLE I. IN GENERAL

Sec. 23-1. Public streets established; authority over public streets.

The roads, streets and thoroughfares established by order of the county court of the county, or otherwise according to law, and in use as public highways within the city at the time of the incorporation thereof, as well as all streets, highways or thoroughfares subsequently dedicated to and accepted by the city are established as public streets of the city and subject to the jurisdiction and regulation thereof. (Code 1964, § 25-1)

Sec. 23-2. Authority to close streets to public use; use of closed street prohibited.

The city engineer is authorized to withdraw temporarily from public use any public street, alley or highway, or part thereof, when necessary for the proper control of traffic or upon which public work or improvement, repair or reconstruction is in progress, and for such period as he deems necessary for the benefit of such work; and, for that purpose, to cause such street, alley or highway, or part thereof, to be barred to travel by the public and placarded as "closed." It shall be unlawful for any person wilfully to drive or cause to be driven any animal or vehicle on, along or across any public street, alley or highway so barred and placarded, or wilfully throw down, remove or otherwise disturb any such barrier or placard placed by the city engineer. (Code 1964, § 25-2)

Sec. 23-3. Duty of adjoining property owners, occupants, etc., to keep sidewalks clean

City of Bellefontaine Neighbors -- QuickCode
and free of snow and ice.

(a) The owners, managers, agents or occupiers of premises or tenements, or vacant lots owned by them, under their charge or occupied by them, shall keep the sidewalks and gutters in the public highway adjacent to the property owned, controlled or occupied by them swept and clear of mud, dirt and filth.

(b) After any fall of snow, the owners, managers, agents or occupiers referred to in paragraph (a) of this section shall cause the snow to be immediately removed from the improved area of the sidewalk in the public highway adjacent to the property owned, managed or occupied by them, and the improved area of the sidewalk shall also be kept clear of ice at all times.

(c) Where houses are occupied by several tenants, it shall be the duty of the persons occupying the tenements nearest the public highway involved to comply with the requirements of this section.
(Code 1964, § 25-3)

Sec. 23-4. Public utility easements not affected by street vacation.

In the event any street in the city be duly vacated in accordance with law, all public utility easements shall still remain in effect unless duly terminated in accordance with law, and further that the Laclede Gas Company, its successors and/or assigns shall retain the right to operate and maintain its existing gas distribution mains and facilities in any such legally vacated street as herein described, together with the right of ingress and egress thereto.
(Ord. No. 1341, § 1, 2-5-87)

Editor's note—Ord. No. 1341, § 1, adopted Feb. 5, 1987, did not specifically amend this Code; hence, section 1 of the ordinance has been included, to read as set out in § 23-4, at the discretion of the editor.

Secs. 23-5—23-15. Reserved.

ARTICLE II. OBSTRUCTIONS

Sec. 23-16. Generally.

It shall be unlawful to obstruct or occupy with building material, soil or other object, which may prevent the free passage of the public, more than one-half the width of any sidewalk or tree lawn. The occupation of any street for the storage of building material for any one building or for temporary sidewalks shall never exceed one-third the width of the roadway, highway or alley, nor shall in any manner obstruct the free passage of water in any gutter or alley. Streets and sidewalks shall be properly covered with plank whenever slacking lime, mixing concrete or mortar, dumping stone or piling brick or

other heavy material upon any such improved street or sidewalk.
(Code 1964, § 25-4)

Sec. 23-17. Permit required.

Any person desiring to temporarily use any public street or sidewalk for the purpose of placing building material, soil or other objects associated with construction or development of property shall first secure a permit therefor from the city. Such permit may only allow use of such property for a limited time as reasonably required for the project with which the use is associated. A permit may be issued upon application to the city clerk and upon payment of a fee of two dollars (\$2.00) by the applicant.
(Ord. No. 1500, § 1, 10-17-91)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 23-18. Traffic barriers or obstructions prohibited.

No person, firm or corporation may erect, place or install any barrier, obstruction or impediment to delay or hinder the free flow of vehicular traffic, including, but not limited to, one (1) or more speed bumps, traffic horses, or similar devices, over or along any public or private street or roadway which is open to public travel. Nothing in this section shall be construed or applied so as to interfere with the right of any private property owner to control access to that owner's property.
(Ord. No. 1500, § 1, 10-17-91)

Sec. 23-19. Interference with vehicular use of streets and roadways.

(a) It shall be unlawful for any person to engage in any game or recreational activity upon any street or roadway, or to walk upon the traveled portion of any street or roadway, in any manner so as to:

- (1) Impede the free flow of traffic;
- (2) Endanger property;
- (3) Endanger the life, limb or health of any person; or
- (4) Prevent the full and complete use of such street or roadway by other persons for the intended purposes thereof.

(b) It shall be unlawful for any parent, guardian, or any other custodian or person having responsibility for the care of any child under the age of seventeen (17) years to knowingly suffer or permit such child to violate the provisions of subsection (a) of this section. In the prosecution of any parent, guardian or custodian for violating this subsection it shall be prima facie evidence that such person acted knowingly as to the conduct of the child involved if it is shown by competent evidence that the defendant had been personally informed that the child had previously engaged in conduct prohibited

City of Bellefontaine Neighbors -- QuickCode
by subsection (a) and of the responsibilities imposed by this subsection.

(c) Any person found guilty of violating any provision of this section shall be punished as provided by section 1-10 of this Code.
(Ord. No. 1866, § 1, 9-21-00)

Secs. 23-20—23-30. Reserved.

ARTICLE III. REPAIR OF SIDEWALKS, DRIVEWAYS AND AREAWAYS

*State law reference—Repairs in sidewalks and the assessment of the costs thereof,
RSMo. §§ 88.703, 88.710.*

Sec. 23-31. Duty of adjoining property owner—Notice of need for repair.

Whenever any sidewalk or driveway or the covering over any areaway or vault in the sidewalk in any public highway shall be in need of repair, the city engineer shall notify the owner or owners of property adjoining such sidewalk, or their agents, through the mail to have the same repaired to the satisfaction of the city engineer within thirty (30) days from the date of such notice, or to appear before the city engineer on the day and hour specified in such notice and then and there show cause why the city engineer should not cause such sidewalk or driveway or the covering over any area-way or vault in the sidewalk to be repaired, and the cost thereof assessed as a tax against the property abutting the sidewalk area in which such work is done.

(Code 1964, § 25-6)

Sec. 23-32. Same—Failure to perform.

At the day and hour mentioned in the notice given pursuant to section 23-31, or within three (3) days thereafter, the city engineer shall make his decision regarding the repair of any sidewalk or driveway or the covering over of any areaway or vault. If, in the opinion of the city engineer, the owner or agent has failed to show cause why such repair should not be made, the city engineer shall cause such repair to be done under his direction and to his satisfaction, and an accurate account shall be kept of the cost of all labor, including supervision, and material entering into such work. (Code 1964, § 25-7)

Sec. 23-33. Cost of repair by city—To be lien on adjoining property.

The expense incurred by the city for labor (including supervision) and materials employed in the repair of any sidewalk or driveway or the covering over any areaway or vault in the sidewalk in any public highway under authority of the city engineer and the preceding section shall be charged as a lien

City of Bellefontaine Neighbors -- QuickCode
against the property adjoining the sidewalk area in which such work is done.
(Code 1964, § 25-8)

Sec. 23-34. Same—Determination; certification; assessment.

Upon completion of the repair of any sidewalk or driveway or the covering over of any areaway or vault in the sidewalk in any public highway by the city engineer under authority of section 23-32, the city engineer shall cause the total cost of such repair to be determined, and certify the same to the board of aldermen. Upon the approval of such report by the board of aldermen, the person designated by the board of aldermen to prepare special tax bills shall assess the same as a special tax against each lot of ground chargeable therewith, in the names of the owners thereof, respectively, and shall make out and certify to the collector bills of such cost and assessments as required by law.
(Code 1964, § 25-9)

Secs. 23-35—23-45. Reserved.

ARTICLE IV. EXCAVATIONS

State law reference—Authority of city to regulate excavations in or under streets, sidewalks and other public places, RSMo. § 79.410.

Sec. 23-46. Permit—Required.

It shall be unlawful for any person, firm or corporation to make an excavation in any high way, street, alley or other public thoroughfare or private driveway within the city without first having obtained from the city a permit therefor.
(Code 1964, § 25-10; Ord. No. 1349, § 2, 5-7-87)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 23-47. Same—Application; issuance; fee.

Application for an excavation permit shall be filed with the city clerk and referred to the city engineer, who shall issue such permit provided the application meets the requirements of this article. A permit fee of five dollars (\$5.00) must accompany each application, which fee shall be paid into the general fund of the city.
(Code 1964, § 25-11; Ord. No. 1349, § 3, 5-7-87)

Sec. 23-48. Reserved.

Editor's note—Section 1, Ord. No. 1349, adopted May 7, 1987, repealed Ord. No. 489, adopted Dec. 21, 1961, from which § 23-48, relative to permit fees, derived via § 25-12 of the city's 1964 Code.

Sec. 23-49. Deposit to guarantee completion of work; completion of work by city.

At the time of the issuance of the permit, the applicant shall deposit, interest free, with the city clerk an amount of money determined by the city engineer to be sufficient to equal the cost of the restoration of the surface of the highway, street, alley or other public thoroughfare or private driveway where such excavation is to be made to its condition as it existed immediately before the excavation. If the city deems it necessary, the restoration of such surface may be done by the city or the city may contract to have the same done, and the cost of same shall be charged against the deposit required herein, and any balance remaining unused from the deposit shall be returned to the applicant; if the deposit shall be insufficient to cover the city's cost of restoration of the surface, the costs in excess of the deposit shall be charged to the applicant.

(Code 1964, § 25-13; Ord. No. 1349, § 4, 5-7-87)

Sec. 23-50. Barriers and warning lights to be used; protection of excavations in sidewalks.

Every person who shall cause to be made any excavation in or adjoining any public street, highway, alley or other public thoroughfare shall cause the same to be adequately protected so as to prevent persons, animals or vehicles from falling into such excavation and shall cause red warning lights or torches to be maintained about such excavation and keep the same lighted from sunset to sunrise. Whenever any person shall excavate the sidewalk of any street, it shall be his duty to place a strong and suitable footbridge over such excavation in the line of the sidewalk at least five (5) feet wide, and securely anchored on each end.

(Code 1964, § 25-14)

Chapter 24 -- SUBDIVISIONS

Cross references—City engineer, § 2-131 et seq.; parks and recreational facilities, § 2-166 et seq.; planning and zoning commission, § 2-186 et seq.; buildings and building regulations, Ch. 5; civil defense and disaster, Ch. 6; excavations generally, Ch. 9; flood damage prevention and control, Ch. 11; garbage, trash and refuse, Ch. 12; motor vehicles and traffic, Ch. 17; sewers and sewage disposal, Ch. 22; streets and sidewalks, Ch. 23; swimming pools, Ch. 25.

State law references—Authority to adopt subdivision regulations, RSMo. § 89.410;

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Alley. A public thoroughfare which affords only a secondary means of access to abutting property.

Building. A structure having a roof supported by columns or walls for the housing of persons, animals or chattels.

Building line. A line on a plat between which line and a street, alley or private place no building or structure may be erected.

Improvement plans. A drawing or set of drawings prepared by a registered professional engineer or registered architect including plan views, cross sections, profiles, elevations and details as required to show the extent, details and character of the improvements.

Improvements. The installation of sewers, streets, street lights, street signs, water lines, fire hydrants and sidewalks and the planting of trees.

Lot. A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, including the open spaces and parking spaces required.

Street. A primary thoroughfare or highway which has been dedicated or devoted to public use by legal mapping or other lawful means.

Street, collector. A street which collects several or many streets of a minor nature and carries them into a major street.

Street, major. A street which is designated as a major street on the latest revision of the city major street plan. This plan and all information shown thereon are a part of this chapter, and all notations, references and information shown thereon shall have the same force and effect as if they were fully described in this chapter.

Street, minor. A street which affords only the primary means of access to abutting property.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

City of Bellefontaine Neighbors -- QuickCode

Subdivision. For purposes of this chapter, a subdivision is:

- (1) Any land, vacant or improved, which is divided or is to be divided into two (2) or more parcels or units for the purpose of sale, lease or development; or
- (2) Any land, vacant or improved, as to which more than one interest, whether joint, several, or joint and several, is or is to be conveyed for the purpose of sale, lease, investment or development; or
- (3) The sale, lease, division or development of zoned land, whether by deed, metes and bounds description, map, plat or other instrument; or
- (4) Resubdivision of subdivided land.

Subdivision plat. A drawing which has been prepared by a registered land surveyor which fully and completely describes the land being subdivided whether for land development, street dedication or sale or exchange of land.

(Code 1964, § 26-1; Ord. No. 1413, § 1, 6-1-89)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 24-2. Applicability of chapter; exceptions.

(a) No subdivision of land for sale, and no sale of any subdivided land or any part thereof shall be made or contracted, and no permit for occupancy or building shall be issued with respect to any building or other structure upon any land which is to be subdivided, unless that subdivision has been approved under the provisions of this chapter.

(b) The provisions of this chapter shall not apply to the following divisions of land as to which a certificate of approval has been issued:

- (1) Division of land into parcels or units of three (3) acres or more, when no tract has frontage on any approved street; or
- (2) The transfer or sale of a small parcel of land to an adjoining property owner, where an additional lot is not created thereby.

(c) The certificate of approval required for the exception provided in subsection (b) of this section shall be issued by the board of aldermen after application has been made to and considered by the planning and zoning commission. Included in the application shall be a plat of the land involved, drawn to a scale of one hundred (100) feet or less to the inch from an accurate survey, and such other material as may be added by the applicant or required by the planning and zoning commission or the board of aldermen to show that the open space and other requirements of this chapter and the requirements of the zoning regulations of the city are complied with and that the exceptions listed in subsection (b) of this section apply.

Sec. 24-3. Modifications of requirements.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in real difficulties or substantial hardship or injustice, the board of aldermen, after report by the planning and zoning commission, may vary or modify such requirements so that the subdivider may develop his property in a reasonable manner, but so that at the same time the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of this chapter are preserved.

(Code 1964, § 26-3)

Sec. 24-4. Bond required prior to development.

Before a subdivision permit is issued by the city engineer for development, a surety bond or escrow agreement shall be secured by the subdivider in the amount of the cost estimate of the improvements. This bond shall be subject to the approval of the city attorney and the board of aldermen. The term of the bond shall in no case exceed a period of two (2) years.

(Code 1964, § 26-4; Ord. No. 767, § 1, 2-5-71)

Sec. 24-5. Construction permit required; permit fees.

No construction in a subdivision shall be commenced without first obtaining a construction permit. The cost of such permit shall be one (1) percent of the estimated cost of the street and sidewalk improvements to be installed in the subdivision as required by this chapter; provided that, where the subdivision permit fee has been paid, the amount of such fee shall be credited on the cost of the construction permit.

(Code 1964, § 26-5)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 24-6. Inspection fee.

An inspection fee shall be paid to help defray the cost of inspection of the improvements as they are installed in a subdivision. The cost of such inspection fee shall be based initially on the city engineer's estimate of the time required, at a rate of five dollars (\$5.00) per hour. Should a greater or lesser time actually be expended on the inspections, the additional amount shall be paid or an amount shall be refunded to cover the actual cost of inspection at the rate specified in this chapter.

(Code 1964, § 26-6)

Sec. 24-7. Payment of fees.

All fees required by this chapter shall be paid to the city clerk and a receipt shall be issued therefor.
(Code 1964, § 26-7)

Secs. 24-8—24-20. Reserved.

ARTICLE II. PRELIMINARY PLAT

Sec. 24-21. Filing.

Any person proposing to subdivide land for the purpose of land development, street dedication or sale of land shall file three (3) prints of a preliminary subdivision plat with the city clerk.
(Code 1964, § 26-8)

Sec. 24-22. Contents.

Every preliminary subdivision plat shall show the following:

- (1) The location of the present property lines, streets, watercourses and other existing features within the area to be subdivided, and similar information regarding land immediately adjacent thereto.
- (2) Names of adjoining subdivisions or owners of land of adjoining tracts. If these are not included in the subdivision, they shall be marked "Not Subdivided."
- (3) The proposed location, width and right-of-way of streets and alleys.
- (4) The proposed location and width of easements.
- (5) Lot dimensions and building lines.
- (6) The proposed location of sidewalks.
- (7) Existing sanitary and storm sewers, water mains, culverts and other underground structures within the tract or on streets immediately abutting thereto as well as the location and size of the nearest water main and sewer outlet.
- (8) The title under which the proposed subdivision is to be recorded, the name of the registered

City of Bellefontaine Neighbors -- QuickCode
land surveyor who made the subdivision plat and the name of the subdivider.

- (9) Existing and proposed contours of the land, referred to the City of St. Louis datum, with intervals of five (5) feet or less.
- (10) A north point, scale of drawing and date. (Code 1964, § 26-9)

Sec. 24-23. Filing fees.

Every preliminary plat of a subdivision submitted to the planning and zoning commission shall be accompanied by a filing fee of ten dollars (\$10.00) or one dollar (\$1.00) for each lot within the proposed subdivision, whichever is greater.
(Code 1964, § 26-10)

Sec. 24-24. Transmittal to city engineer and planning and zoning commission.

The city clerk shall transmit every preliminary subdivision plat to the city engineer and to the planning and zoning commission for consideration and review at its first regular meeting following filing of the plat.
(Code 1964, § 26-11)

Sec. 24-25. Action of planning and zoning commission.

If, after review, the planning and zoning commission shall find the preliminary subdivision plat to satisfy the requirements of this chapter and to be acceptable in relation to good planning, it shall recommend that approval of the plat be granted by the board of aldermen. If the planning and zoning commission shall find that the preliminary subdivision plat does not satisfy the requirements of this chapter or is not acceptable in relation to good planning, it shall specify in a report such objections as are found to the plat and may recommend to the board of aldermen the disapproval of the plat, or may recommend approval conditioned upon specified changes to the plat.
(Code 1964, § 26-12)

Sec. 24-26. Disposition of approved plat.

After review by the planning and zoning commission one (1) print of the preliminary subdivision plat and the planning and zoning commission report shall be filed with the city clerk, one (1) print and report shall be sent to the subdivider and one (1) print and report shall be retained by the commission.
(Code 1964, § 26-13)

Secs. 24-27—24-40. Reserved.

ARTICLE III. IMPROVEMENT PLANS

Sec. 24-41. Preparation; filing.

After approval of a preliminary subdivision plat by the board of aldermen, the subdivider shall then proceed with the improvement plans of the subdivision and upon completion shall file three (3) prints of such plans with the city clerk, together with three (3) copies of a detailed cost estimate of the improvements.

(Code 1964, § 26-14)

Sec. 24-42. Contents.

Improvement plans shall show the following:

- (1) Construction details of streets and alleys showing curbs, gutters, corner radius, etc., in accordance with this chapter and existing city specifications.
- (2) Construction details, size and location of storm and sanitary sewers in accordance with the metropolitan sewer district regulations.
- (3) Construction details of sidewalks in accordance with this chapter and existing city specifications.
- (4) Construction details, illumination value and location of street lights in accordance with this chapter.
- (5) Construction details, size and location of potable water lines in accordance with county health department regulations.
- (6) Construction details, size and location of fire hydrant supply lines and location of fire hydrants in accordance with existing fire district regulations.
- (7) Construction details and location of street signs in accordance with this chapter and existing city specifications.

- (8) Location and species of trees to be planted in accordance with this chapter.

(Code 1964, § 26-15)

Sec. 24-43. Action of city engineer.

City of Bellefontaine Neighbors -- QuickCode

The city clerk shall transmit the improvement plans and the detailed cost estimate to the city engineer for study and review. The city engineer shall determine if the improvement plans comply with the regulations and ordinances of the applicable city and county districts and departments, and shall check the cost estimate of the improvements for accuracy of evaluation. Any revisions to the improvement plans or adjustments to the cost estimate that are deemed necessary by the city engineer shall be made before transmitting them to the planning and zoning commission for review.
(Code 1964, § 26-16)

Sec. 24-44. Review and approval; disposition of approved copies.

After review by the planning and zoning commission and approval by the board of aldermen, one (1) print of the improvement plans shall be filed with the city clerk, one (1) print shall be sent to the subdivider and one (1) print shall be retained by the commission.
(Code 1964, § 26-17)

Secs. 24-45—24-60. Reserved.

ARTICLE IV. FINAL PLAT

Sec. 24-61. Preparation generally; filing; distribution of copies.

Along with improvement plans of the subdivision, the subdivider shall have prepared, on linen tracing cloth, a final subdivision plat, made in accordance with the approved preliminary subdivision plat and this chapter. This final subdivision plat tracing shall bear the seal of the registered land surveyor who prepared the plat and shall be accompanied by the deed restrictions of the subdivision. Three (3) prints of the final subdivision plat, the linen tracing and three (3) copies of the deed restrictions shall be filed with the city clerk for transmittal to the planning and zoning commission and board of aldermen.
(Code 1964, § 26-18)

Sec. 24-62. Form generally.

The final subdivision plat shall consist of an accurately scaled plat designating the exact boundaries of the land laid out and specifically defining the lots, blocks, streets, avenues, alleys, public ways or other portions of the land intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto.
(Code 1964, § 26-19)

Sec. 24-63. Scale; index sheet.

City of Bellefontaine Neighbors -- QuickCode

The final subdivision plat shall be drawn to a scale of not more than one hundred (100) feet to the inch from an accurate survey and on one (1) or more sheets whose maximum dimensions shall not exceed twenty-nine (29) by thirty-four (34) inches. If more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one (1) sheet and the component areas shown on other sheets.

(Code 1964, § 26-20)

Sec. 24-64. Contents of plat and accompanying documents.

Every final subdivision plat and accompanying documents shall show the following:

- (1) The boundary lines of the area being subdivided with accurate distances and angles. The correct legal description of the property being subdivided shall be shown on the plat or on accompanying certificates.
- (2) The lines of all proposed streets and alleys, with their widths and names.
- (3) The accurate outline of any portions of the property intended to be dedicated or granted for public use.
- (4) The line of departure of one street from another.
- (5) The lines of all adjoining property and the lines of adjoining streets and alleys with their widths and names.
- (6) All lots designated by numbers or letters and streets, avenues and other grounds by names, letters or numbers.
- (7) The location of all easements provided for public use, services or utilities.
- (8) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and other areas for public or private use. Linear dimensions are to be given to the nearest one one-hundredth of a foot.
- (9) The radii, arc or chords, points of tangency and center angles for all curvilinear streets and radii for rounded corners.
- (10) The location of all survey monuments and their descriptions.
- (11) The name of the subdivision and the scale of the plat, north point of the compass, the name of owner or owners or subdividers.
- (12) The certificate of a registered land surveyor to the effect that the plat represents an accurate survey made by him, that all monuments shown on the plat are correctly located and that the lots, blocks, streets, avenues, alleys, public ways and grounds and other grounds are well and

City of Bellefontaine Neighbors -- QuickCode
accurately staked off and marked.

- (13) Private restrictions and trusteeships and their periods of existence. Should these restrictions or trusteeships be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat.
- (14) Calculations showing the error of linear closure, which error shall in no case be greater than one (1) in five thousand (5,000).
- (15) Acknowledgement of the owner or owners of the plat, and restrictions including dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required.
- (16) A receipt or certificate showing that there are no unpaid taxes or assessments upon any part of the area within the subdivision.
- (17) Certificate of approval by the board of aldermen for endorsement by the city clerk.
(Code 1964, § 26-21)

Sec. 24-65. Recordation with county.

After review by the planning and zoning commission and approval by ordinance by the board of aldermen, the city clerk shall attest and affix the city seal to the linen tracing of the final subdivision plat and the subdivider shall have it recorded in the office of the recorder of deeds in the county, along with the deed restrictions. Six (6) prints and the linen tracing shall be returned to the city clerk. Thereupon, such plat shall be equivalent to and operate as a deed in fee simple to the city from the owner of all streets, avenues, alleys, public ways and grounds and of such portions of lands as therein are set apart for public and city use.
(Code 1964, § 26-22)

Annotation note—After final approval and recordation of a subdivision plat, the city engineer and board of adjustment have no authority to question whether such subdivision meets city standards. *Phillips v. Board of Adjustment*, 308 S.W. 2d 765.

Sec. 24-66. Approval and recordation required prior to sale of land.

No lot, site or parcel shall be sold from the subdivision of land until the final subdivision plat has been approved by the board of aldermen and recorded in the office of the recorder of deeds in the county.
(Code 1964, § 26-23)

Secs. 24-67—24-80. Reserved.

ARTICLE V. IMPROVEMENTS AND DESIGN STANDARDS

Sec. 24-81. Installation of part of improvements.

The owner of a tract may prepare and secure approval of a preliminary subdivision plat of an entire area and may install the required improvements only in a portion of such area. The improvements shall be installed or provision made for their installation in any portion of the area for which a final subdivision plat is approved for recording; provided, however, that water mains, storm sewers, trunk sewers and any sewage treatment plants shall be designed and built to serve the entire area owned by the subdivider or designed and built in such a manner that they can readily be expanded or extended to serve the entire area.

(Code 1964, § 26-24)

Sec. 24-82. Lots.

(a) *Arrangement and design.* The lot arrangement and design of a subdivision shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of surrounding development.

(b) *Side lines; double frontage.* All side lines of lots shall be at right angles to straight street lines and radial to curved street lines except where a variation of this rule will provide a better street and lot layout. Lots with double frontage shall be avoided.

(c) *Dimensions.* No lot shall have a depth of less than one hundred (100) feet or a depth in excess of three (3) times its width. No lot shall have an area or width less than that required by the zoning ordinance.

(d) *Corner lot width.* Corner lots shall have extra width sufficient to permit the establishment of front building lines on both the adjoining streets.

(e) *Corner lots at certain intersection.* Lots at major street intersections and at acute angle intersections of less than eighty-five (85) degrees shall have a radius of twenty (20) feet at the street corner. On business lots, a chord may be substituted for the arc.

(f) *Irregular shaped lots.* Where lots are irregular in shape with frontage on a circular street or court at the termination of a street, the frontage of the lot may be reduced below the minimum frontage specified under the intensity of use provision for the zoning district in which it is located; provided, that the width of the lot at the building line shall be in accordance with the minimum frontage specified for

such zoning district.
(Code 1964, § 26-25)

Sec. 24-83. Streets and alleys—Arrangement generally.

The arrangement of streets and alleys in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas, or their proper projection where adjoining land is not subdivided, insofar as may be deemed necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum widths established in this chapter. The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it. Offset streets shall be avoided. The angle of intersection between minor streets and major streets shall not vary by more than ten (10) degrees from a right angle. Streets obviously in alignment with existing streets shall bear the names of the existing streets. Proposed street names that are in conflict with existing street names shall not be approved.
(Code 1964, § 26-26)

Sec. 24-84. Same—Widths.

(a) *Major streets.* The widths and locations of major streets in a subdivision shall conform to the widths and locations designated on the major street plan.

(b) *Minor streets and collector streets.* The minimum width of right-of-way for minor streets shall be fifty (50) feet and all collector streets as designated by the planning and zoning commission shall have a right-of-way of sixty (60) feet. Whenever the subdivided property adjoins a half street the remainder of the street shall be dedicated.

(c) *Alleys.* Alleys shall not be provided in a residential block. Alleys or other adequate access for service are required in the rear of all business lots and shall be at least twenty (20) feet wide.
(Code 1964, § 26-27)

Sec. 24-85. Cul-de-sacs and courts.

Courts, cul-de-sacs or other arrangements may be constructed in a subdivision if proper access is given to all lots from a dedicated and paved street or court. All cul-de-sacs shall terminate in a dedicated street space having a minimum radius of fifty (50) feet or other satisfactory means for the turning of vehicles.
(Code 1964, § 26-28)

Sec. 24-86. Street signs.

Street name signs conforming to the standards and specifications of the city shall be erected at all

City of Bellefontaine Neighbors -- QuickCode

street intersections in a subdivision. The placement and installation of such signs shall be subject to the approval of the city engineer.

(Code 1964, § 26-29)

Sec. 24-87. Street lights.

(a) All subdivisions of land development within the city, in addition to all requirements set up by this Code or any other ordinances of the city, shall have adequate electric street lamps with underground wiring, or adequate street lamps operated with natural gas supplied by means of safe underground gas pipes.

(b) Average horizontal foot-candles shall be two-tenths on traffic-used pavements between curb lines. The lowest footcandle value at any point on the pavement should not be less than the fraction of one-tenth of the average. This subsection refers to pavements of good or medium reflective value, concrete pavement that carries light vehicular and pedestrian traffic. Where the pavement is to carry medium traffic volume, the fraction one-fourth should be substituted for the fraction one-tenth.

(c) For pavements of poor reflective value such as asphalt pavements, two-tenths and the fraction one-tenth in the base statement should be replaced by three-tenths and the fraction one-fourth respectively.

(Code 1964, § 26-30)

Sec. 24-88. Grades of streets.

All new streets in subdivisions shall be graded to their full width and proper grade, including side slopes.

(Code 1964, § 26-31)

Sec. 24-89. Street surfacing.

All new streets in subdivisions shall be surfaced between face of curbs to a width of twenty-six (26) feet for minor streets and thirty (30) feet for collector streets. Surfacing shall be concrete of seven (7) inches minimum thickness in accordance with existing city specifications and shall be subject to inspection and approval by the city engineer.

(Code 1964, § 26-32)

Sec. 24-90. Sidewalks.

Concrete sidewalks five (5) inches thick and not less than four (4) feet in width shall be constructed along both sides of all major and collector streets in a subdivision; except that, where the property is platted in lots having an area of at least twenty thousand (20,000) square feet and a width of at least one

hundred (100) feet, the board of aldermen may waive those requirements.
(Code 1964, § 26-33)

Sec. 24-91. Easements—Utility.

Easements of at least five (5) feet in width shall be provided and dedicated on each side of all rear lot lines and where necessary along side lot lines for poles, wires, conduits or storm and sanitary sewers, gas, water or other mains. Easements of greater width may be required along or across lots where necessary for the extension of main sewers or other utilities or where both water and sewer lines are located in the same easement.

(Code 1964, § 26-34)

Sec. 24-92. Same—Along streams.

Whenever any stream or important surface drainage course is located in any area which is being subdivided, the subdivider shall provide an adequate easement as determined by the city engineer along each side of the stream for the purpose of widening, deepening, sloping, improving or protecting the stream.

(Code 1964, § 26-35)

Sec. 24-93. Water supply; fire hydrants.

Each lot within a subdivision shall be provided with a connection to an approved public water supply. Fire hydrants shall be installed in all subdivisions in compliance with existing fire district regulations.

(Code 1964, § 26-36)

Sec. 24-94. Sanitary sewers.

(a) Where a public sanitary sewer is reasonably accessible, each lot within the subdivided area shall be provided with a connection to such sanitary sewer. The sewer connection shall terminate not less than two (2) feet inside the lot line. All sewer connections and the subdivision sewer system shall comply with the regulations of the state board of health and shall be constructed under the supervision and subject to the approval of the St. Louis Metropolitan Sewer District.

(b) Where a public sanitary sewer is not reasonably accessible but where plans for the installation of sanitary sewers in the vicinity of a subdivision have been prepared and approved by the St. Louis Metropolitan Sewer District, the subdivider shall install sewers in conformity with such plans. In such cases until a connection can be made with the public sewer system the use of a sewage treatment plant will be permitted in accordance with Article XVI of the Zoning Ordinance; provided, that such disposal facilities are constructed in accordance with the standards and requirements of the state board of health

City of Bellefontaine Neighbors -- QuickCode

and are approved by the county health department.

(c) Where sewers are not accessible and no plans for sewers have been prepared, the subdivider may be required to install sewer lines and a disposal system in accordance with the requirements of this section, or if the subdivision has been platted into lots having a minimum width of one hundred (100) feet and an average area of twenty thousand (20,000) feet or more he may install individual disposal devices for each lot at the time improvements are erected thereon. All such individual sewage disposal systems shall be constructed in accordance with regulations and requirements of the state board of health and subject to the inspection and approval of the county health department and the county board of plumbing supervisors.

(Code 1964, § 26-37)

Sec. 24-95. Storm and surface drainage.

A subdivision plat shall be laid out so as to provide adequate drainage of the area being subdivided. Drainage improvements shall maintain any natural watercourse and shall prevent the collection of water in any low spot. A storm sewer system approved by the city engineer and the metropolitan sewer district shall be provided where necessary for adequate drainage.

(Code 1964, § 26-38)

Sec. 24-96. Schools, parks, playgrounds, etc.

In subdividing property consideration shall be given to suitable sites for schools, parks, playgrounds and other areas for public use so as to conform to the recommendations of the planning and zoning commission in its adopted master plan or portion thereof of the city. Any provision for schools or parks and playgrounds should be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate taxing agency.

(Code 1964, § 26-39)

Sec. 24-97. Trees.

Every subdivider shall plant trees on all streets in new residential subdivisions that are not located in wooded areas. Such trees shall be provided in the ratio of not less than one (1) tree for each residential lot, which trees shall not be less than two (2) inches in diameter at a height of one (1) foot above the ground. The trees planted shall be of species such as hard maples, pin oaks, ginkgos, tulip trees and sweet gum which are suitable to this area and unlikely to become nuisances because of insects, disease or other factors.

(Code 1964, § 26-40)

Sec. 24-98. Monuments.

City of Bellefontaine Neighbors -- QuickCode

All subdivision boundary corners and the centers of all street intersections shall be marked with permanent survey monuments. All points of tangency and points of curvature of all curves shall be marked with permanent monuments. A permanent monument shall be deemed to be concrete with rod center at least thirty (30) inches long with a minimum dimension of four (4) inches extending below the frost line. Should conditions prohibit the placing of monuments on the line, offset marking will be permitted; provided, however, that exact offset courses and distances are shown on the subdivision plat. Iron pipes or steel rods shall be set at all lot corners.
(Code 1964, § 26-41)

Chapter 25 -- SWIMMING POOLS

Cross reference—Pools of stagnant water to constitute public nuisance, § 13-60.

Sec. 25-1. Definitions.

As used in this chapter, the following terms shall have the meaning indicated in this section:

Private swimming pool shall mean any constructed pool which is used or intended to be used as a swimming pool in connection with a single-family residence and available only to the family of the householder and his private guests.

Public or semipublic swimming pool shall mean any swimming pool other than a private swimming pool.
(Code 1964, § 26A-2)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 25-2. Applicability of chapter.

(a) Pools used for swimming and bathing shall be in conformity with the requirements of this section; provided that, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred fifty (250) square feet except when such pools are permanently equipped with a water recirculating system or involve structural materials. For purposes of this chapter, pools are classified as private swimming pools or public and semipublic pools as defined in section 25-1.

(b) Materials and constructions used in swimming pools shall comply with the applicable requirements of the city's building code.

(c) Pools used for swimming or bathing and their equipment or accessories which are constructed, installed and maintained in accordance with the applicable standards shall be deemed to conform to the requirements of the city's building code, provided, that the requirements of section 25-8 are included in

the installation.
(Code 1964, § 26A-1)

Sec. 25-3. Plans and permits.

(a) *Permits.* No swimming pool or appurtenances thereto shall be constructed, installed, enlarged or altered until a permit has been obtained from the city engineer.

(b) *Plans.* Plans shall accurately show dimensions and construction of pool and appurtenances and properly established distances to lot lines, buildings, walks and fences, details of water supply system, drainage and water disposal systems and all appurtenances pertaining to the swimming pool. Detail plans of structures, vertical elevations and sections through the pool showing depth shall be included.
(Code 1964, § 26A-3)

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 25-4. Location.

Private swimming pools shall not encroach on any front or side yard required by the city's building code or the governing zoning law.
(Code 1964, § 26A-4)

Sec. 25-5. Design and construction.

(a) *Structural design.* The pool structure shall be engineered and designed to withstand the expected forces to which it will be subjected.

(b) *Wall slopes.* To a depth up to five (5) feet from the top, the wall slope shall not be more than two (2) feet horizontal in five (5) feet vertical.

(c) *Floor slopes.* The slope of the floor on the shallow side of transition point shall not exceed one (1) foot vertical to seven (7) feet horizontal. The transition point between shallow and deep water shall not be more than five (5) feet deep.

(d) *Surface cleaning.* All swimming pools shall be provided with a recirculating skimming device or overflow gutters to remove scum and foreign matter from the surface of the water. Where skimmers are used, there shall be at least one (1) skimming device for each one thousand (1,000) square feet of surface or fraction thereof. Where overflow gutters are used, they shall be not less than three (3) inches deep, pitched one-quarter inch per foot to drains, and constructed so they are safe, cleanable and that matter entering the gutters will not be washed out by a sudden surge of entering water.

(e) *Walkways.* All public or semipublic swimming pools shall have walkways not less than four (4) feet in width extending entirely around the pool. Where curbs or sidewalks are used around any

City of Bellefontaine Neighbors -- QuickCode

swimming pool, they shall have a nonslip surface for a width of not less than one (1) foot at the edge of the pool and shall be so arranged to prevent return of surface water to the pool.

(f) *Steps and ladders.* One (1) or more means of egress shall be provided from the pool. Treads of steps or ladders shall have slip-resistant surfaces and handrails on both sides; except, that handrails may be omitted when there are not more than four (4) steps or when they exceed the full width of the side or end of the pool. Exterior steps or ladders for portable pools shall be designed so as to allow the pool owner to make the pool inaccessible to unauthorized persons.

(Code 1964, § 26A-5)

Sec. 25-6. Water supply, treatment and drainage systems.

(a) *Water supply.* All swimming pools shall be provided with a potable water supply, free of cross connections with the pool or its equipment.

(b) *Water treatment.* Public and semipublic swimming pools shall be designed and installed so that there is a pool water turnover at least once every eight (8) hours. Filters shall not filter water at a rate in excess of three (3) gallons per minute per square foot of surface area. The treatment system shall be so designed and installed to provide in the water, at all times when the pool is in use, excess chlorine of not less than 0.4 p.p.m. or more than 0.6 p.p.m., or excess chloramine between 0.7 and 1.0 p.p.m., or disinfection may be provided by other approved means. Acidity-alkalinity of the pool water shall not be below 7.0 or more than 7.5. All recirculation systems shall be provided with an approved hair and lint strainer installed in the system ahead of the pump. Private swimming pools shall be designed and installed so that there is a pool water turnover at least once every eighteen (18) hours. Filters shall not filter water at a rate in excess of five (5) gallons per minute per square foot of surface area. The pool owner shall be instructed in proper care and maintenance of the pool, by the supplier or builder, including the use of high test calcium hypochlorite (dry chlorine) or sodium hypochlorite (liquid chlorine) or equally effective germicide and algacide, and the importance of proper pH (alkalinity and acidity) control.

(c) *Drainage systems.* The swimming pool and equipment shall be equipped to be completely emptied of water and the discharge water shall be disposed of in an approved manner, that will not create a nuisance to adjoining property.

(Code 1964, § 26A-6)

Sec. 25-7. Appurtenant structures and accessories.

(a) *Appurtenant structures.* All appurtenant structures, installations and equipment, such as showers, dressing room, equipment houses or other buildings and structures, including plumbing, heating and air-conditioning, amongst others appurtenant to a swimming pool, shall comply with all applicable requirements of the city's building code and the zoning law.

(b) *Accessories.* All swimming pool accessories shall be designed, constructed and installed so as not to be a safety hazard. Installations or structures for diving purposes shall be properly anchored to

City of Bellefontaine Neighbors -- QuickCode
insure stability and properly designed and located for maximum safety.
(Code 1964, § 26A-7)

Sec. 25-8. Safety precautions.

(a) *Overhead electrical conductors.* No overhead electrical conductors shall be installed within fifteen (15) feet of any swimming pool. All metal fences, enclosures or railings near or adjacent to swimming pool to which bathers have access, which may become electrically alive as a result of contact with broken overhead conductors, or from any other cause, shall be effectively grounded.

(b) *Equipment installations.* Pumps, filters and other mechanical and electrical equipment for public and semipublic swimming pools shall be enclosed in such a manner as to be accessible only to authorized persons and not to bathers. Construction and drainage shall be such as to avoid the entrance and accumulation of water in the vicinity of electrical equipment.

(c) *Swimming pool safety devices.* Every person owning land on which there is situated a swimming pool, fish pond or other body of water, which constitutes an obvious hazard and contains twenty-four (24) inches or more of water in depth at any point, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four (4) feet above the underlying ground. All gates must be self-latching with latches placed four (4) feet above the underlying ground and otherwise made inaccessible from the outside to small children.
(Code 1964, § 26A-8; Ord. No. 1352, § 11, 7-2-87)

Chapter 26 -- TAXATION

Cross reference—Administration generally, Ch. 2.

ARTICLE I. IN GENERAL

Sec. 26-1. Date unpaid taxes become delinquent.

All unpaid taxes for each year shall become delinquent on the first day of January of the following year.
(Code 1964, § 11-3)

Secs. 26-2—26-15. Reserved.

ARTICLE II. CIGARETTES

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 26-16. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Cigarette. A roll of tobacco or any substitute thereof wrapped in paper and used for smoking.

Cigarette consumer. A person who comes into possession of tobacco for the purpose of consuming it, giving it away or disposing of it in any way.

Cigarette dealer. Any person dealing directly with the manufacture of cigarettes in their purchase and in the business of selling cigarettes as a first seller.

Cigarette first seller. Any person who makes the initial or first sale or distribution of cigarettes within the city.

Cigarette package. The individual package, box or other container from which sales of cigarettes are normally made or intended to be made.

Cigarette retailer. Any person other than a dealer or wholesaler as defined in this section, who is engaged in the business of selling cigarettes at retail, who shall sell or offer for sale cigarettes, irrespective of quantity, number of sales, giving the same away or exposing the same where they may be taken, or purchased, or otherwise acquired.

Cigarette sale. Any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration or any agreement therefor.

Cigarette wholesaler. Any person whose principal business is that of a wholesale jobber and who is known to the trade as such who sells cigarettes only for the purpose of resale or giving them away or exposing the same where they may be taken or otherwise acquired by the retailer.

Exhibitor of coin-operated cigarette vending machine. Any person who exhibits, maintains or has possession of, for operation, one (1) or more coin-operated cigarette vending machines within the city. (Code 1964, § 11-10)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 26-17. Levy.

City of Bellefontaine Neighbors -- QuickCode

Every cigarette dealer or cigarette wholesaler engaged in the business of selling cigarettes or offering or displaying the same for sale within the city shall pay an occupation tax at the rate of one dollar (\$1.00) per thousand (1,000) cigarettes for all cigarettes sold or offered or displayed for sale; this tax shall be paid and the stamps hereinafter provided shall be affixed but once, and then only affixed by the cigarette dealer selling such cigarettes or displaying or offering them for sale and no cigarette dealer or cigarette wholesaler shall display or offer for sale in the city any such cigarettes without first having affixed the stamps hereinafter provided; provided further, that the cigarette dealer may sell cigarettes or display or offer them for sale without first affixing the stamps hereinafter provided to those cigarette wholesalers who are doing business within the city and who do business outside the city wherein the selling, displaying or offering for sale of cigarettes outside the city would not require the affixing of stamps as hereinafter provided; provided further, those cigarette wholesalers shall be subject to the same regulations of this article as the cigarette dealers or cigarette wholesalers selling, displaying or offering for sale cigarettes within the city, it being the intent and purpose of this section to require all cigarette first sellers, cigarette dealers or cigarette wholesalers to affix the stamps hereinafter provided for before selling such cigarettes or displaying or offering them for sale, but where cigarette wholesalers resell cigarettes outside the city such cigarette wholesalers shall be allowed to purchase and the cigarette dealer allowed to sell within the city cigarettes without having first affixed the stamps as hereinafter provided, the intention of this article being that such tax shall be paid and such stamps affixed but once. The intent and meaning of this article is that the same shall levy an occupation tax based upon and pursuant to the methods provided for by the Revised Statutes of Missouri, as amended, and pursuant to the powers therein granted and the powers contained and set forth herein. Such tax shall be paid and the stamps hereinafter provided for shall be affixed by the cigarette dealer or cigarette wholesaler before the same shall be displayed or offered for sale in the city.

(Code 1964, § 11-11)

Sec. 26-18. Affixing of stamps generally.

The tax shall be paid and the stamps affixed by the cigarette dealer or cigarette wholesaler selling such cigarettes or displaying or offering them for sale. No cigarette dealer shall display or offer for sale cigarettes without first having affixed the stamps hereinafter provided.

(Code 1964, § 11-12)

Sec. 26-19. Reserved.

Sec. 26-20. Duty of dealer and wholesaler.

Every cigarette dealer or cigarette wholesaler selling, offering or displaying for sale, any package of cigarettes shall have affixed to such package of cigarettes sold, offered or displayed for sale, a stamp purchased from and furnished by the collector. These stamps so affixed shall evidence the payment of the tax imposed by this article.

(Code 1964, § 11-14)

Sec. 26-21. Sales without stamps prohibited; counterfeiting, etc., stamps.

No person shall sell, offer or display for sale cigarettes without having first had affixed to the package thereof the stamp required to be affixed thereto under the provisions of this article. No person shall falsely and fraudulently make, forge, alter or counterfeit any stamp prescribed by the collector or cause or procure to be falsely or fraudulently made, forged, altered or counterfeited, any such stamp, or knowingly and wilfully utter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or any plate or other device for fraudulently making, forging, altering or counterfeiting any such stamp.

(Code 1964, § 11-15)

Sec. 26-22. Time when stamps to be affixed.

Each cigarette dealer or cigarette wholesaler shall open each box, carton or other container and immediately have affixed such stamps to each package therein within such time as the collector may fix by regulation after such receipt and prior to the sale of such cigarettes unless such cigarettes are being held for sale outside the city.

(Code 1964, § 11-16)

Sec. 26-23. Presumption of violation of article.

Whenever any cigarettes are found in the place of business of a cigarette dealer, retailer or wholesaler without the stamps affixed, or not marked as having been received within the time fixed by regulation of this tax collection and not being held for sale outside of the city, the prima facie presumption shall arise that the cigarettes are kept in violation of the provisions of this article.

(Code 1964, § 11-17)

Sec. 26-24. Stamp denominations; use of meter stamps.

Stamps shall be affixed to each package of cigarettes of an aggregate denomination not less than the amount of the occupation tax upon the cigarette dealer or cigarette wholesaler, based upon the contents therein, and shall be affixed in such manner as to be visible to the purchaser. The affixing of stamps may also include the affixing of tax meter stamps upon packages of cigarettes. The collector shall adopt rules and regulations relating to the imprinting of such tax meter stamps as will result in payment of the proper tax.

(Code 1964, § 11-18)

Sec. 26-25. Invoices; records; promulgation of rules and regulations.

City of Bellefontaine Neighbors -- QuickCode

For the purpose of enabling the collector properly to enforce the terms of this article, the following provisions are enacted:

- (1) Each cigarette dealer in the city and cigarette wholesalers and cigarette retailers shall procure and retain invoices showing the amount and value of such shipment of cigarettes received by him, the date thereof, and the name of the shipper, and shall retain this invoice for a period of three (3) years subject to the use and inspection of the collector.
- (2) The collector by regulation may provide that whenever cigarettes are shipped into the city, the railroad company, express company, trucking company or other public carrier transporting any shipment thereof shall file with the collector a copy of the freight bill within ten (10) days after the delivery in the city of such shipment.
- (3) All cigarette dealers, cigarette wholesalers and cigarette retailers within the city shall maintain and keep for a period of three (3) years such other records of cigarettes received, sold or delivered within the city as may be required by the collector.
- (4) The city collector or his duly authorized representatives are authorized to examine the books, papers, invoices and other records, stock of cigarettes in and upon any premises where they are placed, stored or sold, and equipment of any such cigarette dealer, cigarette wholesaler or cigarette retailer pertaining to the sale and delivery of cigarettes taxable under this article.
- (5) To verify the accuracy of the occupation tax imposed and assessed by this article, each such person shall give to the collector of the city, or his duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.
- (6) In addition to the powers herein granted to the collector of the city, he may prescribe, adopt, promulgate and enforce rules and regulations relating to: The method and means to be used in the affixing of stamps, if any; the denomination and sale of stamps; the delegation of his powers to a deputy or other employee of his office; any other matter or thing pertaining to the administration and enforcement of the provisions of this article.

(Code 1964, § 11-19)

Sec. 26-26. Refunds.

Whenever any cigarettes, upon which stamps have been placed, have been sold and shipped by the dealer into another city or state for sale or use therein, or have become unfit for use and consumption or unsalable, or have been destroyed, such dealer or wholesaler shall be entitled to a refund of the actual amount of tax paid with respect to such cigarettes. If the collector is satisfied that any dealer or wholesaler is entitled to a refund, he shall issue to such dealer or wholesaler stamps of sufficient value to cover the refund. The collector may adopt, prescribe and promulgate such rules and regulations with regard to the presentation and proof of claim for refunds as he may deem advisable.

(Code 1964, § 11-20)

Sec. 26-27. Seizure and sale of unstamped cigarettes, etc.

Whenever the collector or any of his duly authorized representatives shall discover any cigarettes subject to tax provided by this article and upon which the occupation tax has not been paid or the stamps not affixed as herein required, the collector, or such representatives, shall forthwith seize and take possession of such cigarettes together with any vending machine or receptacle in which they are held for sale and they shall thereupon be deemed to be forfeited to the city. The collector may, within a reasonable time thereafter, by a public notice at least five (5) days before the day of sale, sell such forfeited cigarettes, forfeited cigarette vending machines and receptacles, at a place designated by him and from the proceeds of such sale collect the tax due thereon together with a penalty of fifty (50) percent thereof and the costs incurred in such proceedings. The collector shall pay the balance, if any, to the person in whose possession such forfeited cigarettes, forfeited cigarette vending machines and receptacles were found; provided, that such seizure and sale shall not be deemed to relieve any person from any other penalty for violation of this article.

(Code 1964, § 11-21)

Sec. 26-28. Investigative powers of collector, etc.

The collector of the city or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their powers and duties under this article. The collector shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this article and to examine them in relation thereto.

(Code 1964, § 11-22)

Sec. 26-29. Cash deposit or bond; forfeiture of merchant's license.

The board of aldermen may require for good and sufficient reasons, a cigarette dealer, cigarette wholesaler or exhibitor of a coin-operated cigarette vending machine offering or displaying for sale any cigarettes within the city where a stamp is required to be affixed under the provisions of this article, to deposit with the collector the sum of one thousand dollars (\$1,000.00) in cash or a bond in the sum of one thousand dollars (\$1,000.00) with sufficient surety or sureties approved by the board of aldermen, the condition of which shall be that in the event the cigarette dealer, cigarette wholesaler or exhibitor of a coin-operated cigarette vending machine is found guilty of a violation of any provision of this article, such cash deposit or such bond shall be and become immediately forfeited. Upon conviction of any person for a violation of any provision of this article, the board of aldermen is empowered and directed immediately to cancel the merchant's license of such person and such person shall not thereafter be eligible to secure a new merchant's license for a period of three (3) years after such conviction. The penalties herein provided are to be deemed cumulative and shall be imposed in addition to any other penalties provided under the provisions of this article. In all other cases or conditions a bond or deposit

City of Bellefontaine Neighbors -- QuickCode
may be waived unless the board of aldermen shall deem it necessary and require the bond or deposit to be filed with the collector.
(Code 1964, § 11-23)

Sec. 26-30. Cigarette sales not included in gross receipts.

The gross receipts of any licensee in the city subject to a gross receipts tax levy shall not include the gross receipts from the sale of cigarettes within such licensee's returns and upon which the gross receipts tax is paid.
(Code 1964, § 11-24)

Sec. 26-31. Cigarette dealers outside city.

Any cigarette dealer whose place of business is outside the corporate limits of the city shall be bound by all of the provisions of this article with respect to any transactions which relate to the distribution or sale of cigarettes within the city.
(Code 1964, § 11-25)

Sec. 26-32. Penalties for violations.

Any person violating this article by selling or displaying for sale any package of cigarettes not bearing a stamp or a meter imprint stamp, or any person violating this article by selling from a vending machine any cigarettes not bearing a stamp or meter imprint stamp, shall upon conviction thereof be deemed guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code for each and every offense. The sale of each package of unstamped or improperly stamped cigarettes shall be deemed a separate offense.
(Code 1964, § 11-26)

Secs. 26-33—26-45. Reserved.

ARTICLE III. SALES TAX

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

State law reference—City Sales Tax Act, RSMo. §§ 91.500—94.570.

Sec. 26-46. Imposed.

A sales tax at the rate of one and one-half (1½) percent on the receipts from the sales at retail of all

City of Bellefontaine Neighbors -- QuickCode

tangible personal property and taxable services at retail within the city is hereby levied and imposed upon all sellers selling or furnishing tangible personal property or rendering services for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail in the city, to the extent and in the manner provided in sections 94.500 to 94.570, RSMo., and sections 144.010 to 144.510, RSMo., and in the rules and regulations of the director of revenue of the state, issued pursuant thereto.
(Ord. No. 805, § 1, 10-21-71)

Sec. 26-47. Disposal of revenues.

All revenues collected and received by the city from the tax imposed by this article shall be deposited in the city treasury to the credit of the general revenue fund.
(Ord. No. 805, § 2, 10-21-71)

Chapter 27 -- TAXICABS

Cross references—Licenses and miscellaneous business regulations, Ch. 15; designation of public carrier stops and stands, § 17-166; stopping, standing and parking of taxicabs regulated, §17-167; restricted use of taxicabs stands, § 17-168; streets and sidewalks, Ch. 23.

State law references—Authority of city to license, tax and regulate the business of operating taxicabs, RSMo. § 94.270; exemption of taxicabs from the motor carrier laws, RSMo. § 390.030.

ARTICLE I. IN GENERAL

Sec. 27-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

Street. Any road, street, alley, avenue, boulevard, court, lane or public place in the city.

Taxicab. Any motor vehicle having a capacity of not more than five (5) passengers, exclusive of the driver, engaged in the business of carrying persons for hire on the streets of the city, whether the same is operated from a street stand or from a garage, but not operated on a regular route or between fixed termini, whether the charge therefor is made upon the basis of distance traveled, as indicated by a taximeter or speedometer attached thereto or by any other method of determining distance, such as by a zoning system or otherwise, or the time consumed in traveling, as indicated by a time card furnished the

passenger by the operator, or on any other basis whatever.
(Code 1964, § 27-1)

Cross reference—Definitions and rules of construction generally, § 1-2.

State law reference—Similar provisions, RSMo. § 390.020(17).

Sec. 27-2. Chapter not applicable to sight-seeing car or service car.

This chapter shall not apply to any motor vehicle used as a sight-seeing car, which is a motor vehicle having a seating capacity in excess of six (6) persons and used for the purpose of conveying passengers on a sight-seeing tour, as the term is generally understood, and where the basis for charge is time or circuit route traveled by such cars in regular trips; nor shall this chapter apply to any service car, which is a motor vehicle having a seating capacity in excess of six (6) persons offered for or engaged in carrying passengers, with or without baggage, for hire within the city without regard to the time consumed or the distance traveled, and the passenger having no control of the route of passage and carriage.
(Code 1964, § 27-2)

Sec. 27-3. Annual inspection of vehicles; reports of inspections; inspection fee.

The chief of police shall maintain constant vigilance over all taxicabs, and through his deputies and inspectors shall inspect all such vehicles to ascertain that they are in compliance with all applicable provisions of chapter 307 of the Revised Statutes of Missouri. Such inspection shall be made annually before the issuance of any license therefor, and shall be made thereafter from time to time, or on the complaint of any person, as often as may be necessary to ascertain that such taxicabs are kept in a condition of continued fitness for public use. The chief of police may prohibit the use of any vehicle by the owner thereof if such vehicle is found to be unfit or unsuited for public patronage. He shall also examine the taximeter, speedometer or other measuring device attached to any taxicab, and see that the same is at all times accurate. Reports in writing of all inspections shall promptly be made and kept on file in the police department at city hall. Whenever any vehicle shall have been found to be unfit or unsuited for public patronage and its use prohibited by the chief of police, it shall be unlawful for the owner thereof to further use such vehicle as a taxicab. For the annual inspection prescribed in this section, a fee of two dollars (\$2.00) shall be paid the city, which fee shall be collected by the chief of police and shall be paid by the owner or operator thereof at the time of making such inspections. Nothing contained in this section shall be construed as authorizing the city through the chief of police to charge or collect more than one (1) inspection fee per year on the same taxicab.
(Code 1964, § 27-3; Ord. No. 1874 § 1, 2-15-01)

Sec. 27-4. Solicitation of passengers.

While a taxicab is on a public street or place, passengers shall be solicited by no other means than by having a painted sign on the vehicle stating, in addition to the rate of fare, that the same is for hire. No

City of Bellefontaine Neighbors -- QuickCode

driver or chauffeur of any such vehicle shall seek employment by repeatedly and persistently driving his taxicab in and about a short space, but such driver or chauffeur, in addition to the sign on his vehicle, may solicit employment by driving through any public street or place without stops other than those due to obstruction of traffic thereon or to traffic rules. There shall be no cruising permitted by taxicabs. (Code 1964, § 27-4)

Sec. 27-5. Deceiving passenger prohibited; passenger to be conveyed by directed route.

No person owning or operating or in charge of any taxicab shall willfully deceive any passenger who may desire to ride or who may ride in such vehicle as to its destination or as to the rates or charges therefor, or cause a passenger to be conveyed to a place other than that directed by him. (Code 1964, § 27-5)

Sec. 27-6. Right of refusal of service to certain persons.

It shall be the duty of every person owning, operating or in charge of taxicabs to permit any person to hire the same; provided, that the former may refuse to let the taxicab to anyone who is intoxicated and shall not knowingly or willfully let the same to any person in furtherance of any unlawful purposes whatsoever. (Code 1964, § 27-6)

Sec. 27-7. Display and approval of rates of fare.

The rate of fare to be asked, demanded or received by the owner, operator or person in charge of any taxicab, whether the rate of fare is computed upon a mileage basis or on the basis of time consumed by the passenger in traveling in such taxicab, shall at all times when such taxicab is not being actually used in the transportation of passengers for hire be conspicuously displayed by letters not less than three (3) inches high on the front doors of such taxicabs, and the rate and method of charge shall be submitted to the board of aldermen for approval. (Code 1964, § 27-7)

Sec. 27-8. Taxicab permit—Issuance; contents; loss; permit number.

(a) Upon the payment of the license fee required in section 27-34, the city clerk shall assign to each taxicab a number and shall issue to the owner of same a permit to operate such taxicab, as provided by this chapter. Such permit shall bear the number so assigned and shall also state that the vehicle is a taxicab and that it is to be driven or operated by the owner or an employee. In the event of the loss, mutilation or destruction of such permit the owner may obtain from the city clerk a duplicate thereof upon filing an affidavit showing that such permit has been lost, mutilated or destroyed and paying a fee of one dollar (\$1.00) therefor. Such permit shall be marked "Duplicate."

City of Bellefontaine Neighbors -- QuickCode

(b) The number so assigned to any taxicab shall be plainly marked on the vehicle for which it has been issued where it can be readily seen.

(Code 1964, § 27-8)

Sec. 27-9. Same—Transferability; transfer fee.

No permit shall be used which has not been duly issued by the city clerk for the particular vehicle on which such permit is to be used, nor shall anyone use or permit to be used any false or counterfeit permit; provided, however, that when any vehicle for which such permit has been issued shall be permanently withdrawn from service and replaced by another vehicle, such permit may be transferred from the abandoned vehicle to the replacing vehicle upon application therefor to the city clerk and upon the payment of a fee of one dollar (\$1.00).

(Code 1964, § 27-9)

Sec. 27-10. Liability insurance required.

(a) Every holder of a license to operate a taxicab and the owner of such taxicab shall in addition to the requirements of this chapter maintain and carry for each taxicab licensed to be operated a policy of liability insurance calling for coverage of twenty-five thousand dollars (\$25,000.00) for any one (1) person and fifty thousand dollars (\$50,000.00) for any two (2) persons, or more, who may be injured in any one (1) accident at any time, and ten thousand dollars (\$10,000.00) for property damages by reason of the carelessness or negligence of the driver or operator of such taxicab.

(b) Such insurance shall be carried in a firm or corporation which has been duly licensed or permitted to do an insurance business in the state and shall be kept and maintained continually in force and effect so long as such owner of such taxicab shall be licensed to operate the same on the streets of the city. Such insurance policy shall be submitted to the board of aldermen for approval and shall be deposited with the city. There shall be attached to all liability insurance policies issued pursuant to the requirements of this chapter and filed with the board of aldermen the following endorsement:

"In consideration of the premium stated in the policy to which this endorsement is attached, the company hereby waives a description of the motor vehicles to be insured hereunder and agrees to pay any final judgment for personal injury, including death, resulting therefrom, caused by any and all motor vehicles operated by the assured pursuant to the license issued by the City of Bellefontaine Neighbors, within the limits set forth in the schedule shown hereon, and further agrees that upon its failure to pay any such final judgment, the judgment creditor may maintain an action in any court of competent jurisdiction to compel such payment. Nothing contained in the policy or any endorsement thereon, nor the violation of any of the provisions thereof by the assured, shall relieve the company from liability hereunder or from the payment of such judgment. The policy to which this endorsement is attached shall not expire, nor shall cancellation take effect until after ten (10) days' notice to commence to run from the date notice is actually received at the office of the Board of Aldermen. Attached to and forming a part of Policy Number _____."

(Code 1964, § 27-10)

State law reference—Motor Vehicle Safety Responsibility Law insurance limits, RSMo. § 303.190(2).

Sec. 27-11. Discontinuing operation of vehicle; abandonment of business.

No person who has been licensed to operate taxicabs may discontinue any of them without first filing with the board of aldermen a statement, verified by affidavit, of the number of vehicles he desires to discontinue operating, and the reasons therefor, and obtaining permission from the board of aldermen to discontinue operation as set forth in such statement. The withdrawal of any vehicle from operation for the purpose of conditioning, overhauling or repairing shall not be considered discontinuing operation under this section. Upon complete abandonment of taxicab service for a period of ten (10) consecutive days by any owner or operator of taxicabs, the board of aldermen, upon a hearing, after three (3) days' notice to the owner or operator at the address given to the city on his application for license, shall recall the license theretofore issued to such owner or operator, and upon notice thereof by the board of aldermen to the city clerk, the licenses theretofore issued to such owner or operator shall be and stand revoked. No such license shall thereafter be reinstated or renewed by the city clerk until the owner or operator shall have obtained a new license from the board of aldermen with like effect as though such owner or operator had never theretofore been granted such license. Whenever any license to operate any taxicab has been revoked, it shall thereafter be unlawful to display or use such license as authority for the operation of the taxicab in which the same may be so used or displayed.
(Code 1964, § 27-22)

Sec. 27-12. Additional rules and regulations; records to be kept.

The chief of police is authorized to establish such additional rules and regulations not inconsistent with this chapter as may be reasonable and necessary to carry out and enforce this chapter. The chief of police shall keep or cause to be kept a record of each permit issued to a driver, of all renewals, suspensions or revocations of permits, which record shall be kept of each person owning or operating a vehicle licensed under this chapter, with the license number and description of such vehicle, and the dates of inspection thereof. Such records shall be open to inspection by the public, and shall be public records, extracts of which may be certified for use as evidence by the chief of police or by one of his deputies.
(Code 1964, § 27-11; Ord. No. 1874 § 1, 2-15-01)

Secs. 27-13—27-25. Reserved.

ARTICLE II. OPERATOR'S LICENSE

Sec. 27-26. Required.

City of Bellefontaine Neighbors -- QuickCode

No person shall engage in the business of operating a taxicab upon the streets of the city without first obtaining a license to do so.

(Code 1964, § 27-12)

Sec. 27-27. Application.

Application for a license for the business of operating a taxicab shall be addressed to the board of aldermen and shall be in writing, verified by the affidavit of the applicant, or if the applicant is a corporation, partnership or association of persons of any kind, by its duly authorized officer or agent and shall state the following facts:

- (1) The full name and address of the applicant; if a partnership the names and addresses of all partners; if a corporation or association of persons, the names and addresses of all the officers and directors thereof.
- (2) The names and addresses of anyone having any interest in the business whatever, whether only indirect or equitable interest.
- (3) The name and address of the owner or owners of the vehicles proposed to be operated.
- (4) Any previous experience the applicant has had, or if the applicant is a partnership, the partners therein have had, or if the applicant is a corporation or other association of persons, the officers and directors thereof have had, in the taxicab business.
- (5) The number of taxicabs the applicant desires to operate.
- (6) The capacity of each vehicle according to the manufacturer's rating, which shall not be less than four (4) in the tonneau thereof.
- (7) The type of motor to be used; horsepower; name of manufacturer; state license number; the length of time such vehicle has been in use; and evidence of liability insurance carried on the vehicles after such policy is accepted and approved by the board of aldermen.

(Code 1964, § 27-13)

Sec. 27-28. Certificate of inspection to accompany application.

Every application for a license for the business of operating a taxicab shall be accompanied by a certificate of inspection from the chief of police, who through his deputies shall inspect all taxicabs, as provided in this chapter.

(Code 1964, § 27-14; Ord. No. 1874 § 1, 2-15-01)

Sec. 27-29. Prerequisites to issuance.

A license to operate a taxicab business shall not be issued until the board of aldermen has conducted an investigation as to the fitness of the applicant to operate taxicabs in the city and has agreed to issue a license to the applicant to operate taxicabs in the city and the applicant has complied with all other provisions of this chapter applicable to the obtaining or issuing of such license.
(Code 1964, § 27-15)

Sec. 27-30. Determination of public convenience and necessity—Hearing.

Upon the filing of an application for a license for the business of operating a taxicab, the board of aldermen shall conduct a hearing thereon to determine the public convenience and necessity as set forth in this chapter. Notice of such hearing shall be given to all persons interested, including the owner of the vehicle, at least three (3) days before the date set for the hearing. The kind of notice, the place of hearing and all facts connected with or relating to such hearing shall be regulated by the board of aldermen.
(Code 1964, § 27-16)

Sec. 27-31. Same—Factors to be considered.

Except as provided in this chapter, the board of aldermen shall have power to issue or refuse to issue any license for the business of operating a taxicab as the public welfare, convenience or necessity may require. In determining whether public convenience and necessity require the licensing of such taxicabs for which application may be made, the board of aldermen shall take into consideration whether the demands of the public require such proposed or additional taxicab service within the city; the financial responsibility of the applicant; the number, kind and type of equipment; the color scheme proposed to be used; the increased traffic congestion and demand for increased parking space upon the streets of the city which may result; whether the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such additional license; location of satisfactory taxicab stands or stations; and such other relevant facts as the board of aldermen may deem advisable or necessary.
(Code 1964, § 27-17)

Sec. 27-32. Issuance—Generally.

The board of aldermen shall grant, upon hearing and upon written application therefor, a license to every taxicab operator for the number of vehicles he shall lawfully operate, if approved by the board of aldermen under the provisions of this chapter, and upon paying the fee required for each such taxicab.
(Code 1964, § 27-18)

Sec. 27-33. Same—Additional licenses.

If the board of aldermen shall find that the public convenience and necessity require the operation of additional taxicabs, it shall issue a license to such effect. It shall then be the duty of the city clerk to issue to the applicant a license for each additional taxicab authorized to be issued by the board of aldermen. (Code 1964, § 27-19)

Sec. 27-34. Fee; payment of fee; renewal.

Upon the issuance of a license for the business of operating a taxicab, the applicant shall pay a license fee of fifteen dollars (\$15.00) for each taxicab under such license, payable semiannually, which shall be the amount of the annual license fee required. If any such license shall be issued after the thirtieth of June in any such license year, the applicant shall pay a license fee of one-half of such sum for the remainder of such license year. The license fee shall be due and payable on the first day of January of each year, and shall expire on December thirty-first thereafter. The license shall be renewed from year to year upon the payment of the required fee; provided, that no license shall be renewed unless the application for such renewal is accompanied by a certificate of the chief of police that each vehicle has been inspected as required in this chapter and the application for renewal has been approved by the board of aldermen. (Code 1964, § 27-20; Ord. No. 1874 § 1, 2-15-01)

Sec. 27-35. Fee to be tax on taxicab business; other taxing powers of city not affected.

The license fee required by this chapter shall be a tax on the business of conveying passengers over and upon the streets in the city by means of taxicabs, and nothing in this chapter shall be construed to exempt the owner from paying to the city the tax imposed by the city in licensing motor vehicles or automobiles to be operated on its streets, or any registered tax which the city may levy on motor vehicles or automobiles, or the tax which the city levies on motor vehicles or automobiles as personal property. Nor shall anything in this chapter be so construed as to exempt the owner or driver of a motor vehicle from the qualification which the city or the state may require of persons who operate motor vehicles or automobiles. (Code 1964, § 27-21)

Secs. 27-36—27-50. Reserved.

ARTICLE III. DRIVER'S PERMIT

Sec. 27-51. Required; driver to be licensed chauffeur.

Every person driving or operating a taxicab shall be permitted as such and in addition thereto each person who operates a taxicab under this chapter shall be a duly licensed chauffeur as required by law.

(Code 1964, § 27-23)

Sec. 27-52. Application; examination; photographs to be furnished.

Before operating a taxicab any person shall first make application to the chief of police and shall present for inspection of the chief of police or his deputies his chauffeur's license, and shall fill out upon a blank form to be furnished by the chief of police a statement of his full name, residence, places of residence for the past five (5) years, sex, age, color, height, color of eyes and hair, place of birth, length of time he has resided within the city or the county, whether a citizen of the United States, places of previous employment, whether married or single, whether previously licensed as a chauffeur, and whether such license has ever been revoked, and if so for what cause (police arrests). Such statement shall be signed and sworn to and filed in the police department as a permanent record. Each person so desiring to operate a taxicab shall if required by the chief of police demonstrate his skill and ability to safely handle such vehicle and shall pass a satisfactory physical examination especially as to eyesight and hearing. Each such person shall also furnish to the chief of police recent photographs of himself of a size which may be easily attached to the permit, one of which shall be attached to the permit when issued, and the other to be filed with the chief of police. Such photographs shall be so attached to the permit that they cannot be removed and others substituted without detection. Inspection of such permit may be made at any time.

(Code 1964, § 27-24; Ord. No. 1874 § 1, 2-15-01)

Sec. 27-53. Issuance; term; semiannual report.

Upon satisfactory fulfillment of the requirements of section 27-52 and upon presenting a certificate of the chief of police to that effect, there shall be issued to the applicant a driver's permit by the city clerk, which shall be in such form as to contain the photograph and signature of the permittee. Any person who defaces, removes or obliterates any official entry upon his driver's permit or permits the same to be done shall be punished by the revocation of his permit. Drivers' permits shall be valid for the next six (6) months following their issuance. For the purpose of carrying out the provisions of this chapter, every chauffeur holding a permit pursuant to this chapter shall report to the chief of police at least once in every six month period following the issuance of the permit.

(Code 1964, § 27-25; Ord. No. 1874 § 1, 2-15-01)

Sec. 27-54. Fee; renewal.

The following permit fees shall be paid for drivers' permits:

- (1) For each original permit, one dollar (\$1.00).
- (2) For each renewal thereof, fifty cents (\$0.50). In applying for a renewal of such permit, the driver shall make application upon a form furnished by the chief of police for such purpose, which application shall be filled out with the name and address of the applicant, together with a

City of Bellefontaine Neighbors -- QuickCode

statement of the date upon which his original permit was granted, and the number thereof, and such further information as may be necessary in renewing such permit.

(Code 1964, § 27-26; Ord. No. 1874 § 1, 2-15-01)

Sec. 27-55. Posting and display.

Each driver to whom a permit has been issued under this article shall post in the taxicab so operated by him his permit, in a conspicuous place, easily seen by persons hiring such taxicab. Such permit shall be nine (9) inches in length and shall be three (3) inches in width and shall be illuminated after sundown with a suitable light, so arranged as to throw a continuous and steady light thereon so that the same shall be clearly discernible to and can be read by the passengers in the rear seat.

(Code 1964, § 27-27)

Sec. 27-56. Suspension or revocation.

Drivers' permits may be revoked or suspended by the board of aldermen or temporarily by the chief of police for good cause until a hearing can be held by the board of aldermen, but in any event there shall be a ruling by the board of aldermen on all suspensions. Any such suspension shall be noted on the permit together with a statement of the reasons therefor. A second suspension within one (1) year for the same reason, or in any case a third suspension of a driver's permit, shall revoke the permit. No driver whose permit has been revoked shall be given a permit as a taxicab driver in the city unless upon the presentation of reasons satisfactory to the board of aldermen. When a driver's permit has been revoked the chief of police shall so notify the police department and the board of aldermen.

(Code 1964, § 27-28; Ord. No. 1874 § 1, 2-15-01)

Chapter 28 -- WEIGHTS AND MEASURES

Cross reference—Licenses and miscellaneous business regulations, Ch. 15.

Sec. 28-1. Code adopted.

The Weights and Measures Code of St. Louis County, Missouri, as adopted, amended and revised by St. Louis County, Missouri, pursuant to St. Louis County Ordinances No. 2,924 as adopted on May 23, 1963; No. 3,911 as adopted on March 31, 1966; No. 4600 as adopted on February 1, 1968; and No. 6,023 as adopted on October 14, 1971, is hereby adopted as the weights and measures code for the City of Bellefontaine Neighbors, Missouri, as if fully set forth herein

(Ord. No. 1330, § 2, 11-20-86; Ord. No. 1667, § 1, 9-7-95)

Chapter 29 -- ZONING REGULATIONS

ARTICLE I. INTERPRETATION AND PURPOSES--TITLE--VALIDITY

Sec. 29-1. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises and likewise not in conflict with this chapter, nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this chapter imposes a greater restriction, this chapter shall control. Any petition or appeal involving the development of land that is pending or has been granted by the planning and zoning commission or by the board of adjustment under ordinances now in existence shall not be affected by the passage of this chapter. (Ord. No. 396 Art. I §1, 4-29-60)

Sec. 29-2. Title.

This chapter shall be known and may be cited as the "City of Bellefontaine Neighbors Zoning Ordinance". (Ord. No. 396 Art. I §2, 4-29-60)

Sec. 29-3. Validity.

Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid. The board of aldermen of the city of Bellefontaine Neighbors hereby declares that it would have passed this chapter and each section, subsection, clause or other portion thereof, irrespective of the fact that any one (1) or more other sections, subsections, clauses or provisions be declared unconstitutional. (Ord. No. 396 Art. I §3, 4-29-60)

Secs. 29-4—29-8. Reserved.

ARTICLE II. DEFINITIONS

Sec. 29-9. Definitions.

For the purpose of this chapter certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure" and the word "shall" is mandatory and not directory.

Accessory building or use: A subordinate building or use located on the same lot as the main building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises.

Adult bookstore or novelty store: An establishment having either ten percent (10%) or more of:

- (1) Its stock in trade, in books, photographs, magazines, films for sale or viewing on or off the premises by use of motion picture devices, video players, DVD players, computers or coin operated means, or other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to sex or sexual activity or the principal purpose of which is to sexually stimulate or sexually arouse the patron viewer or reader; or
- (2) Instruments, devices or paraphernalia that are designed or marketed for use in connection with specified sexual activities.

Adult entertainment business or establishment: Any of the establishments, businesses, buildings, structures or facilities which fit within the definition of adult bookstore, adult entertainment facility, bathhouse, massage shop and/or modeling studio.

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

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

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

City of Bellefontaine Neighbors -- QuickCode

Basement: A story having part but not more than one-half (½) of its height below grade. A basement is counted as a story for the purpose of height regulations, if subdivided and used for business or dwelling purposes other than by a janitor employed on the premises.

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

Boarding or lodging house: A building other than a hotel where, for compensation, meals, lodging, or lodging and meals, are provided for three (3) or more persons.

Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. Where parts of a building are separated from each other by a division wall without openings, each portion of such building so separated shall be deemed a separate building.

Building, height of: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

Cellar: A story having more than one-half (½) of its height below grade. No cellar or portion thereof shall be used as a complete dwelling unit and a cellar is not included in computing the number of stories for the purpose of height measurement.

Check-cashing establishment: A business engaged in check-cashing operations for a fee, as a primary or substantial element of its business and which is not licensed by the appropriate state or federal agency as a banking or savings and loan facility. Said business shall be prohibited in all zoning districts of the city of Bellefontaine Neighbors, Missouri.

Cosmetic micro-pigmentation: A method of adding, replacing, or augmenting cosmetic features by the placement of subcutaneous pigmentation by a licensed doctor or nurse.

Court: An open unoccupied space, other than a yard, on the same lot with a building and bounded on two (2) or more sides by such building.

Detached storage shed or unit: A small outbuilding designed and used primarily for the storage of seasonal materials, maintenance equipment and similar items for use in, on or about a lot and/or the principal building on a lot and located on the same lot as the principal building to which it is an accessory.

District: A section or sections of the city of Bellefontaine Neighbors, St. Louis County, Missouri, for which the zoning regulations are uniform.

Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, single-family: A building designed for or occupied exclusively by one (1) family.

City of Bellefontaine Neighbors -- QuickCode

Dwelling, two-family: A building designed for or occupied exclusively by two (2) families.

Dwelling, multiple: A building or portion thereof designed for or occupied by more than two (2) families.

Family: One (1) or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit, all of whom shall be related to each other by birth, adoption or marriage; or a group of not more than three (3) persons not related to each other who are living as a single non-profit housekeeping unit.

Farm: An area for the growing of vegetables, fruit trees, grain and other agricultural products, including the raising thereon of farm animals and poultry when secondary to crop raising, but not as a main use, and not including the commercial feeding of garbage or offal to swine or other animals.

Filling station: Any building, structure, or land used for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body or fender repair or spray painting.

Floor area: The sum of the gross horizontal areas of the several floors of a building, including basements, and measured from the exterior faces of the exterior walls.

Frontage: All the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead ended, then all the property abutting on one (1) side between an intersecting street and the dead end of the street.

Garage, private: An accessory building or portion of the main building for the storage of not more than four (4) motor-driven vehicles owned and used by occupants of the building to which it is accessory.

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

Garage, storage: Any building or premises, used for housing only of self-propelled vehicles pursuant to previous arrangements and to transients, and at which automobile fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold.

Grade: The mean or average elevation of the ground adjacent to the exterior walls of the building.

Ground floor area: The gross area of the first floor of a building, measured from the exterior faces of the exterior walls, exclusive of unroofed porches, unenclosed roofed porches, and garages.

Home occupation: Any occupation, business, commercial activity or profession carried on by a member of the immediate family residing on the premises and in connection with which there are no signs or displays which indicate from the exterior of the building that the premises are being used in whole or in part for anything other than a dwelling. Provided, however, that any activity which:

1. Employs or compensates any person other than family members residing on the

City of Bellefontaine Neighbors -- QuickCode

premises; or

2. Maintains in, on or about the premises any stock-in-trade, goods or commodities for sale, rent, lease or delivery to consumers at the premises in such a manner as to be visible to members of the public; or
3. Includes or involves the use, maintenance, storage or repair of any mechanical equipment (other than such equipment customarily used for domestic or household purposes) in, on or about the premises in such a manner as to be visible to or audible by members of the public; or
4. For which purpose more than twenty percent (20%) of the square footage of the main building on the premises are utilized; or
5. Is conducted in such a way as to be a nuisance as defined in section 13-36 of the code of ordinances of the city of Bellefontaine Neighbors,

shall not be a lawful home occupation as used in this definition.

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

Kennel: An establishment where dogs are bred or boarded.

Loading space: A space within the main building or on the same lot therewith, providing for the standing, loading, or unloading of trucks, and having a minimum dimension of 12 x 35 feet and a vertical clearance of a least fourteen (14) feet.

Lot: A parcel of land occupied or intended for occupancy by one (1) main building together with its accessory buildings, including the open spaces and parking spaces required by this chapter and having its principal frontage upon a street or upon an officially approved place.

Lot, corner: A lot abutting upon two (2) or more streets at their intersection.

Lot, depth of: The mean horizontal distance between the front and rear lot lines.

Lot, double frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, interior: A lot other than a corner lot.

Lot of record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the recorder of deeds of St. Louis County, or a lot described by metes and bounds, the description of which has been recorded in the office of the recorder of deeds of St. Louis County prior to the adoption of this chapter.

City of Bellefontaine Neighbors -- QuickCode

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

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

Non-conforming use: Any building or land lawfully occupied by a use at the time of passage of this chapter or amendment thereto, which does not conform after the passage of this chapter or amendments thereto with the use regulations of the district in which it is situated.

Parking space: A durable, dustproof surfaced area of not less than 9 x 19 feet for perpendicular spaces. Non-perpendicular spaces shall be proportional to perpendicular spaces and suitable in dimensions to park one (1) standard automobile as determined by the City Engineer.

Place: An open, unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

Porch: A structure attached to a building with or without a roof and having its sides unenclosed.

Self-storage facility: A commercial structure that provides leased space within a building, or within one (1) or more separate compartments in one (1) or more buildings, for storage of personal property.

Service station: (See Filling Station.)

Shed, storage: (See "Detached storage shed or unit", supra.)

Short-term loan establishment: A business, other than a pawnbroker operating in conformity with this zoning code, engaged in providing short-term loans to the public as a primary or substantial element of its business and which is not licensed by the appropriate state or federal agency as a banking or savings and loan facility, including, but not limited to, small loan companies operating pursuant to sections 367.100 through 367.215, RSMo., payday lenders operating pursuant to sections 408.500 through 408.506, RSMo., consumer installment lenders operating pursuant to section 408.510, RSMo., title lenders operating pursuant to sections 367.500 through 367.533, and any business which offers these or substantially similar services as a substantial part of its business activities. Said business shall be prohibited in all zoning districts of the city of Bellefontaine Neighbors, Missouri.

City of Bellefontaine Neighbors -- QuickCode

Specified sexual activities: Sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

Story: That portion of a building, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

Street: All property dedicated or intended for a public or private street, highway, freeway, or roadway purposes or subject to easements therefor and affording the principal means of access to abutting property.

Street line: A dividing line between a lot, tract or parcel of land and the right-of-way of a contiguous street.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing advertising signs, bill boards, backstops for tennis courts and pergolas, radio towers, memorials and ornamental structures.

Structural alteration: Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Tattooing: Any method of placing designs, letters, scrolls, figures, or symbols upon or under the skin with ink or colors, by the aid of needles or instruments. The provision of cosmetic micro-pigmentation services by a licensed doctor or nurse shall not be considered "tattooing" as that term is used in this Zoning code.

Tattooing establishment: Any place or facility where tattooing is performed. Said business shall be prohibited in all zoning districts of the city of Bellefontaine Neighbors, Missouri.

Tourist or trailer camp: An area containing one (1) or more tents, trailers or other portable or mobile shelters for use as temporary living facilities of one (1) or more families, and intended primarily for automobile transients.

Trailer: Any structure used, or capable of being used, for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, and which is, has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place whether by motive power or other means. The term "trailer" shall include camp car and

City of Bellefontaine Neighbors -- QuickCode

house car. A permanent foundation shall not change its character if the structure can be removed therefrom practically intact. No trailer as defined herein shall be deemed a dwelling as defined also in the article.

Warehouse, unitized: A structure divided into compartments and individually rented for use only as a storage place for goods, material or merchandise, motor powered vehicles, boats and trailers.

Yard: An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, front: A yard extending across the front of a lot between the side yard lines, its depth being the minimum horizontal distance between the street right-of-way line and the exterior side of the front wall of the main building or any projection thereof, other than the projection of the usual steps or entrance way. On a corner lot the front yard shall be considered as being adjacent to the street on which the lot has its lesser frontage.

Yard, rear: A yard extending across the rear of a lot measured between the side lot lines and its depth being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side: A yard between the main building or an accessory building and the side line of the lot and extending from the front lot line to the required rear yard.

(Ord. No. 396 Art. II, 4-29-60; Ord. No. 1007, 2-3-77; Ord. No. 1456 §1, 3-1-90; Ord. No. 1531 §1, 12-3-92; Ord. No. 1552 §1, 6-17-93; Ord. No. 1683 §1, 1-18-96; Ord. No. 1765 §1, 2-5-97; Ord. No. 1768 §§1--2, 2-19-98; Ord. No. 1913 §1, 5-2-02; Ord. No. 2018 §2, 12-1-05; Ord. No. 2060 §1, 4-5-07; Ord. No. 2095 §1, 11-6-08)

Secs. 29-10—29-14. Reserved.

ARTICLE III. DISTRICTS AND BOUNDARIES

Sec. 29-15. Districts enumerated.

For purposes of this chapter, the city of Bellefontaine Neighbors, St. Louis County, Missouri, is hereby divided into districts, of which there shall be eight (8) in number, as follows:

R-1 single-family dwelling district (20,000 sq. ft.)

R-2 single-family dwelling district (10,000 sq. ft.)

City of Bellefontaine Neighbors -- QuickCode
R-3 single-family dwelling district (7,500 sq. ft.)

C-1 local business district

C-2 commercial district

PD planned development districts

M-1 industrial district

M-2 controlled industrial district
(Ord. No. 396 Art. III §1, 4-29-60; Ord. No. 1450 §1, 2-15-90)

Sec. 29-16. District map.

The boundaries of these districts are shown upon the map accompanying and made a part of this chapter, which map is designated as the "Zoning Districts Map" dated December, 2008, as prepared by the St. Louis County Department of Planning. The district map and all the notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the district map and all the notations, references and other information shown thereon were all fully set forth or described herein, which district map is properly attested and is on file with the clerk of the city of Bellefontaine Neighbors.

(Ord. No. 396 Art. III §2, 4-29-60; Ord. No. 410, 6-30-60; Ord. No. 453 §1, 6-20-61; Ord. No. 620 §1, 7-1-65; Ord. No. 974 §1, 9-4-75; Ord. No. 1100 §1, 9-6-79; Ord. No. 1234 §1, 5-3-84; Ord. No. 1452 §§1-2, 3-1-90; Ord. No. 1481 §1, 12-6-90; Ord. No. 1580 §1, 11-18-93; Ord. No. 1606 §1, 6-16-94; Ord. No. 1621 §§1-2, 9-1-94; Ord. No. 1692, 5-2-96; Ord. No. 1745, 8-7-97; Ord. No. 1820, 6-3-99; Ord. No. 1822, 6-17-99; Ord. No. 1853 §1, 7-6-00; Ord. No. 1948 §1, 8-7-03; Ord. No. 2099 §§1--2, 1-15-09)

Sec. 29-17. District boundaries.

(a) The district boundaries on said district map are either streets or alleys or lot lines unless otherwise shown and where the districts designated on the map are bounded approximately by street, alley or lot lines, the street or alley or lot line shall be construed to be the boundary of the district.

(b) In the case of unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the district map. (Ord. No. 396 Art. III §3, 4-29-60)

Sec. 29-18. Area not included within a district.

(a) In any case where property is not specifically within a district shown on the district map, such property shall be considered as being within the R-1 single-family dwelling district until or unless otherwise classified by ordinance.

(b) All territory which may hereafter be annexed to the city of Bellefontaine Neighbors shall automatically be classified in its existing classification, and if no zoning restrictions exist, it shall be classified in the R-1 single-family dwelling district until otherwise classified by ordinance.

(c) Whenever any street, alley or other public way is vacated by official action of the board of aldermen, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts. (Ord. No. 396 Art. III §4, 4-29-60)

Secs. 29-19—29-22. Reserved.

ARTICLE IV. COMPLIANCE WITH THE REGULATIONS

Sec. 29-23. Compliance with regulations.

Except as hereinafter specifically provided:

- (1) No building shall be erected, maintained, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used, except for a use permitted in the district in which such building is located.
- (2) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which such building is located.
- (3) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the yard and area regulations of the district in which such building is located.
- (4) No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of the district in which such building is located.
- (5) The minimum yards, parking spaces and other open spaces, including lot area per family, required by this chapter for each and every building existing at the time of passage of this chapter or for any building hereafter erected, shall not be encroached upon or considered as yard or parking or open space requirements for any other building, nor shall any other lot area be reduced below the requirements of this chapter for the district in which such lot is located.
- (6) Every building hereafter erected or structurally altered shall be located on a lot of

City of Bellefontaine Neighbors -- QuickCode
record, and in no case shall there be more than one (1) principal building on a lot.
(Ord. No. 396 Art. IV, 4-29-60; Ord. No. 1455 §1, 3-1-90)

Secs. 29-24—29-28. Reserved.

ARTICLE V. R-1 SINGLE-FAMILY DWELLING DISTRICT

Sec. 29-29. R-1 single-family dwelling district (20,000 square feet) regulations.

(a) *Generally.* The regulations set forth in this article or set forth elsewhere in this chapter, when referred to this article, are the regulations in the R-1 single-family dwelling district.

(b) *Use regulations.* A building or premises located in the R-1 district shall be used only for the following purposes:

- (1) Single-family dwellings with attached garage.
- (2) Parks, playgrounds and community buildings owned or operated by public agencies.
- (3) Golf courses, except miniature courses or practice driving ranges operated for commercial purposes.
- (4) Public libraries.
- (5) Farms and truck gardening, but not commercial greenhouses or nurseries, and provided that any structure, enclosure or shelter for poultry or livestock shall be located at least one hundred fifty (150) feet from all lot lines.
- (6) Cemeteries and mausoleums.
- (7) Home occupations.
- (8) Accessory buildings and uses, including a private garage and quarters for servants employed on the premises, customarily incident to permitted uses and not involving the conduct of any business or commercial activity. Any accessory building not a part of the principal building on a lot shall be located not less than sixty (60) feet from the front lot line.
- (9) A detached storage shed or unit not a part of the principal building on a lot and not exceeding one hundred fifty (150) square feet in area and eight (8) feet in height above grade may be located only in the area between the rear line of the principal building on the lot and the rear lot line. Any such shed or unit must be located at least five (5) feet from all lot lines and may not be located on an easement.

(10) Church or public bulletin boards.

(11) Subject to the issuance of conditional use permit as provided by law, any use designated as being a conditional use in this district under the terms of article XVI of this chapter and code.

(c) *Height, yard and area regulations.* The height, yard and area regulations set forth in articles XIII and XIV shall be observed.

(d) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in article XV. (Ord. No. 396 Art. V, 4-29-60; Ord. No. 1038 §2, 1-19-78; Ord. No. 1446 §1, 2-15-90; Ord. No. 1531 §2, 12-3-92)

Secs. 29-30—29-34. Reserved.

ARTICLE VI. R-2 SINGLE-FAMILY DWELLING DISTRICT

Sec. 29-35. R-2 single-family dwelling district (10,000 square feet) regulations.

(a) *Generally.* The regulations set forth in this article, or set forth elsewhere in this chapter, when referred to in this article, are the regulations in the R-2 single-family dwelling district.

(b) *Use regulations.* The use regulations are the same as those in the R-1 single-family dwelling district.

(c) *Height, yard and area regulations.* The height, yard and area regulations set forth in articles XIII and XIV shall be observed.

(d) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in article XV. (Ord. No. 396 Art. VI, 4-29-60)

Secs. 29-36—29-39. Reserved.

ARTICLE VII. R-3 SINGLE-FAMILY DWELLING DISTRICT

Sec. 29-40. R-3 single-family dwelling district (7,500 square feet) regulations.

(a) *Generally.* The regulations set forth in this article, or set forth elsewhere in this chapter,

City of Bellefontaine Neighbors -- QuickCode
when referred to in this article, are the regulations in the R-3 single-family dwelling district.

(b) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Any use permitted in the R-1 single-family dwelling district.
- (2) Two-family dwellings in any block where one-third (1/3) or more of the frontage on either side of the street is already developed with two-family dwellings.

(c) *Height, yard and area regulations.* The height, yard and area regulations set forth in articles XIII and XIV shall be observed.

(d) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in article XV. (Ord. No. 396 Art. VII, 4-29-60)

Secs. 29-41—29-45. Reserved.

ARTICLE VIII. C-1 LOCAL BUSINESS DISTRICT

Sec. 29-46. C-1 Local business district regulations.

(a) *Generally.* The regulations set forth in this article, or set forth elsewhere in this chapter, when referred to in this article, are the district regulations in the C-1 local business district.

(b) *Use regulations.* A building or premises located in the C-1 district shall be used only for the following purposes:

- (1) Any use permitted in the R-1 single-family dwelling district.
- (2) Barber and beauty shops.
- (3) Catering establishments.
- (4) Medical and dental offices and offices for the conduct of any lawful business not otherwise subject to specific regulations elsewhere in this code and not to exceed ten thousand (10,000) square feet in gross floor area for a single structure.
- (5) Retail stores and service establishments of a neighborhood nature not exceeding ten thousand (10,000) square feet in gross floor area, such as bakeries, groceries, drug stores, meat markets, florists, card shops, camera shops and the like.
- (6) Service facilities, studios or workshops of a neighborhood nature not exceeding ten thousand (10,000) square feet in gross floor area, for such services as artists, dance

City of Bellefontaine Neighbors -- QuickCode
studios, candy makers, dressmakers, tailors, music teachers, typists and stenographers.
Goods or services associated with these uses may be sold or provided directly to the
public on the premises.

- (7) Accessory buildings and uses customarily incident to permitted uses.
- (8) Subject to the issuance of a conditional use permit as provided by law, any use designated as being a conditional use in this district under terms of article XVI of this chapter and code; provided however, that no structure for such use shall exceed ten thousand (10,000) square feet in gross floor area.

(c) *Height, yard and area regulations.* The height, yard and area regulations set forth in articles XIII and XIV shall be observed, and in addition every building or part thereof used for dwelling purposes shall comply with the side and rear yard requirements of the R-3 single-family dwelling district and the lot area per family requirements prescribed in article XIII.

(d) *Parking and loading regulations.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in article XV. (Ord. No. 396 Art. VIII, 4-29-60; Ord. No. 567 §2, 2-20-63; Ord. No. 1038 §1, 1-19-78; Ord. No. 1447 §1, 2-15-90; Ord. No. 1480 §1, 12-6-90; Ord. No. 1549 §1, 5-20-93)

Secs. 29-47—29-51. Reserved.

ARTICLE IX. C-2 COMMERCIAL DISTRICT REGULATIONS

Sec. 29-52. C-2 commercial district regulations.

(a) *Generally.* The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the district regulations in the C-2 commercial district.

(b) *Use regulations.* A building or premises located in the C-2 district shall be used only for the following purposes:

- (1) Any use permitted in the C-1 district, provided, however, that the limitations on gross floor area specified in the C-1 district shall not apply in this district.
- (2) Auditoriums and other facilities for public assembly.
- (3) Clubs, lodges and meeting rooms.
- (4) Financial institutions, not including drive-through facilities.
- (5) Libraries and reading rooms.

City of Bellefontaine Neighbors -- QuickCode

- (6) Local public utility facilities, provided that any installation (other than poles and equipment attached to poles) shall be:
 - a. Adequately screened with landscaping, fences or walls, or any combination thereof; or
 - b. Placed underground; or
 - c. Enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.
- (7) Medical and dental offices.
- (8) Parking areas, including public garages for automobiles, but not including any sales or service of automobiles or the storage of wrecked or damaged vehicles for a period in excess of seventy-two (72) hours.
- (9) Recreational facilities, including indoor theaters (but not including drive-in theaters), miniature golf courses and golf driving ranges and outdoor swimming pools.
- (10) Restaurants, including fast food restaurants, except those which provide drive-through service or constitute the only use in a free-standing building.
- (11) Fast food restaurants selling only ice cream products or similar frozen goods and soft drinks.
- (12) Schools for business, professional or technical training, but not including outdoor areas for driving or training with heavy equipment.
- (13) Stores, shops, markets, service facilities and automatic vending facilities where goods or services of any kind are offered for sale or hire to the general public on the premises.
- (14) Accessory buildings and uses customarily incident to permitted uses.
- (15) Subject to the issuance of a conditional use permit as provided by law, any use designated as being a conditional use in this district under the terms of article XVI of this chapter and code.

(c) *Height, yard and area regulations.* The height, yard and area regulations set forth in articles XIII and XIV shall be observed, and in addition every building or part thereof used for dwelling purposes shall comply with the side and rear yard and lot area per family requirements prescribed for dwellings in the C-1 local business district.

(d) *Parking and loading regulations.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in article XV. (Ord. No. 396 Art. IX, 4-29-60; Ord. No. 1176 §1, 2-18-82; Ord. No. 1448 §1, 2-15-90)

Secs. 29-53—29-57. Reserved.

ARTICLE X. "PD" PLANNED DEVELOPMENT DISTRICT

DIVISION 1. SPECIFIC PLANNED DEVELOPMENT DISTRICT

Sec. 29-58. "PD" planned development district--generally.

The city may, upon proper application, approve a planned development for a site of at least two and one-half (2½) acres to facilitate the use of flexible techniques of land development and site design, by providing relief from zone requirements designed for conventional developments in order to obtain one (1) or more of the following objectives:

- (1) Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.
- (2) Diversification in the uses permitted and variation in the relationship of uses, structures, open space and height of structures in developments intended as cohesive, unified projects.
- (3) Functional and beneficial uses of open space areas.
- (4) Preservation of natural features of a development site.
- (5) Creation of a safe and desirable living environment for residential areas characterized by a unified building and site development program.
- (6) Rational and economic development in relation to public services.

(7) Efficient and effective traffic circulation, both within and adjacent to the development site.
(Ord. No. 396 Art. X, 4-29-60; Ord. No. 1445 §1, 2-15-90; Ord. No. 2010 §1, 8-4-05)

Sec. 29-59. Same--relationship of planned development districts to zoning map.

(a) *A mapped district.* The PD designation is not intended to be attached to existing use districts as an overlay. The PD designation as detailed in this section is a separate use district and may be attached to a parcel of land through the process of rezoning and zoning map amendment.

(b) *Plan approval required.* It is the intent of this article that no development or redevelopment of the property encompassed by the PD designation take place until an acceptable development plan has been reviewed and approved in conformance with the requirements of this section.

(c) *Types of planned developments.* All areas of the city subject to the PD designation shall be

City of Bellefontaine Neighbors -- QuickCode

assigned one (1) of the following district classifications which shall be considered a separate use district and subject to the specific restrictions and limitations outlined in this article.

- (1) Planned development--residential (PD-R): Planned developments involving residential uses only.
- (2) Planned development--commercial (PD-C): Planned developments involving commercial uses only.
- (3) Mixed use developments (MxD): Planned developments involving a mixture of residential and non-residential uses.

(Ord. No. 396 Art. X, 4-29-60; Ord. No. 1445 §2, 2-15-90; Ord. No. 2010 §1, 8-4-05)

Sec. 29-60. Same--procedures for planned development approval.

(a) *Pre-application procedure.* Not more than six (6) months prior to filing an application for planned development approval, the prospective applicant shall request a pre-application conference with the applicable city personnel. Such request shall include a brief and general narrative description of the nature, location and extent of the proposed planned development, and a list of any professional consultants advising the prospective applicant with respect to the proposed planned development. Upon receipt of such request the city shall promptly schedule such a conference.

(b) *Preliminary development plan.* A preliminary development plan shall be submitted to the planning and zoning commission with the application for a planned development. A final development plan, including the requirements of a preliminary plan, may be submitted in a single application. The preliminary plan shall contain the following information:

- (1) *Site and landscape plan.* One (1) or a series of maps shall be submitted indicating:
 - i. An outboundary survey plat, with a land surveyor's seal and statement of verification regarding the source of boundary dimensions, bearings, and source of contour data, and legal description of the property. The plat shall also identify adjoining properties and the record owners thereof;
 - ii. The location, size and height of all existing and proposed structures on the site;
 - iii. The location and general design (dimensions and materials) of all driveways, curb cuts and sidewalks including connections to building entrances;
 - iv. The location, area and number of proposed parking spaces;
 - v. Existing and proposed grades at an interval of two (2) feet or less, extended beyond the project site to include adjacent properties and structures;
 - vi. The location and general type of all existing trees over six (6) inch caliper and, in addition, an indication of those to be retained;
 - vii. The proposed general use and development of internal spaces, including all recreational and open space areas, plazas and major landscaped areas by function, and the general location and description of all proposed outdoor furniture, if applicable (seating, lighting,

City of Bellefontaine Neighbors -- QuickCode

telephones, etc.);

- viii. The location and approximate size of all proposed plant material by type, such as hardwood/deciduous trees, evergreen trees, flowering trees and shrub masses, and types of ground cover (grass, ivies, etc.). Planting in parking areas should be included;
- ix. The location and details (including a description of materials and appearance) of all retaining walls, fences (including privacy fences, etc.) and earth berms;
- x. The description and location of all refuse collection facilities including screening to be provided;
- xi. Provisions for both on- and off-site stormwater drainage and detention related to the proposed development.

The scale of the drawing or drawings indicating the above shall be reasonably related to the site size and the complexity of the proposed development, and the scale shall in no event be smaller than 1" = 50'. All drawings shall likewise indicate a project name, the names of adjoining streets, the applicant's name, a scale, a north arrow, and the date drawn.

The applicant may be required to provide, at applicant's expense, additional clarification and/or further detail of the site plan, as deemed necessary by the planning and zoning commission.

- (2) *Site and building sections.* Schematic or illustrative sections shall be drawn to a scale of 1" = 8' or larger, indicating both edge conditions and internal grade changes in relation to principal variations of internal building levels and site line relations to adjacent structures.
- (3) *Typical elevations.* Typical elevations of proposed buildings shall be provided at a reasonable scale.
- (4) *Project data.*
 - i. Site area (square feet and acres);
 - ii. Allocation of site area by building coverage, parking, loading and driveways, and open space areas including total open space, recreation area, landscaped areas and others;
 - iii. Total dwelling units and floor area distributed by general type (1 bedroom, 2 bedroom, etc.); and total floor area ratio and residential density distribution (if applicable);
 - iv. Floor area in non-residential use by category and total floor area ratio (if applicable);
 - v. Calculations of parking spaces and area in relation to dwelling units and commercial floor area.
- (5) *Project report.* A brief project report shall be provided to include an explanation of the

City of Bellefontaine Neighbors -- QuickCode

character of the proposed development, verification of the applicant's ownership and contractual interest in the subject site, and anticipated development schedule. At the discretion of the planning and zoning commission and/or board of aldermen, analyses by qualified technical personnel or consultants may be required as to the market and financial feasibility, traffic impact, environmental impact, stormwater and erosion control, etc., of the proposed development.

(6) *Phased development.* If the planned development is proposed to be constructed in stages or units during a period extending beyond a single construction season, a development schedule indicating:

- i. The approximate date when construction of the project can be expected to begin;
- ii. The order in which the phases of the project will be built;
- iii. The minimum area and the approximate location of common open space and public improvements that will be provided at each stage;
- iv. If any stage or unit as proposed contains a share of open space or other public or private recreation or service facility less than that which its size, number of units or density would otherwise require, a statement shall be submitted setting forth what bond, credit, escrow or other assurance the applicant proposes in order to ensure that the difference between that which would otherwise be required and that which the applicant proposes to provide in the instant stage or unit is ultimately provided;
- v. Placement of all temporary structures utilized during construction, i.e., construction offices, siltation control devices, etc.

(c) *Review procedure.*

- (1) An application together with a complete preliminary development plan, including information as required in section 29-60(b), shall be presented at the first regularly scheduled planning and zoning commission meeting, but not sooner than fifteen (15) days after the notice of acceptance of the completed application. Notice of the planning and zoning commission meeting shall be sent to owners of record of all properties within one hundred eighty-five (185) feet of the parcel or parcels included in the application.
- (2) *Staff review.* The applicable staff shall coordinate a review of the application by appropriate city departments and consultants designated by the city. A written report documenting the review and staff recommendations shall be prepared by the applicable staff and submitted to the planning and zoning commission at the meeting at which it considers the application.
- (3) After presentation of the application and staff report, the applicant shall have the opportunity to make a presentation to the planning and zoning commission. The planning and zoning commission may request such additional information or reports as it deems necessary. When the application has been reviewed and considered by the planning and zoning commission, the commission shall make a report to the board of aldermen regarding the environmental impact of such proposed use upon the character of the neighborhood, traffic conditions, public utility facilities, and other matters pertaining to the general public health, safety and

City of Bellefontaine Neighbors -- QuickCode

welfare of the city of Bellefontaine Neighbors. The findings and recommendation of the planning and zoning commission shall be transmitted to the board of aldermen. The planning and zoning commission's report may contain conditions or restrictions recommended by the planning and zoning commission with respect to the preliminary development plan.

- (4) The board of aldermen shall hold a public hearing with respect to the application upon at least fifteen (15) days' public notice. If the preliminary development plan is approved by the board of aldermen, it shall adopt an ordinance approving said preliminary development plan with such conditions as may be specified therein, authorizing the preparation of a final development plan consistent with the approved Preliminary Plan and the conditions stated in said ordinance and rezoning the site. Such ordinance shall become effective concurrent with approval of the final development plan.

(d) *Final plan.* Within nine (9) months following approval of the preliminary development plan, but at least thirty (30) days before the next regularly scheduled meeting of the planning and zoning commission, the petitioner shall submit a final development plan to the planning and zoning commission for its review and consideration to determine if said final development plan is in conformance with the approved preliminary development plan and with the imposed conditions of approval. The final development plan shall reflect the entire planned development if it is to be completed in one (1) phase, or a phase of the planned development if it consists of more than one (1) phase. In the event that any proposed final development plan is submitted more than nine (9) months after approval of the preliminary development plan, the matter shall be referred to the board of aldermen for reconsideration of preliminary development plan approval.

The final development plan, in addition to the matters shown on the preliminary development plan, shall include the following:

- (1) The existing and proposed contours;
- (2) A separate landscape plan with the specific location of all plant material, specifying size, species and location (both as to the buffer area around the perimeter as well as that in any parking lot);
- (3) Nature of use, including conditional uses permitted;
- (4) All structures, present and future, specifying location, size, architectural elevation, none of which may deviate substantially from the approved preliminary development plan;
- (5) Sidewalks;
- (6) Parking spaces, including traffic aisles and underground parking;
- (7) Method of disposal of trash and garbage;
- (8) Ingress and egress facilities;
- (9) Parking facilities for visitors;
- (10) Plan for the provision of water and sanitary and stormwater drainage facilities;

City of Bellefontaine Neighbors -- QuickCode

- (11) All easements and dedications and all utility service features for the site;
- (12) Any signs, including location and size;
- (13) Details of lighting of parking lots and outside of buildings, including location, type and intensity;
- (14) All other information which the planning and zoning commission and/or the board of aldermen may require.

(e) *Review procedure.*

- (1) An application with a complete final development plan, conforming to the requirements of section 29-60(d), shall be presented at the first (1st) regularly scheduled planning and zoning commission meeting, but no sooner than fifteen (15) days, from the filing of the completed application. Notice of the planning and zoning commission meeting shall be sent to owners of record of all properties within one hundred eighty-five (185) feet of the parcel or parcels included in the application.
 - (2) *Staff review.* During the time between the filing of the complete final development plan and the next regularly scheduled meeting of the planning and zoning commission, the applicable staff and any consultants designated by the city shall review the final development plan for compliance with the ordinance approving the preliminary development plan and shall report to the planning and zoning commission the findings of this review.
 - (3) After presentation of the application and staff report the applicant shall have the opportunity to make a presentation to the planning and zoning commission. The planning and zoning commission may request such additional information or reports as it deems necessary. When the application has been reviewed and considered by the planning and zoning commission, the commission shall recommend approval or disapproval of the final development plan. The final development plan shall conform to the ordinance approving the preliminary development plan. If the final development plan does not conform to the preliminary development plan, or if the conditions of the preliminary development plan approval are not adequately met, the final development plan shall not be approved.
 - (4) Upon recommendation by the planning and zoning commission, the final development plan shall be transmitted to the board of aldermen for its review and approval.
 - (5) Following approval of the final development plan, it shall be recorded at the applicant's expense with the St. Louis County recorder of deeds, and a reproducible mylar of such recorded plan furnished to the applicable staff. Any bonds, escrows, or letters of credit required to insure completion of required improvements or open space indicated on the final development plan shall be filed with the city prior to the issuance of any building permits.
- (Ord. No. 396 Art. X, 4-29-60; Ord. No. 1445 §3, 2-15-90; Ord. No. 2010 §1, 8-4-05)

Sec. 29-61. Same--permitted uses and developments.

City of Bellefontaine Neighbors -- QuickCode

The following land uses and developments may be permitted in the PD districts:

- (1) In all PD districts, subject to approval of a Site Development Plan by the board:
 - i. Police, fire, and postal stations;
 - ii. Local public utility facilities;
 - iii. Accessory uses incidental to the above uses.

- (2) Permitted land uses and development shall be established in the ordinance governing the particular planned district; specific uses may include the following:
 - i. *In the planned residential district (PD-R).*
 1. Any use designated as permitted or conditional in the R residential districts.
 - ii. *In the planned commercial district (PD-C).*
 1. Any use designated as permitted or conditional in the C-1 or C-2 commercial districts.
 - iii. *In the planned development mixed use district (MxD).*
 1. Any use designated as permitted or conditional in any of the R (residential), C (commercial), or M (industrial) districts.

- (3) In all planned development districts, in order to permit the flexibility necessary to the achieve the purposes of permitting planned developments, the board of aldermen shall have the authority in approving planned developments to change, alter, modify or waive provisions of zoning district regulations set forth in the City of Bellefontaine Neighbors Zoning Ordinance as such regulations may apply to the planned development district.

(Ord. No. 396 Art. X, 4-29-60; Ord. No. 1445 §4, 2-15-90; Ord. No. 2010 §1, 8-4-05)

Sec. 29-62. Same--area regulations and performance standards.

(a) Residential densities shall be established in the conditions of the ordinance governing the particular planned development residential or planned development mixed use district, but in no event shall the density exceed one (1) residential unit for each three thousand (3,000) square feet of land dedicated to residential use, excluding land which is utilized for road right-of-way purposes. Each residential unit must have a minimum floor area of five hundred (500) square feet.

(b) Commercial and industrial densities shall be established in the conditions of the ordinances governing the particular planned development commercial or planned development mixed use district.

(c) *Modifications.* The approval of the preliminary development plan may provide for such exceptions from the above referenced regulations and such additional requirements as may be necessary or desirable to achieve the objectives of the proposed planned development, provided such exceptions are consistent with the standards and criteria contained in this article and have been specifically requested in

City of Bellefontaine Neighbors -- QuickCode

the application for a planned development; and further, that no modification of the above referenced regulations shall be allowed when such proposed modification would result in:

- (1) Inadequate or unsafe access to the planned development;
- (2) Traffic volumes exceeding the anticipated capacity of the street network in the vicinity;
- (3) An undue burden on public parks, recreation areas, schools, fire and police protection and other public facilities which serve or are proposed to serve the planned development;
- (4) A development which will be incompatible with the purposes of this article;
- (5) Detrimental impact on surrounding area including, but not limited to, visual pollution.

The burden of proof that the criteria above are not being violated shall rest with the developer and not the staff, the planning and zoning commission or the board of aldermen.

(d) *Overall development site size.* In addition to the requirements as outlined above for individual uses within a planned development district, the minimum overall site size required for such a planned development as a whole shall be two and one-half (2½) acres. Provided, however, that this minimum site size may be waived by the board of aldermen after review by the planning and zoning commission if the parcel in question has certain unique characteristics such as, but not limited to, significant topographic change, significant trees or wooded areas, wet lands, floodplain areas, soil conditions, utility easements, or unusual shape or proportions; or, if it is determined that the use proposed is desirable or necessary in relationship to the surrounding neighborhood; or, if the board should determine such waiver to be in the general public interest.

(Ord. No. 396 Art. X, 4-29-60; Ord. No. 1445 §5, 2-15-90; Ord. No. 2010 §1, 8-4-05)

Sec. 29-63. Same--period of validity.

The period of validity of approval of a final development plan is as follows:

- (1) For planned developments consisting of a single phase of development:
 - i. No approval of a final development plan shall be valid for a period longer than twelve (12) months from the date of approval unless within such period a building permit is obtained and construction is commenced and pursued with reasonable diligence.
 - ii. The board of aldermen may, upon written request, grant one or more extensions not exceeding six months (6) each of the deadline for undertaking and/or completing an approved development if the applicant demonstrates to the legislative satisfaction of the board of aldermen:
 - (a) That the approved plan continues to be viable in the marketplace and advantageous for the city and its residents; and
 - (b) That there has been no change in circumstances within the development area, and within nearby areas, and within the community generally which would render extension of the

City of Bellefontaine Neighbors -- QuickCode

development deadline unwise. The board of aldermen may impose new conditions relating to the approved development or aspects thereof as a condition of approval of an extension for undertaking or completing the development.

- iii. At such time as the period of validity of a final development plan lapses, the final development plan and all uses, terms, and conditions thereof shall be considered null and void. The planning and zoning commission may at any time thereafter initiate the process of rezoning the subject property in accord with the proceedings specified in article XIX, zoning changes and amendments.
- iv. Should a request for extension of an approved final development plan contain substantial changes, as determined by the board of aldermen in the exercise of its legislative discretion, the board of aldermen shall require the applicant to refile his application subject to the requirements of this article as if it were an entirely new application.

(2) For planned developments consisting of more than one phase of development:

- i. For the first phase of the planned development, no approval of a final development plan shall be valid for a period longer than twelve (12) months from the date of approval unless within such period a building permit is obtained and construction is commenced and pursued with reasonable diligence.
- ii. For each subsequent phase of the planned development, no approval of a final development plan shall be valid beyond the date specified in the ordinance approving such planned development by which the applicant shall have obtained a building permit for such subsequent phase.
- iii. The board of aldermen may, upon written request, grant one or more extensions not exceeding twelve (12) months each of the deadline for undertaking and/or completing any phase of an approved development if the applicant demonstrates to the legislative satisfaction of the board of aldermen:
 - (a) That the approved plan continues to be viable in the marketplace and advantageous for the city and its residents; and
 - (b) That there has been no change in circumstances within the development area, and within nearby areas, and within the community generally which would render extension of the development deadlines unwise. The board of aldermen may impose new conditions relating to the approved development or aspects thereof as a condition of approval of an extension for undertaking or completing the development.
- iv. At such time as the period of validity of a final development plan lapses, the final development plan and all uses, terms, and conditions thereof shall be considered null and void. The planning and zoning commission may at any time thereafter initiate the process of rezoning the subject property, or such portion thereof as to which development approval has lapsed, in accord with the proceedings specified in article XIX, zoning changes and amendments.
- v. Should a request for extension of an approved final development plan contain substantial

City of Bellefontaine Neighbors -- QuickCode
changes, as determined by the board of aldermen in the exercise of its legislative discretion,
the board of aldermen shall require the applicant to refile his application subject to the
requirements of this article as if it were an entirely new application.
(Ord. No. 396 Art. X, 4-29-60; Ord. No. 1445 §6, 2-15-90; Ord. No. 2010 §1, 8-4-05)

DIVISION 2. UNIFIED MASTER DEVELOPMENT DISTRICT

Sec. 29-64. Unified master development district--generally.

The city may, upon proper application, approve a unified master development plan and rezone to the Unified Master Development District (UMD) a site of at least fifty (50) acres intended to contain two or more separate categories of land use and intended to be developed in discrete concurrent or sequential phases to facilitate the use of broadly coordinated land development techniques and site design, by providing relief from zone requirements designed for conventional developments and the level of detail required by specific planned development districts under Division 1 of this Article, while still achieving the objectives specified in Sec. 29-58, above.

(Ord. No. 2010, § 1, 8-4-05)

Sec. 29-65. Same--relationship of planned development districts to zoning map.

(a) *A mapped district.* The UMD designation is not intended to be attached to existing use districts as an overlay. The UMD designation as detailed in this section is a separate use district and may be attached to a parcel of land of requisite size through the process of rezoning and zoning map amendment.

(b) *Plan approval required.* No development or redevelopment of the property encompassed by the UMD designation shall take place until an acceptable master development plan has been reviewed and approved in conformance with the requirements of this section.

(Ord. No. 2010, § 1, 8-4-05)

Sec. 29-66. Procedures for unified master development plan approval.

(a) *Pre-application procedure.* An applicant wishing to seek approval of a Unified Master Development plan shall first meet with city personnel to determine if the proposed unified master development merits consideration for use of the modified procedures. Factors for consideration by the city personnel shall include the time frame of the proposed development, the acreage in the proposed development, the infrastructure in the proposed development and such other items as the city personnel may reasonably consider. If the city personnel determine that the proposed project is appropriate for processing with the Unified Master Development procedures, then the applicant shall proceed under the procedures set forth in this Section.

(b) *Preliminary master plan.* A preliminary master plan shall contain the following information:

City of Bellefontaine Neighbors -- QuickCode

- i. A plan (drawn to a scale of no less than 1" = 50') showing the general location of the proposed project based upon record information and identifying all adjoining properties and record owners thereof;
 - ii. The general location of existing and proposed (a typical configuration shall be acceptable) structures on the site;
 - iii. The location and general design of all lots, common areas (if any), streets and sidewalks of the proposed development;
 - iv. The parking spaces required and to be provided as part of the proposed development;
 - v. The proposed uses for the proposed planned development;
 - vi. The proposed density for the proposed planned development;
 - vii. The proposed setbacks for the proposed planned development;
 - viii. Any known phasing with respect to the proposed planned development, including estimated approximate dates of development, approximate area of each phase, and the order of any phases;
 - ix. Conceptual building elevations for proposed buildings in the proposed planned development drawn to a reasonable scale; and
 - x. A project summary setting forth the project area (in square feet and acres), allocation of the site to various proposed uses, total buildings and floor area by general type and category and total floor area ratio, and calculations of parking spaces in relation to dwelling units and commercial floor area.
- (c) *Preliminary master plan review procedure.*
- i. An application together with a complete preliminary master development plan containing the information set forth in this Section shall be presented at the first regularly scheduled planning and zoning commission meeting, but not sooner than fifteen (15) days after the notice of acceptance of the completed application. Notice of the planning and zoning commission meeting shall be sent to owners of record of all properties within one hundred eighty-five (185) feet of the parcel included in the application.
 - ii. The planning staff shall coordinate review of the application by appropriate city departments and consultants designated by the city. A written report documenting the review and staff recommendations shall be prepared by the applicable staff and submitted to the planning and zoning commission at the meeting at which the application is considered.
 - iii. After presentation of the application and staff report, the applicant shall have the opportunity to make a presentation to the planning and zoning commission. The planning and zoning commission may request such additional information or reports as it deems necessary. When the application has been sufficiently reviewed, the commission shall make a report to the board of aldermen evaluating the proposed Unified Master Development (including the

City of Bellefontaine Neighbors -- QuickCode

preliminary plan) and setting forth a recommendation of approval or denial of the same. The report and recommendation may have attached to it such conditions as the commission reasonably deems appropriate for consideration by the board of aldermen.

- iv. The board of aldermen shall hold a public hearing with respect to the application upon at least fifteen days' public notice. If the preliminary master development plan is approved by the board of aldermen, the board shall adopt an ordinance rezoning the subject property to the Unified Master Development District, adopting the preliminary master development plan with such conditions as may be specified in the approval ordinance, and authorizing the preparation of a final master unified development plan consistent with the approved preliminary master development plan and containing the additional requirements set forth in this Division. Such ordinance shall become effective upon its passage.

(d) *Final unified master plan or alternative zoning.* Within twelve months following approval of the preliminary master development plan, the petitioner may either: (a) submit one or more applications to rezone all or portions of the subject property to a planned zoning district in accord with Division 1 of this Article; and/or (b) submit one or more applications to rezone all or portions of the subject property to one or more of the traditional residential, commercial or industrial zoning districts provided elsewhere in this Chapter; and/or (c) submit a final unified master development plan for any portions of the subject property not included within applications for planned or traditional zoning districts as provided in (a) or (b), above, to the planning and zoning commission for its review and consideration. The final unified master development plan shall reflect the entire unified master planned development. A petitioner may, upon approval of the board of aldermen, obtain one or more extensions of time not to exceed twelve months each within which to submit any proposed final unified master development plan. The final unified master development plan shall conform to the approved preliminary master development plan and set forth the following information:

- i. An outboundary survey plat with a licensed Missouri land surveyor's seal and statement of verification regarding the source of the boundary dimensions, bearings, and source of contour data, and legal description of the property. The plat shall also identify adjoining property owners and the record owners thereof;
- ii. The general area location and general type of existing trees over six (6) inches in caliper and, in addition, an indication of those to be retained;
- iii. The landscaping proposed for the Unified Master Development with proposed plant material by type, including, trees, shrubs and any ground cover. The plantings in parking areas shall also be identified;
- iv. The location and description of all retaining walls, fences and berms (including any materials and the general appearance thereof);
- v. The description and location of all trash containers including the screening thereof;
- vi. The on-site storm water drainage and detention related to the development and, if applicable, any off-site storm water facilities; and
- vii. All of the information set forth in items (1) through (14) of Section 29-60(d).

City of Bellefontaine Neighbors -- QuickCode

(e) *Final unified master development plan review procedure.*

- i. An application together with a complete final unified master development plan containing the information set forth above shall be presented at the first regularly scheduled planning and zoning commission meeting, but not sooner than fifteen (15) days after the notice of acceptance of the completed application. Notice of the planning and zoning commission meeting shall be sent to owners of record of all properties within one hundred eighty-five (185) feet of the parcel included in the application;
- ii. During the time between the filing of the final development plan and the next regularly scheduled meeting of the planning and zoning commission, the applicable staff and consultants designated by the city shall review the final unified master development plan for compliance with the ordinance approving the preliminary master development plan and shall report its findings to the planning and zoning commission at the meeting at which the plan is considered;
- iii. After presentation of the application and staff report, the applicant shall have the opportunity to make a presentation to the planning and zoning commission. The planning and zoning commission may request such additional information or reports as it deems necessary. When the application has been sufficiently reviewed, the commission shall make a report to the board of aldermen evaluating the proposed final unified master development plan and setting forth a recommendation of approval or denial of the same. The final unified master development plan shall substantially conform to the ordinance approving the preliminary master development plan or the same shall not be approved, unless the commission finds that circumstances have changed since approval of the preliminary development plan or good cause for such change is otherwise shown.
- iv. The board of aldermen shall consider and review the final unified master development plan following receipt of the same from the planning and zoning commission. If the final unified master development plan is approved by the board of aldermen, then the board shall adopt an ordinance approving the same. Following approval of a final unified master development plan, a reproducible mylar of the same and the approval ordinance shall be recorded at the applicant's expense in the St. Louis County Recorder of Deeds office. Any bond, escrows, or letters of credit required to insure completion of required improvements indicated on the final unified master development plan that are not already installed shall be filed with the city prior to the issuance of any building permits.

(f) The same land uses available to an applicant pursuant to Section 29-59 shall be available to an applicant under this Division.
(Ord. No. 2010, § 1, 8-4-05)

ARTICLE XI. M-1 INDUSTRIAL DISTRICT

Sec. 29-67. M-1 industrial district regulations.

City of Bellefontaine Neighbors -- QuickCode

(a) *Generally.* The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the regulations in the M-1 industrial district.

(b) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Any use permitted in the C-2 commercial district except that no building shall be erected or reconstructed for dwelling purposes other than for resident watchmen or caretakers employed on the premises.
- (2) When conducted wholly within a completely enclosed building:
 - a. The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs and pharmaceuticals (excluding acid manufacture), perfumes, perfumed toilet soap, toiletries and food products (excluding fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.)
 - b. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials; bone, cellophane, canvas, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood (excluding planing mills), yarns and paint not employing a boiling process.
 - c. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
 - d. The manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and the like.
 - e. Manufacture of musical instruments, toys, novelties and rubber and metal stamps.
 - f. Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping, battery manufacturing, and the like (not including automobile wrecking or junk yards).
 - g. Blacksmith shop and machine shop excluding punch presses over twenty (20) tons rated capacity, and drop hammers.
 - h. Foundry casting lightweight non-ferrous metal not causing noxious fumes or odors, and not including brass, manganese, bronze or zinc.
 - i. Laundry, cleaning and dyeing works, and carpet and rug cleaning.
 - j. Parcel delivery, ice and cold storage plant, bottling plant, and food commissary or catering establishments.
 - k. Wholesale business, storage buildings, and warehouses.
 - l. Assembly of electrical appliances, electronic instruments and devices, radios and

City of Bellefontaine Neighbors -- QuickCode

phonographs, including the manufacture of small parts only such as coils, condensers, transformers, crystal holders and the like.

- m. Laboratories, experimental, photo or motion pictures, film or testing.
 - n. Poultry or rabbit killing incidental to a retail and/or wholesale business on the same premises.
- (3) When conducted wholly within a completely enclosed building or within an area enclosed on all sides with a solid wall, compact evergreen hedge or uniformly painted board fence not less than six (6) feet in height:
- a. Building material sales yard, including the sale of rock, sand, gravel and the like.
 - b. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.
 - c. Retail lumber yard, including only incidental mill work.
 - d. Feed and fuel yard.
 - e. Reserved.
 - f. Public utility service yard or electrical receiving or transforming station.
 - g. Small boat building.
- (4) Any other use of similar character which is not objectionable because of the emission of odor, dust, smoke, gas, fumes, noise or vibration as determined after the review of such use by the board of adjustment.
- (5) Any other use when specifically authorized by the board of aldermen following study and report of the planning and zoning commission as specified in article XVI.
- (6) In the case of any adult entertainment establishment or business, the following special conditions shall apply:
- a. No adult bookstore, adult entertainment facility or establishment, bathhouse, massage shop or modeling studio shall be permitted within one thousand two hundred (1,200) feet of any religious institution, school, public park or any property zoned for residential use, or any city boundary. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment establishment to the closest point on any property line of the religious institution, school or public park, or the property zoned for residential use, or to the closest point of the city boundary.
 - b. No adult entertainment establishment shall be allowed to locate or expand within one thousand (1,000) feet of any other adult entertainment establishment or of any business licensed to sell or serve alcoholic beverages whether or not such business is also an adult entertainment establishment as defined in this chapter. The distance between any two (2)

City of Bellefontaine Neighbors -- QuickCode

adult entertainment establishments or between an adult entertainment establishment and a business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.

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

The regulations contained in this Section shall be in addition to any and all regulations contained elsewhere in the Municipal Code or the Zoning Ordinance.

(c) *Height, yard and area regulations.* The height, yard and area regulations set forth in articles XIII and XIV shall be observed,

(d) *Parking and loading regulations.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in article XV. (Ord. No. 396 Art. XI, 4-29-60; Ord. No. 578 §2, 2-20-64; Ord. No. 2018 §3, 12-1-05; Ord. No. 2151 §1, 11-4-10)

Secs. 29-68—29-70. Reserved.

ARTICLE XII. M-2 CONTROLLED INDUSTRIAL DISTRICT

Sec. 29-71. M-2 controlled industrial district regulations.

(a) The regulations set forth in this article or set forth elsewhere in this chapter, when referred to in this article, are the regulations in the M-2 controlled industrial district. Such district shall be laid out and developed according to an approved plan as provided in this article in order to accomplish its purpose to provide space in attractive and appropriate locations for certain types of business and manufacturing free from offense in modern, landscaped buildings, and to provide opportunities for employment closer to residence in the city of Bellefontaine Neighbors.

(b) *Use regulations.* A building or premises shall be used only for the following purposes and no building shall be erected or reconstructed for dwelling purposes other than for resident watchmen or caretakers employed on the premises:

- (1) Art needle work, hand weaving and tapestries.
- (2) Books, hand binding and tooling.
- (3) Compounding of cosmetics and pharmaceutical products.
- (4) Jewelry, manufactured from precious metals.
- (5) Laboratories, research, experimental and testing.
- (6) Manufacture of clay, leather, metal and glass products.
- (7) Manufacture of medical, dental and drafting instruments.
- (8) Manufacture of optical goods and equipment, watches, clocks and other similar precision instruments.
- (9) Manufacture of small electrical or electronic apparatus, musical instruments, games and toys.
- (10) Plumbing shop, printing shop or shops of a similar nature.
- (11) Offices, business, professional and governmental.
- (12) Any use permitted by article VIII, C-1 local business district or by article IX, C-2 commercial district except that residential usage will not be permitted.

City of Bellefontaine Neighbors -- QuickCode

(13) Any other office, unitized warehouse with associated outdoor storage area, laboratory or manufacturing use which does not create any danger to health and safety in surrounding areas, which does not create any offensive noise, vibration, smoke, dust, odors, heat or glare, and which is specifically approved as to character, arrangement, design, method of operation and the like, in accordance with sections (e) and (f) hereof.

(14) The manufacture, compounding, processing, assembling, packaging or treatment of such products as bakery goods, candy, dairy products and food products (excluding fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils).

(c) *Height and area regulations.*

(1) No building shall exceed a height of two (2) stories or thirty-five (35) feet, except that a building may be erected to a height of sixty (60) feet when the distances from the street and any residential district boundary line required in this section are increased by one (1) foot for each foot of building height above thirty-five (35) feet.

(2) A forty (40) foot building line must be maintained except that lots adjacent to residential districts shall have a fifty (50) foot building line.

(3) No lot smaller than one-half ($\frac{1}{2}$) acre shall be permitted. Not more than thirty-five percent (35%) of lot area shall be used for building or structure for lots less than one (1) acre and not more than fifty percent (50%) of lot area for lots of one (1) acre or more.

(4) Outside storage will be permitted if located behind the front building line of the principal structure on the lot and if reasonably screened from view from any adjoining public or private street, road or private right-of-way and from any adjoining lot located in a residential district. Any such storage area shall be paved with asphalt or concrete which shall be well maintained at all times.

(5) Side and back yards shall be a minimum of ten (10) feet.

(6) Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in article XV.

(7) *Procedure.* The owner or owners of such tract of land must submit to the planning and zoning commission a plan for the use and development of such tract for the purposes of and meeting the requirements set forth in this article. Said plan shall be accompanied by information concerning the number of persons to be employed, the effects on surrounding property, and other physical conditions, and shall include the following:

City of Bellefontaine Neighbors -- QuickCode

A site plan defining the area to be occupied by buildings, the areas to be used for parking, the locations of roads, driveways and walks, the locations and height of any walls, the spaces for loading and the character and extent of landscaping, planting and other treatment of adjustment to surrounding property.

(d) *Parking and loading regulations.* Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in article XV.

(e) *Procedure.* The owner or owners of a tract of land comprising three (3) acres or more may submit to the planning and zoning commission a plan for the use and development of such tract for the purposes of and meeting the requirements set forth in this article. Said plan shall be accompanied by information concerning the number of persons to be employed, the effects on surrounding property, and other physical conditions, and shall include the following:

A site plan defining the area to be occupied by building, the area to be used for parking, the location of roads, driveways and walks, the location and height of any walls, the spaces for loading, and the character and extent of landscaping, planting and other treatment for adjustment to surrounding property.

(f) *Review and approval.* The proposed controlled industrial development plan together with the other required information shall be studied by the planning and zoning commission. The planning and zoning commission shall then make their recommendations to the board of aldermen within a reasonable time. Any report from the planning and zoning commission recommending approval of any proposed industrial development shall contain findings relating to the following specific conditions:

- (1) The proposed development shall be so related to streets and arteries that the traffic generated can be accommodated without causing objectional volumes of traffic on residential streets.
- (2) The location and arrangement of buildings, parking areas, roads, driveways, and other features shall be adjusted to the surrounding land uses and parts of the site not used for buildings, structures, parking or accessways shall be landscaped with grass, trees and shrubs.
- (3) All roads, parking and loading areas and walks shall be suitably graded and drained and paved with hard surface material meeting applicable specifications of the city of Bellefontaine Neighbors.
- (4) Reasonable additional requirements as to landscaping, lighting, signs, advertising devices, screening, building setbacks and accessways may be imposed by the commission for the protection of adjoining residential property.

(g) The board of aldermen must proceed to approve or disapprove the issuance of a building permit depending upon compliance with all requirements herein and the ordinances of the city of Bellefontaine Neighbors.

(h) *Delay in construction.* In the event that construction of the business or industry is not begun

City of Bellefontaine Neighbors -- QuickCode

within two (2) years of the date that approval by the board of aldermen becomes final, such approval shall be deemed to have expired, and no such business or industry shall thereupon be constructed unless and until the plans therefor have again been reviewed and approved as required by this article. (Ord. No. 396 Art. XII, 4-29-60; Ord. No. 638 §1, 6-26-66; Ord. No. 836 §§1--5, 8-3-92; Ord. No. 1007 §1, 2-3-77; Ord. No. 1648 §1, 5-4-95; Ord. No. 2056 §1, 2-15-07; Ord. No. 2059 §1, 4-5-07)

Secs. 29-72—29-75. Reserved.

ARTICLE XIII. TABLE OF HEIGHT AND AREA REQUIREMENTS

Sec. 29-76. Height and area requirements.

The required height and area regulations are established and shown on the accompanying table which is article XIII.

TABLE OF HEIGHT AND AREA REQUIREMENTS

District	Maximum Height of Buildings--Feet	Minimum Depth of Front Yard in Feet	Minimum Width of Side Yard in Feet	Minimum Depth of Rear Yard in Feet	Minimum Lot Area per Family in sq. ft.
R-1 Single-family dwelling	2½ -- 35	40 (1)	10	40	20,000
R-2 Single-family dwelling	2½ -- 35	30 (1)	10	30	10,000
R-3 Single-family dwelling	2½ -- 35	30 (1)	7.5	30	7,500
C-1 Local Business	2 -- 35	30 (1)	none (2)	none (4)	6,000, 1 family 3,000, other dwellir
C-2 Commercial	2 -- 35	30 (1)	none (2)	none (4)	Same as C-1 distri
C-3 Shopping Center	2 -- 35	30 (1)	(3)	(3)	----
M-1 Industrial	3 -- 45	30 (1)	none (2)	none (4)	----
M-2 Controlled Industrial	2 -- 35	See special regulations in article XII			

(1) Except that where the frontage is partially improved with buildings, front yards shall be

City of Bellefontaine Neighbors -- QuickCode
provided as prescribed in section 29-82(b)(1), of article XIV.

- (2) No side yard required except on the side of a lot adjoining a dwelling district, in which case a side yard of not less than five (5) feet shall be provided in the business or commercial district, and of not less than ten (10) feet in the industrial district.
- (3) No building shall be closer than fifty (50) feet to any side lot line or than twenty-five (25) feet to any rear lot line of a lot in a dwelling district, provided further that the location and arrangement of buildings shall be specifically approved as specified in article X.
- (4) None required except on the rear of a lot abutting a dwelling district, in which case a rear yard of not less than twenty-five (25) feet shall be provided.
- (5) Two-family dwellings, where allowed under section 29-40(b)(2), of article VII, shall be one-story in height; the minimum lot area shall be three thousand (3,000) square feet per family and the minimum residential ground floor area shall be nine hundred (900) square feet per family. (Ord. No. 396 Art. XIII, 4-29-60)

Secs. 29-77—29-81. Reserved.

ARTICLE XIV. HEIGHT AND AREA EXCEPTIONS AND MODIFICATIONS

Sec. 29-82. Height and area exceptions.

(a) *Height.*

- (1) Public, semipublic or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding seventy-five (75) feet, and churches and temples may be erected to a height not exceeding ninety (90) feet if the building is set back from each yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is located.
- (2) Dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but no dwelling shall exceed three (3) stories in height.
- (3) Chimneys, cooling towers, elevator penthouses, fire towers, monuments, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio or television towers, silos, or necessary mechanical appurtenances,

City of Bellefontaine Neighbors -- QuickCode
may be erected to any height in accordance with existing or hereafter adopted
ordinances of the city of Bellefontaine Neighbors, Missouri.

(b) *Front yards.*

- (1) Where forty percent (40%) or more of the frontage is improved with buildings that have observed a front yard line having a variation in depth of not more than six (6) feet, no building shall project beyond the average front yard so established where forty percent (40%) or more of the frontage is improved with buildings that have not observed such an average front yard line as herein specified, the minimum front yard shall be established by a line drawn between the two (2) closest front corners of the existing buildings on each side and within one hundred (100) feet of the lot on which a building is to be erected; in case there is only one (1) building within one hundred (100) feet of said lot, such new building may be erected as close to the street as said existing building; provided, however, that a front yard of more than sixty (60) feet shall not be required under any of the provisions of this paragraph.
- (2) Where lots have double frontage, the required front yard shall be provided on both streets.
- (3) Walls and fences shall not be erected in a front yard. Plantings may be planted or maintained in a front yard, provided no portion of such planting is higher than three (3) feet above the established street grade if within twenty (20) feet of a street intersection.
- (4) An open porch or paved terrace may project into a required front yard for a distance of not more than eight (8) feet.
- (5) Filling station pumps and pump islands may be located within a required yard provided they are not less than fifteen (15) feet from any street line and not less than fifty (50) feet from the boundary of any residential district.
- (6) Off-street parking facilities may be located within the required front yard of any C or M district but shall not be nearer than fifty (50) feet to any R district and no off-street parking shall be permitted in the required front yard of any R district.

(c) *Side yards.*

- (1) On a corner lot the width of the yard along the side street shall not be less than any required front yard on such street, provided, however, that the buildable width of a lot of record shall not be reduced to less than forty (40) feet in the R-1 or R-2 districts or to less than thirty-two (32) feet in the R-3 district.
- (2) No accessory building shall project beyond a required yard line along any street.
- (3) Where dwelling units are erected above a commercial establishment no side yard is

City of Bellefontaine Neighbors -- QuickCode

required except when required for commercial building on the side of a lot adjoining a residence district.

- (4) A porte-cochere or canopy may project into a required side yard provided every part of such porte-cochere or canopy is unenclosed and is at least five (5) feet from any side lot line.
- (5) For the purpose of side yard regulations, a two-family dwelling or multiple dwelling shall be considered as one (1) building occupying one (1) lot.
- (6) Where a lot of record is less than fifty (50) feet in width the required side yard may be reduced to ten percent (10%) of the width of the lot, provided, however, that no side yard shall be less than three (3) feet.

(d) *Rear yards.*

- (1) Where a lot abuts upon an alley, one-half (½) the alley width may be considered as part of the required rear yard.
- (2) Accessory structures may not be taller than twenty (20) feet or the height of the main building on the lot, whichever is less, nor may they have an area greater than twenty percent (20%) of the ground floor area of the main building. Accessory structures may be erected or installed only in the rear portion of a lot, i.e. areas of the lot that are:
 - a. Behind the rear line of the main building on the lot, and
 - b. Not within any front yard areas required by section 29-82(b) of this article, above, and
 - c. Not within a recorded easement;

provided, however, that pursuant to the requirements of Art. V, section 29-29(b)(8) of this Zoning code, no accessory structure may be erected or installed in any residential zoning district within sixty (60) feet of the front line of the lot upon which it is located. All accessory structures must be at least ten (10) feet away from any lot line, any other accessory structure and the main building on the lot. Accessory structures shall be built, erected or installed only pursuant to a building permit issued by the city engineer and in accord with good engineering and construction practices. No accessory structure may be used for living, sleeping or housekeeping purposes nor, except for construction facilities permitted by the city engineer, occupied prior to occupancy of the main building on the lot. Provided, however, that detached storage sheds or units not exceeding one hundred fifty (150) square feet in area and no more than eight (8) feet in height may be located in the area of a lot behind the rear line of the main building and within five (5) feet of a lot line if installed or erected pursuant to a building permit issued by the city engineer and in accord with good engineering

City of Bellefontaine Neighbors -- QuickCode
and construction practices.

(e) *Lots and lot area.* Where sanitary sewers are not connected to an approved sewerage system, every lot or tract shall have an area of not less than twenty thousand (20,000) square feet per dwelling unit and a minimum frontage of one hundred (100) feet. (Ord. No. 396 Art. XIV, 4-29-60; Ord. No. 1454 §1, 3-1-90; Ord. No. 1531 §3, 12-3-92; Ord. No. 1563 §1, 8-5-93)

Secs. 29-83—29-87. Reserved.

ARTICLE XV. OFF-STREET PARKING, LOADING REQUIREMENTS AND SIGNS

Sec. 29-88. Required off-street parking spaces.

(a) In all districts there shall be provided at the time any building or structure is erected or structurally altered (to the extent specified in subsection (b) of this section) off-street parking spaces in accordance with the following requirements:

- (1) Dwellings, including single and two-family: One (1) parking space for each dwelling unit.
Multiple family: Two and one-half (2½) parking spaces for each dwelling unit.
- (2) Fraternity or sorority: One (1) parking space for each two (2) beds.
- (3) Private club or lodge: One (1) parking space for every one hundred (100) square feet of gross floor area.
- (4) Church or Temple: One (1) parking space for each five (5) seats in the main auditorium.
- (5) Elementary or Junior High School: Without an auditorium, two (2) spaces per classroom.
- (6) Senior High School: Without an auditorium, five (5) spaces per classroom.
- (7) School: With an auditorium, the auditorium requirements shall take precedence.
- (8) Hospital: One (1) parking space for each bed, plus one (1) space for each two (2) staff doctors, nurses and other employees.
- (9) Sanatorium or institutional home: One (1) parking space for each four (4) beds.
- (10) Auditorium, sports arena, or similar place of assembly: One (1) parking space for each five (5) seats or seating spaces.
- (11) Library, museum or similar public or semipublic building: Ten (10) parking spaces plus one (1) additional space for each three hundred (300) square feet of gross floor area in excess of two thousand (2,000) square feet.

City of Bellefontaine Neighbors -- QuickCode

- (12) Community Center: One (1) parking space for each one hundred (100) square feet of gross floor area.
- (13) Country club or golf club: One (1) parking space for each five (5) members.
- (14) Hotel or motel: One (1) parking space for each sleeping room or suite or unit, plus one (1) parking space for each employee in attendance.
- (15) Theatre or other place of amusement: One (1) parking space for each four (4) seats or for each three (3) persons that may be accommodated at any one time.
- (16) Business or professional office, studio, bank, medical or dental clinic: One (1) parking space for each three hundred (300) square feet of gross floor area.
- (17) Plumbing or printing shop or similar service establishment: One (1) parking space for each person employed therein, plus one (1) space for each one thousand (1,000) square feet of gross floor area.
- (18) Furniture or appliance store, hardware store, machinery or equipment sales and service or similar establishment: One (1) parking space for each employee, plus one (1) space for each five hundred (500) square feet of gross floor area.
- (19) Mortuary or funeral home: One (1) parking space for each fifty (50) square feet of gross floor area in parlors and chapels.
- (20) Commercial building of any other type, including retail stores, shops, personal service and similar establishments: One (1) parking space for each two hundred (200) square feet of gross floor area.
- (21) Manufacturing, research or industrial establishment: One (1) parking space for each two (2) employees on maximum work shifts.
- (22) Restaurant, night club, cafe or similar recreational establishment: One (1) parking space for each one hundred (100) square feet of gross floor area.
- (23) Dance hall, assembly or exhibition hall, all without fixed seats: One (1) parking space for each one hundred (100) square feet of gross floor area.
- (24) Bowling alley: Five (5) parking spaces per each alley.
- (25) Drive-in restaurant or establishment serving meals to patrons in cars and/or building: One (1) parking space for each one hundred (100) square feet of gross floor area.

(b) *Computation of number of parking spaces.* In computing the number of parking spaces required, the following rules shall govern:

- (1) Where fractional spaces result, the parking spaces required shall be the nearest whole number.
- (2) The parking space requirement for a use not specifically mentioned herein shall be the same

City of Bellefontaine Neighbors -- QuickCode
as required for a use of similar nature.

- (3) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (4) Whenever a building or use constructed or established after the effective date of this chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this chapter is reconstructed or is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, said building or use in its entirety shall then and thereafter comply with the parking requirements set forth herein.

(c) *Parking spaces shall be located on lot with building or use to be served.* All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not to exceed three hundred (300) feet from the building served. Where spaces are not located on the same lot with the building or use served or where they are collectively or jointly provided and used, a written agreement assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form and execution by the city attorney and shall be filed with the application for a building permit.

(d) *Design and construction standards in all districts.* In all districts there shall be provided off-street parking designed and constructed in accordance with the following requirements:

- (1) Parking areas of less than ten (10) car capacity shall be allowed one (1) entrance drive, which shall be not less than ten (10) feet wide nor more than thirty-five (35) feet wide, the location and design of which shall be subject to approval by the City Engineer based on generally accepted traffic management and safety standards, on each street contiguous to the parking area, with the additional limitation that the driveway edge shall be no closer to a corner than the point of tangency of the corner curve or ten (10) feet, whichever is greater.
- (2) Parking areas of ten (10) car capacity or greater shall be allowed up to two (2) entrance drives, which shall be not less than twenty-four (24) feet wide nor more than forty (40) feet wide, the number, location and design of which shall be subject to approval by the City Engineer based on generally accepted traffic management and safety standards, on each street contiguous to the parking area, with the additional limitation that the driveway edge shall be no closer to a corner than the point of tangency of the corner curve or ten (10) feet, whichever is greater, and that a minimum of ten (10) feet separate the edges of adjacent driveways when measured at the curb line. Provided, however, that parking areas for non-residential uses and located in non-residential zoning districts shall be allowed up to three (3) entrance drives, subject to the conditions and limitations above, on each street upon which the use has frontage of not less than four hundred (400) feet.
- (3) The maximum width at the curb line (or the previous edge of pavement) of a driveway shall be

City of Bellefontaine Neighbors -- QuickCode

forty (40) feet, not including the radii at each driveway edge where it meets the curb (or previous edge of pavement), subject to design approval by the City Engineer based on generally accepted traffic management and safety standards. The minimum allowable radius shall be five (5) feet. The City Engineer may approve a wider entrance drive if the Engineer determines, on the basis of generally accepted traffic management and safety standards and the turning radii of vehicles expected to use the parking area, that the applicant has established a need for a greater width.

- (4) Entrances or exits for all parking facilities with ten (10) or more spaces shall not be located within fifty (50) feet of the intersection of curb lines at a street intersection.
- (5) Screening in the form of trees and/or shrubbery (shrubbery with height limitation of thirty-six (36) inches and a setback of ten (10) feet at all ingress/egress locations) shall be required of all parking lots hereafter constructed to contain ten (10) or more spaces.
- (6) A minimum of one (1) two hundred (200) square foot, curbed, landscaped island shall be provided at the ends of each single row of parking stalls, and one (1) four hundred (400) square foot, curbed, landscaped island shall be provided at the ends of each double row of parking stalls. A maximum distance between curbed, landscaped islands shall not exceed one hundred fifty (150) feet.
- (7) Lighting shall be arranged to minimize glare and reflection on any residential area or any public street.
- (8) All parking spaces shall be connected with a street or alley by means of a surfaced driveway providing satisfactory ingress and egress of automobiles.
- (9) The parking area and driveways shall be constructed of a minimum of six (6) inch thick compacted crushed stone covered with a two (2) inch thick asphaltic concrete surface, or of six (6) inch thick concrete; the driveways leading to and from all parking areas shall be of concrete seven (7) inches in thickness. All parking area and driveway surfaces shall be constructed in strict accordance with existing city of Bellefontaine Neighbors specifications and shall be subject to inspection and approval by the City Engineer on the basis of sound engineering and construction practices.

(e) Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary, or any other use similarly involving the receipt or distribution by vehicles of materials or merchandise, shall provide and maintain on the same premises one (1) loading space for the first (1st) five thousand (5,000) to ten thousand (10,000) square feet of floor area in the case of retail uses, or for the first (1st) five thousand (5,000) to twenty thousand (20,000) square feet of floor area in all other cases, plus one (1) additional loading space for each additional twenty thousand (20,000) square feet, or fraction thereof, of floor area in excess of ten thousand (10,000) and twenty thousand (20,000) square feet respectively in such buildings.
(Ord. No. 396 Art. XV, 4-29-60; Ord. No. 1038 §2(A), 1-19-78; Ord. No. 1221 §1, 9-1-83; Ord. No. 1504 §1, 12-19-91; Ord. No. 2136 §1, 6-17-10; Ord. No. 2231 §1, 10-18-12)

Sec. 29-89. Loading requirements.

City of Bellefontaine Neighbors -- QuickCode

(a) No commercial vehicle licensed for a gross vehicle weight greater than twelve thousand (12,000) pounds or having a total length, including tractor, if any, in excess of twenty (20) feet, may be parked, stored or kept upon any public or private property, nor shall any person, firm or corporation park, store or keep, or cause to be parked, stored or kept, or permit or suffer to be parked, stored or kept any such commercial vehicle upon any public or private property, except in the following circumstances:

- (1) Such commercial vehicles may be parked in driveways, loading spaces, or lawful parking areas on public or private streets, highways or roads while delivering, loading or unloading materials or otherwise being utilized to provide service to persons or property adjacent thereto, subject to the restrictions set forth in the general code of ordinances of the city. Upon completion of the delivery, loading or unloading, or upon completion of the service requiring such vehicles, they are to be removed immediately.
- (2) Such commercial vehicles may be parked or stored within a fully enclosed garage at any time.
- (3) Such commercial vehicles which are owned by, leased to, or regularly used by the owner or occupant of property in a commercial district may be parked or stored on a paved parking lot located on the same lot as the commercial enterprise for which such vehicles are used, provided that the said vehicles are kept:
 - a. Behind the front building line of the principal structure on the lot; and
 - b. Screened from view from any adjoining public or private street, road or right-of-way and from any adjoining lot located in a residential district by artificial or landscape barriers at least six (6) feet in height.

(b) The owner of any vehicle parked, stored or kept on any property in violation of the restrictions set forth above, the operator of any such commercial vehicle who shall park, store or keep the vehicle in violation of the said restrictions, and the owner, lessee or tenant of any property on which such a commercial vehicle may be parked, stored or kept in violation of the said restrictions shall each be jointly and severally liable for any violation hereof and subject to the penalties set forth in section 29-118(e) of article XX of this Zoning code. Each day that a violation exists shall constitute a separate offense for which separate punishment may be imposed. (Ord. No. 396 Art. XV, 4-29-60; Ord. No. 1513 §1, 5-7-92)

Sec. 29-90. Sign regulations--non-residential districts.

(a) Except as permitted pursuant to Subsection (b) below, a sign or signs may be erected or installed in any non-residential zoning district only when relating to the services, products or identifying name of the business or businesses located on the property on which the sign or signs are located and further that they conform with the following requirements:

- (1) *Freestanding signs.*

Number: There may be not more than one (1) freestanding sign per parcel of property nor more than one (1) freestanding sign for each commercial or industrial development which consists of

City of Bellefontaine Neighbors -- QuickCode

more than one (1) parcel of property.

Area: Each sign may consist of not more than one hundred (100) square feet of area for a parcel of property not exceeding three (3) acres in area. Each sign may be increased by twenty-five (25) square feet for each additional acre but shall not exceed two hundred fifty (250) square feet.

Height: Signs not greater than one hundred fifty (150) square feet in area shall not exceed thirty (30) feet in height. Signs larger than one hundred fifty (150) square feet shall not exceed sixty (60) feet in height.

Location: No portion of a sign less than one hundred fifty (150) square feet in area shall be closer than ten (10) feet to the front property line. Signs larger than one hundred fifty (150) square feet in area shall not be closer than twenty (20) feet to the front property line. No portion of a sign shall be closer than ten (10) feet to the side property line, except that no portion of a sign shall be closer than fifty (50) feet to side property line if adjoining property is residential.

(2) *Attached signs.*

Number: A number of signs may be attached to the face of a building having a single occupant. Buildings fronting on more than one (1) street may have signs on each face adjacent to the street.

Area: The total area of attached signs shall not exceed ten percent (10%) of the gross building front face area. If the building is occupied by individual businesses, the sign area for each business may be allocated among the occupants by the party having control of the building.

Projection: Attached signs shall not project more than eighteen (18) inches from the face of a building.

(b) Outdoor advertising signs may be erected or maintained within six hundred sixty (660) feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway which is part of the interstate or primary system of the State of Missouri in areas which are zoned industrial or commercial, subject to the following conditions:

- (1) *Size.* No outdoor advertising sign erected pursuant to this Section shall exceed one thousand two hundred (1,200) square feet, with a maximum height of thirty (30) feet and a maximum length of sixty (60) feet. No sign shall have more than two (2) surfaces upon which advertising may be displayed.
- (2) *Lighting.* No signs shall be so lighted as to allow light to fall directly or indirectly on any parcel of property other than the one upon which the sign is erected. No lighting shall be so installed or maintained as to interfere with the vision of persons traveling on nearby roadways.
- (3) *Spacing.* No outdoor advertising sign erected or maintained under this Section shall be located within three thousand (3,000) feet of an existing sign on the same side of the adjacent interstate or primary highway. The distance shall be measured along the nearest edge of the highway pavement between points directly opposite the signs. The sign measurement points shall be those which yield the shortest distance between structures. If the signs are angled or v-shaped, the nearest point of each structure to the other is to be used.

City of Bellefontaine Neighbors -- QuickCode

(c) Signs shall not revolve, flash or be grotesque in appearance. Signs illuminated by internal or exterior light sources which are not steady or on which colors change are prohibited.

(d) The light or lights for all lighted signs in non-residential districts may remain lighted during normal business hours unless such lighted sign shall constitute a nuisance to residents residing in the vicinity. If it is asserted that illumination is creating a nuisance, the Board of Aldermen may, in the exercise of its legislative discretion and after giving the sign owner an opportunity to be heard on the matter, require such actions as it may find to be reasonable in order to abate such nuisance including, but not limited to, requiring that lights be extinguished or reduced at certain hours, installation of shields or deflectors or similar devices to eliminate light spill, etc.

(e) The size and area of signs contained within a frame or having a defined edge shall be measured by the outside dimensions of the frame or edge. Other signs shall be measured by the blocked-out area of the letters, logo or other graphic presentation by using the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.

(Ord. No. 396 Art. XV, 4-29-60; Ord. No. 1038 §2(B), 1-19-78; Ord. No. 1605 §1, 6-16-94; Ord. No. 2135 §1, 6-17-10)

Sec. 29-91. Signs in residential districts.

It shall be unlawful for any person, firm, corporation or organization to cause or permit any sign or banner to be placed, erected, installed or displayed on any property, building, structure, parked vehicle or other stationary personal property located in a residential zoning district other than the following:

- (1) Real estate advertising signs in conformity with the requirements of Section 29-92(2) of this Code of Ordinances.
- (2) Identification signs and bulletin boards for churches, schools, governmental agencies and charitable and/or non-profit institutions.
- (3) Any provisions of Section 29-92(2) of this Code of Ordinances to the contrary notwithstanding, signs announcing the development or redevelopment of residential property comprising at least two (2) acres may be erected if a permit therefor has been issued by the Board of Aldermen following the filing of an application showing the location, construction details and appearance of the proposed sign, which permit shall regulate the size, construction, location and duration of display of such signs so that they are harmonious with the surroundings, proportionate to the scale and nature of the development involved, structurally sound and otherwise erected and maintained so as not to interfere with the peaceful use and enjoyment of nearby properties; provided further, that no such development signs may be lighted or have any moving, flashing or reflective parts.
- (4) Individual nameplates identifying the residents of the real property or owner of the personal property upon which they are displayed.
- (5) Signs indicating an alarm system has been installed or is in use on the property, provided such signs shall not be larger than one (1) square foot and located no more than four (4) feet away

City of Bellefontaine Neighbors -- QuickCode

from the exterior wall of the principal building on the lot and, provided further, that there may be no more than one (1) such sign for each street adjoining the lot.

- (6) Signs advocating or opposing a candidate or issue to be voted on at a public election may be displayed, subject to the following limitations:
- a. Signs may not be displayed more than forty-five (45) days prior to the election in connection with which the sign is displayed nor more than ten (10) days after such election.
 - b. Signs may be single- or double-faced, but no individual sign face may be greater than six (6) square feet in area nor more than three (3) feet in height.
 - c. Only one (1) single- or double-faced sign may be displayed for each fifteen (15) linear feet of street frontage of the lot, parcel or site upon which it is located.
 - d. All signs must be located at least ten (10) feet away from any public right-of-way or public property of any kind.
 - e. Not more than one (1) single- or double-faced sign with respect to the same candidate or position may be erected on any lot, parcel or site.

(Ord. No. 2135 §1, 6-17-10)

Sec. 29-92. Regulation of temporary and real estate signs.

(a) *Temporary signs.*

(1) *Definition.* A temporary sign is a sign other than a real estate sign which is:

- a. Any sign or sign structure so designed or constructed as to be readily capable of being transported from one location to another from time to time; or
- b. Any sign so constructed or bearing such information as to indicate that it is intended to be displayed for a limited period of time.

(2) *Limitation.* The use of temporary signs shall be limited to two (2) occasions for any one (1) business in any twelve (12) month period, with a maximum time period of fourteen (14) days for each occasion. In no event shall a business be allowed to display temporary signs for more than a total of twenty-eight (28) days in any twelve (12) month period.

(3) *Location.* Temporary signs shall not be located within fifteen (15) feet of the edge of any street or road.

(b) *Real estate signs.*

(1) *Residential property.* The dimensions and regulations for signs advertising that real estate in areas zoned residential in the City is for sale or lease shall be as follows:

- a. Only one (1) such sign may be erected.
- b. The facing of a sign where advertising is to appear shall not be more than three (3) feet in

City of Bellefontaine Neighbors -- QuickCode

length and two (2) feet in height with a maximum of two (2) facings. The maximum height of said signs shall not be more than three (3) feet above ground level.

- c. No sign shall be placed on any easement or public right-of-way but must be on the real property offered for sale or lease only. No such sign shall be placed on any building or structure on such real property.
- d. One (1) sign indicating that the real property is open for inspection may also be placed on such real property only. The facing of said "Open" sign shall not exceed three (3) feet in length and two (2) feet in height. The maximum height of such sign shall not be more than three (3) feet above ground level.
- e. Any sign must be removed by the real property owner within one (1) week after the final closing of the deal for the sale or lease of such real property.
- f. No sign, banner or appendage to another sign shall be displayed indicating that the real property on which same is located has been sold; and further, the name of any agent shall not be attached or displayed with any such real estate sign. Further, no such real estate sign shall have any sign or cover attached to same. Any sign found to be in violation of the provisions of this Subsection may be removed by the City.

(2) *Commercial industrial property.* The dimensions and regulations for signs advertising that real estate in areas zoned commercial, industrial and multiple dwelling in the City is for sale or lease shall be as follows:

- a. Only one (1) such sign may be erected.
- b. The facing of a sign where advertising is to appear shall not be more than five (5) feet in length and four (4) feet in height with a maximum of two (2) facings. The maximum height of said signs shall not be more than five (5) feet above ground level.
- c. No sign shall be placed on any easement or public right-of-way but must be on the real property offered for sale or lease only. One (1) such sign may be placed on any building or structure on such real property and may be attached to the front of the main building on such real property.
- d. One (1) sign indicating that the real property is open for inspection may also be placed on such real property only. The facing of said "Open" sign shall not exceed three (3) feet in length and two (2) feet in height. The maximum height of said sign shall not be more than three (3) feet above ground level.
- e. Any such sign must be removed by the real property owner within one (1) week after the final closing of the deal for the sale or lease of such real property.
- f. No sign, banner or appendage to another sign shall be displayed indicating that the real property on which the same is located has been sold; and further, the name of any agent shall not be attached or displayed with any such real estate sign. Further, no such real estate sign shall have any sign or cover attached to same. Any sign found to be in violation of the provisions of this Subsection may be removed by the City.

City of Bellefontaine Neighbors -- QuickCode

- (3) *Penalty.* Any person, firm, company, corporation or organization violating any provisions of this Section shall, upon conviction thereof, be guilty of a misdemeanor and subject to a fine not exceeding three hundred dollars (\$300.00).

(Ord. No. 2135 §1, 6-17-10)

Sec. 29-93. Permit required.

No sign in any non-residential district and no institutional or development sign permitted under Section 29-91(2) and (3) above may be erected, installed or displayed until a permit therefore has been issued by the City Engineer or the City Engineer's designee. Permit applications shall contain such information and details regarding location, dimensions, construction, wiring, materials and other data, plans and specifications as the City Engineer may require. The fee for sign permits and application processing shall be as established by the Board of Aldermen from time to time.

(Ord. No. 2135 §1, 6-17-10)

ARTICLE XVI. CONDITIONAL USE REGULATIONS

Sec. 29-94. Conditional use regulations--purpose.

Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community, but which by their nature or in their operation have:

- (1) A tendency to generate excessive traffic,
- (2) A potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants,
- (3) A detrimental affect upon the value or potential development of other properties in the neighborhood, or
- (4) An extraordinary potential for accidents or danger to public health or safety. (Ord. No. 396 Art. XVI, 4-29-60; Ord. No. 1449 §1, 2-15-90)

Sec. 29-95. Same--procedures.

A conditional use permit may be initiated by a verified application of one (1) or more of the owners of record or owners under contract of a lot or tract of land, or their authorized representatives, or by the planning and zoning commission or by the board of aldermen. Procedures for application, review, and approval of a conditional use permit shall be as follows:

- (1) *Application.* Application for a conditional use permit for a specific tract of land shall be

City of Bellefontaine Neighbors -- QuickCode

addressed to the planning and zoning commission. The application shall be filed on forms prescribed for that purpose and be accompanied by the following:

a. *Filing fee.*

1. Any applicant seeking a conditional use permit pursuant to the provisions of Chapter 29 of the Code of Ordinances of the City of Bellefontaine Neighbors shall pay an initial fee of three hundred and fifty dollars (\$350.00), except that the initial fee for home child care facilities will be one hundred and fifty dollars (\$150.00).
2. The filing fee set forth above shall be paid to reimburse the city for expenses incurred in processing the application, including, but not limited to, costs of title research, surveys, legal and engineering review, cost of traffic and planning consultants employed by the city, publication expenses, expenses of notification to adjoining property owners, expenses of hearings including rental of a hall, if necessary, court reporter, if requested by either the city or the applicant, and other investigations deemed necessary by the city.
3. In the event the filing fee is estimated to be insufficient to pay all anticipated expenses to be incurred by the city as described above, the Board of Aldermen may hold a hearing, having first given notice to the applicant, at which testimony on the anticipated costs for processing the application shall be presented. The Board of Aldermen shall make a written finding of fact and notify all parties of any additional fees to be deposited. Processing and all other actions related to the application shall not proceed following such written findings until such additional sums are paid in full. Any and all unused portions of any additional sums, but not the initial fee, required under this Section shall be refunded in full to the applicant.

b. Legal description of the property.

c. An outboundary survey plat, with a land surveyor's seal and statement of verification regarding the source of boundary dimensions, bearings, and source of contour data. The plat shall also identify adjoining properties and the record owners thereof.

d. A site plan in conformance with the requirements of article X, section 29-60(b). At the request of the applicant, the board of aldermen may waive compliance with such requirements of Art. X, section 29-60(b), as it may determine to be unnecessary or unduly burdensome in a particular instance.

(2) *Burden of proof.* In presenting any application for a conditional use permit, the burden of proof shall rest with the applicant to clearly establish that the proposed conditional use shall meet the following criteria:

- a. The proposed conditional use complies with all applicable provisions of the applicable district regulations.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.

City of Bellefontaine Neighbors -- QuickCode

- c. The proposed conditional use will not have a deleterious impact on the value of other property in the neighborhood in which it is to be located.
 - d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - 1. The location, nature and height of buildings, structures, walls, lighting and fences on the site; and
 - 2. The nature and extent of proposed landscaping and screening on the site.
 - e. Off-street parking and loading areas are provided in accordance with the standards set forth in these regulations.
 - f. Adequate utility, drainage, and other such necessary facilities are provided.
 - g. The proposed conditional use is consistent with good planning practice; can be operated in a manner that is not detrimental to permitted developments and uses in the district; can be developed and operated in a manner that is visually compatible with permitted uses in the surrounding area; and is deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the city of Bellefontaine Neighbors.
- (3) *Review procedures.*
- a. Upon receipt of a completed application, the planning and zoning commission shall institute an administrative review of the application and site plan by all affected city departments and any consultants designated by the city. The results of this review shall be reported to the planning and zoning commission for its consideration. The commission shall consider an application after all required documents are filed. The commission shall recommend approval, approval with specified conditions or denial of the application and shall file its report and recommendation with the board of aldermen.
 - b. Before acting upon any application for conditional use permit, the board of aldermen shall hold a hearing thereon, after at least fifteen (15) days' public notice of such hearing is published in a newspaper of general circulation within the city and written notice is given to all property owners within the city limits whose property lies within one hundred eighty-five (185) feet of the property for which a conditional use permit has been requested. The board of aldermen may refer the application back to the commission for additional study before making its final decision. No additional public notice is required to be given.
 - c. The affirmative vote of a majority of all the members of the board of aldermen shall be required to authorize and approve the issuance of any conditional use permit contrary to

City of Bellefontaine Neighbors -- QuickCode

the recommendation of the planning and zoning commission. The affirmative vote of two-thirds (2/3) of all the members of the board of aldermen shall be required to authorize and approve the issuance of a conditional use permit when a protest against the issuance thereof shall be presented in writing to the city clerk, duly signed and acknowledged by the owners of thirty percent (30%) or more either of the area of the land (exclusive of streets and alleys) included in the application for such permit or within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundary of the property for which the permit has been requested.

- (4) *Permit effective-when.* The permit shall become effective upon approval by the board of aldermen. In the event that a conditional use permit is filed in conjunction with a change of zoning, the permit shall not become effective until the date of enactment of an ordinance authorizing the zoning change. In the event that some additional approval is required by some other governmental authority or agency, the permit shall not become effective until that approval is received.
- (5) *Recording.* Prior to the issuance of any building permit, or permit authorizing the use of the property in question, the applicant shall record with the St. Louis County recorder of deeds: a copy of the approved conditional use permit, including all attached conditions, the approved site plan, a legal description of the property, an out-boundary survey and any subsequent amendments.
- (6) *Failure to commence construction or operation.* Unless otherwise stated in the conditions of a particular conditional use permit, substantial work, construction, or operation of the conditional use where construction is not required, shall commence within six (6) months of the effective date of the permit and shall thereafter be pursued with reasonable diligence unless such time period is extended through appeal to and approval by the board of aldermen. If no appeal is made, or no extension of time is received or granted, the permit shall immediately terminate upon expiration of the six (6) month period.
- (7) *Revocation of conditional use permit.* Upon finding that an approved conditional use permit will or has become unsuitable and/or incompatible in its location as a result of any nuisance or activity generated by the use, the board of aldermen shall have the authority to revoke the permit after affording the permittee the right to be heard.
- (8) *Transferability.* All conditional use permits shall be approved for the originating applicant for a specific location, and may not be transferred to any other location. The permit may not be transferred to any other person without the consent of the board of aldermen.
- (9) *Procedure to amend approved conditional use permit.* In order to amend an existing conditional use permit, the application procedures, required materials, and approval process shall be the same as for a new permit.

(Ord. No. 396 Art. XVI, 4-29-60; Ord. No. 1449 §2, 2-15-90; Ord. No. 1946 §1, 7-17-03; Ord. No. 2122 §1, 2-18-10; Ord. No. 2203 §2, 12-1-11)

Sec. 29-96. Same--conditional uses in certain districts.

City of Bellefontaine Neighbors -- QuickCode

The board of aldermen of the city of Bellefontaine Neighbors may, by conditional use permit after public hearing, authorize the location of any of the following buildings or uses in the districts hereinafter designated and from which they are otherwise prohibited by this ordinance, provided, however, that appropriate conditions and safeguards shall be imposed to protect the public welfare and to conserve and protect property and property values in the neighborhood.

(1) *In any district.*

- a. Any public building or facility erected or used by any department of the city, county, state or federal government, not specifically addressed in any other provision of this Zoning code, other than sewage or sanitation facilities.
- b. Privately operated outdoor recreation fields.
- c. Private recreational activities for temporary or seasonal periods.
- d. Churches and houses of religious worship.
- e. Private or public elementary or secondary schools, including nursery, prekindergarten, kindergarten or special schools operated on the same premises.
- f. Private stables, when located on a lot of three (3) acres or more, provided any such building shall not exceed a capacity of one (1) horse for each acre of lot area and shall not be closer than two hundred (200) feet to any dwelling.
- g. Telecommunications facilities as provided in section 29-97 of this article.
- h. Temporary roadside stands offering for sale products produced on the premises.
- i. Electrical substations.
- j. Home child care facilities may be permitted as a home occupation in any single-family dwelling upon issuance of a conditional use permit as hereinafter provided.
 1. Child care facilities which are limited to providing care for no more than six (6) children not residing on and listed on the occupancy permit for the premises may be provided as a home occupation in a residence if the owner(s) and, if different, the adult occupant(s) of the property apply for and are issued a conditional use permit pursuant to this subsection. No permit for a home day care facility may be issued to any person who does not personally provide day care service to the children in attendance, and no facility may be permitted, or allowed to continue to operate, if any person not residing in the home is involved in providing care to the children in attendance. Any permit issued under the provisions of this section shall be so limited such that the number of children on the premises under the age of thirteen (13) years, including the

City of Bellefontaine Neighbors -- QuickCode

operator's children, shall not exceed ten (10) at any one (1) time. Provided, however, that any person having a home child care license issued by the State of Missouri prior to October 3, 1996, authorizing care for more than six (6) children in the licensee's home in the city of Bellefontaine Neighbors may apply for and, if otherwise qualified and subject to the other conditions and restrictions of this subsection (j), be issued a permit under the provisions of this subsection to provide care for that number of children allowed under the state license as issued on or before October 3, 1996.

2. The site plan application requirement of subsection (d) of section 29-95(1) of this article shall not apply to applications for home day care conditional use permits. For purposes of a permit under the terms of this subsection only, the survey plat required by subsection (c) of section 29-95(1) of this article need not provide contour data, surveyor's seal or statement of verification. The application for a home day care conditional use permit shall include: (1) a diagram of the main building on the property designating the areas to be utilized in providing the service and the number of square feet on the premises available for outside recreation for the children; (2) any and all physical changes to be made to the interior or exterior of the property in association with such service; (3) copies of any state child day care license application and any license issued by the state which may be applicable; (4) detailed information as to the days and hours during which service is to be available; (5) the maximum number of children to be cared for, including children residing in the home under the age of thirteen (13) years; and (6) information as to how parking for clients is to be provided.
3. Upon receipt of the application and any applicable processing fee, the application shall be forwarded to the planning and zoning commission for hearing in accord with the requirements of section 29-95(3) of this article. If the commission finds: (1) the service can be provided without disturbing the appearance and tranquility of the neighborhood; and (2) the premises can accommodate the reasonably required off-street parking and any physical changes reasonably necessary to provide the service; and (3) that there is at least seven hundred fifty (750) square feet of contiguous, fenced outside play area in the rear yard of the premises regardless of the number of children to be cared for, and that such play area does not include any common ground, public property or any other property where possession is in fact shared with other residents or where other residents have the right to use such property, it may recommend approval of the application, subject to such reasonable conditions as may be necessary to avoid adverse impact on nearby properties.
4. After review by the commission the application is to be forwarded to the board of aldermen for consideration. If the board finds in the affirmative as to

City of Bellefontaine Neighbors -- QuickCode

criteria set forth above, a permit may be issued and/or issued subject to such reasonable conditions as may be determined by the board to be necessary.

Any permittee shall also be required to obtain and maintain in force any business license required by the ordinances of the city of Bellefontaine Neighbors.

5. A home day care permit shall not be issued, and may be revoked if previously issued, if it is determined by the head of the building department, that the operator thereof, or any person regularly on the premises, has committed an act demonstrating a lack of fitness to care for children, including child molestation or abuse, theft, fraud, or any other act of moral turpitude.
6. Any home day care permit shall not be issued, and may be revoked if previously issued, if the operator of the facility operates it in such a manner that the residential character of the neighborhood is disturbed. For this purpose, the operator shall not permit: (1) excessive noise in connection with the operation of the facility which would annoy a person of ordinary sensibility; or (2) children to trespass on property where there is no permission for the children to enter; or (3) operation of the facility in such a manner as to cause damage to the property of others; or (4) operation of the facility in such a manner as to cause, or contribute to causing, the permitted premises to become deteriorated.

(2) *In the "R-3" district.* Subject to the additional conditions hereinafter set forth, multiple dwellings may be allowed in the R-3 single-family district. The additional conditions to be satisfied prior to approval of any conditional use permit for multiple dwellings are as follows:

- a. Any development of multiple dwellings must serve as a transitional use between more intense and less intense land uses.
- b. The maximum density shall be one (1) residential unit for each three thousand (3,000) square feet of lot area, but not more than twenty percent (20%) of the land shall be used for dwelling purposes, based upon the gross area of the site prior to the construction of any improvements. Each dwelling unit shall have a minimum floor area of no less than five hundred (500) square feet.
- c. Two (2) parking spaces shall be provided for each dwelling unit. The parking requirement may be reduced to .75 spaces per dwelling unit for housing planned, designed and constructed for the elderly, if approved by the planning and zoning commission; provided, however, that an area of sufficient size shall be designated on the site plan to accommodate additional parking should conversion to conventional housing occur in the future.
- d. No building shall be greater than three (3) stories or thirty (30) feet in height,

City of Bellefontaine Neighbors -- QuickCode
whichever is less.

- e. No wall of any structure shall be located closer to any wall of another structure than as set out in the following table:

Walls	Front	Side	Rear	Walls Of Detached Accessory Building
Front	50 ft. (60 ft. if over 2 stories)	30 ft. (20 ft. if side wall has no windows)	100 ft.	30 ft.
Side	30 ft. (20 ft. if side wall has no windows)	20 ft.	30 ft.	10 ft.
Rear	100 ft.	30 ft.	50 ft.	20 ft.

Any dimension given above shall include the side yard required for a single-family dwelling, when any described wall faces the side lot of any separately owned property, whether or not any structure is located on said property.

(3) *In any "C" district.*

- a. Greenhouses and nurseries, provided that all structures and storage areas must be located at least one hundred (100) feet from any property located in any R district.
- b. Public or private sanitation or sewage collection, detention, treatment or processing facility.
- c. Child care and adult day care facilities.
 - i) In addition, if a separate conditional use permit is applied for and issued in accord with the provisions of this Article, an adult day care facility for which a conditional use permit has been issued may also offer overnight adult respite care in accord with the following additional requirements. As used herein "overnight adult respite care" shall mean the provision of temporary lodging and meals for ambulatory elderly or disabled individuals age eighteen (18) or older.
 - ii) A facility offering overnight adult respite care must have an adult care giver twenty-one (21) years or older and qualified by specialized training or equivalent experience in attending to those using such care on the premises at all times overnight care is utilized. All such care givers shall be registered in writing in advance with the Bellefontaine Neighbors Police Department together with such identifying and contact information and a statement of qualifications as may reasonably be required by the Department.
 - iii) No person may receive overnight adult respite care services on the premises more frequently than seven (7) nights in any sixty (60) day period.

City of Bellefontaine Neighbors -- QuickCode

- iv) Adequate provisions must be made to feed and supervise the patrons of the facility at all times. Any cooking facilities utilized for care permitted hereby must comply with all applicable health regulations.
 - v) Care givers shall not be provided, nor may they utilize, sleeping quarters at the facility and must remain awake, alert and on duty at all times they are responsible for anyone entrusted to their care.
 - vi) Any violation of the standards and requirements specified herein, or any conditions associated with the permit authorizing such care, or any requirements of the permit authorizing adult day care services, or any other requirements of the city's Code of Ordinances shall be grounds for revocation of the permit authorized hereby.
 - vii) Nothing in this Ordinance shall be construed to supersede or waive any requirements of state or federal law, county ordinance or fire district ordinances affecting the provision of services of the character described herein. Any licensing or permitting now or hereafter required by any other agency must be obtained before overnight adult respite service can be initiated, and must be maintained in full force whenever such care is offered.
- d. Filling stations for automobiles and vehicle service and repair facilities. Provided, however, that all storage tanks for volatile substances must be located below ground and at least two hundred (200) feet from any church, school, hospital, playground or similar place of public attendance or assembly, or a children's or old people's home. Distance to be measured shortest distance, property line to property line.
 - e. Taverns and bars.
 - f. Mortuary establishments.

(4) *In the "C-1" district.*

- a. All permitted uses in the C-1 district which exceed one (1) story or twenty (20) feet in height, whichever is less, including rooftop mechanical equipment attached to a structure.
- b. Financial institutions not having drive-through facilities.
- c. Restaurants, but no fast food restaurants or restaurants with drive-through facilities.
- d. Existing structures within the C-1 district as of September 1, 1993, and structures zoned after that date as being within the C-1 district, which are not adaptable to being so configured as to allow use by separate occupants of less than ten thousand (10,000) square feet each may be used for any of the uses permitted by subsections (b) 4, 5, 6 or 8 of section 29-46 of article VIII or any of the uses permitted as conditional uses in the C-1 district pursuant to this subsection (4)(d) without regard to the gross floor area limitations imposed therein if the board of aldermen determines that the proposed use of such structures and the proposed size of the suggested use would be consistent with the nature and purpose of article VIII and this section and that the structure cannot

City of Bellefontaine Neighbors -- QuickCode

reasonably be adapted for use within such size limitations. In acting upon an application for a use in excess of the permitted gross floor area limitation pursuant to this subsection, the board of aldermen shall determine and state in the permit that gross floor area most nearly approximating the limitations of the district for which the structure is reasonably adapted and the use so authorized shall be limited to that gross floor area.

(5) *In the "C-2" district.*

- a. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions when located on a site containing an area of not less than five (5) acres; provided, however, that such buildings shall not occupy over ten percent (10%) of the total area of the lot and will not have any serious and depreciating affect upon the value of the surrounding property, and provided further that the buildings shall be set back at least one hundred (100) feet from the front lot line and shall be set back from the otherwise required side and rear yard an additional distance equal to two (2) feet for each foot of building height.
- b. Amusement parks.
- c. Animal hospitals, veterinary clinics and kennels.
- d. Automobile sales facilities and/or showrooms.
- e. Car washes for motor vehicles.
- f. Fast food restaurants not otherwise allowed as permitted uses in the C-2 district.
- g. Financial institutions with drive through facilities.
- h. Residential or outpatient facilities for the treatment of alcohol or other drug abuse. Provided, however, that no residential treatment facility shall be located any closer than one thousand three hundred (1,300) feet to any other such treatment facility and that the building or structure used for any residential facility shall maintain an exterior appearance in reasonable conformance with the general standards of the area.
- i. Pawnshops, being defined for the purpose of this section as the business of lending money on the security of pledged goods or the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.
- j. Self-storage facilities.

(6) *In the "M" districts.*

- a. Airport or heliport, including hangars and normal accessory and service buildings.
- b. Extraction of sand, gravel, or other raw materials.
- c. Any industrial or manufacturing use provided, except in the case of electrical substations, that all operations and processes are carried on in buildings not closer than one hundred (100) feet to any boundary of an R district, and provided further, that

City of Bellefontaine Neighbors -- QuickCode

suitable safeguards and conditions are imposed to protect life and limb and adjacent property and prevent objectionable, dangerous and offensive conditions.

- d. Filling stations for motor vehicles and vehicle service and repair facilities. Provided, however, that all storage tanks for volatile substances must be located below ground and at least two hundred (200) feet from any church, school, hospital, playground or similar place of public attendance or assembly, or a children's or retirement home. Distance to be measured shortest distance, property line to property line.
- e. Building material sales yard for the sale of rock, sand, gravel, cement, concrete products and the like, with concrete mixing facilities, but with no rock crushing machinery. No portion of the sales yard proper or concrete mixing plant to be closer than two hundred (200) feet from any adjoining R district, excluding width of roads.
- f. In the M-2 controlled industrial district only, storage yards for the sale or rental of steel pilings, pile driving hammers and any other equipment directly associated with same that might be concerned with the actual business of the contractor operating hereunder. No portion of stored materials, equipment or accessory building or buildings shall be closer than one hundred (100) feet from any adjoining R district, excluding width of road. Pilings shall be stored a minimum of six (6) inches above grade in neatly arranged stacks on concrete or steel supports.

Access roadways to stored pilings or equipment shall be paved with asphalt or concrete. The storage areas shall be covered with a minimum of four (4) inches of crushed rock. A six (6) mil polyethylene vapor barrier, installed below the crushed rock, or other method approved by the city engineer, shall be used for weed control.

- g. Facilities for the display, sale, rental and servicing of construction equipment and related parts.
- h. Car washes for motor vehicles.
- i. Adult entertainment establishments or businesses.

- j. In the M-1 Industrial District only, drayage, freight or trucking yard or terminal.

(Ord. No. 396 Art. XVI, 4-29-60; Ord. No. 476 §§1-2, 7-26-61; Ord. No. 567 §§3-4, 2-20-63; Ord. No. 578 §1, 2-20-64; Ord. No. 596 §1, 7-2-64; Ord. No. 665 §1, 12-15-66; Ord. No. 677 §1, 8-4-67; Ord. No. 1449 §1, 2-15-90; Ord. No. 1479 §1, 12-6-90; Ord. No. 1562 §1, 8-5-93; Ord. No. 1573 §1, 10-7-93; Ord. No. 1598 §1, 4-21-94; Ord. No. 1711 §1, 10-3-96; Ord. No. 1718 §1, 12-5-96; Ord. No. 1768 §2, 2-19-98; Ord. No. 1811 §1, 4-1-99; Ord. No. 1846 §1, 5-4-00; Ord. No. 1865 §§1-2, 9-7-00; Ord. No. 1913 §2, 5-2-02; Ord. No. 1979 §1, 8-5-04; Ord. No. 2001 §1, 5-5-05; Ord. No. 2018 §4, 12-1-05; Ord. No. 2151 §2, 11-4-10)

Sec. 29-97. Telecommunications facilities.

- (a) *Purposes.* The purposes of this section are to:

City of Bellefontaine Neighbors -- QuickCode

- (1) Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the city of Bellefontaine Neighbors;
- (2) Minimize adverse visual impacts of antennas and antenna support structures through the careful design, siting, landscape screening and innovative camouflaging techniques;
- (3) Maximize the use of existing and new antenna support structures so as to minimize the need to construct new or additional facilities;
- (4) Maximize and encourage the use of disguised support structures so as to ensure the architectural integrity of designated areas within the city and the scenic quality of protected natural habitats.

(b) *Definitions.* As used in this section, the following terms shall have the following meanings:

Antenna: Any device or array that transmits and/or receives electromagnetic signals for voice, data or video communication purposes including, but not limited to, television, AM/FM radio, microwave, cellular telephone, personal communications services, commercial mobile radio services and other forms of wireless communications, but excluding Satellite Earth Stations less than six (6) feet in diameter and any receive-only home television antennas.

Antenna support structure: Any structure designed and constructed for the support of antennas, including any tower or disguised support structure, but excluding those support structures under fifty (50) feet in height owned and operated by an amateur radio operator licensed by the FCC. In construing the criteria established in subsection (c) of this section hereof, the term antenna support structure shall also include any related and necessary cabinet or shelter.

Building: A structure, other than a single-family residence, not constructed primarily for the support of antenna but which may be utilized for such purpose in accordance with this section.

Cabinet: A casing or console, not to include a shelter, used for the protection and security of communications equipment associated with one (1) or more antennas, where direct access to equipment is provided from the exterior and the horizontal dimensions of which do not exceed four (4) feet by six (6) feet.

City engineer: The city engineer of the city of Bellefontaine Neighbors or his or her designee.

Co-use: The location and use of two (2) or more antenna on a single antenna supporting structure.

Disguised support structure: Any free standing, man-made structure designed for the support of antennas, the presence of which is camouflaged or concealed as an architectural or natural feature. Such structures may include but are not limited to clock towers, campaniles, observation towers, pylon sign

City of Bellefontaine Neighbors -- QuickCode
structures, water towers, artificial trees, flag poles and light standards.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

Height: The vertical distance measured from the base of a structure at ground level to its highest point, including the main structure and all attachments thereto.

Shelter: A building for the protection and security of communications equipment associated with one (1) or more antennas where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected antennas is prohibited.

Standard outdoor advertising structures: All signs which advertise products, services or businesses which are not located on the same premises as the sign, including billboards, detached pole signs on separate parcels, wall signs and signs otherwise attached to buildings and/or supported by uprights or braces on the ground.

Tower: A structure designed for the support of one (1) or more antennas, including guyed towers, self-supporting (lattice) towers or monopoles but not disguised support structures or buildings.

(c) *General criteria.* A conditional use permit shall be necessary to construct, alter or modify any antenna support structure, or to mount any antenna on any building or other structure, in any zoning district in the city of Bellefontaine Neighbors, unless otherwise provided in this section. The general criteria for granting same and the regulations governing antenna support structures shall be as follows:

- (1) *Building codes and safety standards.* All antennas and antenna support structures shall meet or exceed the standards and regulations contained in applicable state and local building and electrical codes as well as the applicable standards published by the Electronics Industries Association, as amended from time to time.
- (2) *Regulatory compliance.* All antennas and antenna support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other federal or state agency with the authority to regulate antennas and support structures. Should such standards or regulations be amended, then the owner shall bring such devices and structures into compliance with the revised standards or regulations within six (6) months of the effective date of the revision unless an earlier date is mandated by the controlling agency.
- (3) *Security.* All antennas and antenna support structures shall be protected from unauthorized access by appropriate security devices. A description of proposed security measures shall be provided as part of any application to install, build or modify antennas or support structures. Additional measures may be required as a condition of the issuance of any permit as deemed necessary by the city engineer or

City of Bellefontaine Neighbors -- QuickCode
the board of aldermen.

- (4) *Lighting.* Antenna support structures shall not be lighted unless required by the FAA or other federal or state agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application for conditional use permit.
- (5) *Advertising.* Unless a disguised support structure is in the form of a standard outdoor advertising structure, the placement of advertising on antenna support structures is prohibited.
- (6) *Design.*
 - a. Guyed towers are prohibited absent a determination by the board of aldermen as provided in subsections (e)(5)(b) or (c) of this section.
 - b. Antenna support structures shall maintain a galvanized steel finish or, subject to the requirements of the city or the FAA, FCC or any applicable federal or state agency, be painted a neutral color consistent with the natural or built environment of the site.
 - c. Shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site, and shall also comply with such other reasonable design guidelines as may be required by the city.
 - d. Antennas attached to a building or disguised support structure shall be of a color identical to or closely compatible with the surface to which they are mounted.
 - e. Towers shall be surrounded by a landscape strip of not less than ten (10) feet in width and planted with materials which will provide a visual barrier to a minimum height of six (6) feet. Said landscape strip shall be exterior to any security fencing. In lieu of the required landscape strip, a minimum six (6) foot high decorative fence or wall may be approved by the board of aldermen upon demonstration by the applicant that an equivalent degree of visual screening is achieved.
- (7) *Location and setback.*
 - a. No antenna support structures, excluding disguised support structures, shall be located within one-half (1/2) mile of another, pre-existing antenna support structure, with the distance being measured from the center of the base of the existing structure to the center of the base of the proposed structure. Absent a determination by the board of aldermen as provided in subsections (e)(5)(b) or (c) hereof, antenna support structures, excluding disguised support structures, shall not be located within five hundred (500) feet of any residential structure, or any parcel of property used as a park, playground, school, day care center, library,

City of Bellefontaine Neighbors -- QuickCode

hospital, church, historic district, landmark, or an area on the National Register of Historic Places.

- b. The minimum setback from all adjoining property lines shall be that required for principal structures in the applicable zoning district, plus one (1) additional foot for every two (2) feet in height in excess of sixty (60) feet.
- (8) *Height.* Antenna support structures shall not exceed a height of eighty (80) feet in any residential district or one hundred twenty (120) feet in any commercial or mixed use district unless a different height is authorized because of the application of subsection (c)(1)(3) or because of a determination of the board of aldermen pursuant to subsections (e)(5)(b) or (c) hereof.
- (9) *Co-use.* Prior to the issuance of any conditional use permit the applicant shall:
- a. Submit a notarized statement in favor of the city agreeing to make the proposed antenna support structure available for use by others, subject to reasonable technical limitations and commercially reasonable financial terms.
 - b. Furnish an inventory of all known antenna support structures and potential building sites located within one-half (½) mile of the proposed structure site. For all antenna support structures the applicant shall also identify the owner thereof, the type and reference name or number, if applicable, and the street location, latitude and longitude, height, type and mounting height of existing antennas and an assessment of available space for the placement of additional shelters and/or cabinets. The applicant shall further demonstrate that he or she has requested co-use of each existing building or antenna support structure from the owner thereof and/or shall indicate why such co-use is inappropriate or was otherwise not allowed.
 - c. Antenna support structures may be constructed or modified so as to exceed the height limitations provided in subsection (c)(8) hereof to accommodate co-use. An applicant may request an extension of twenty (20) additional feet per co-user, whether actual or anticipated, up to a limit of forty (40) additional feet. The city may also require the applicant of new construction to exceed the applicable limitation, regardless of whether a co-user is immediately available to share space with the applicant.
 - d. In the event that a conditional use permit is granted for the construction of a new antenna support structure, within thirty (30) days thereof, the applicant shall notify in writing any other known current providers of similar services in that area that the structure will be available for co-use. Said notices shall be issued on or before the day on which the applicant submits to the city an application for building permit for the structure. The notice shall allow potential co-users thirty (30) days within which to express any interest in co-use, during which time the applicant

City of Bellefontaine Neighbors -- QuickCode
shall not commit to a design for the structure which precludes co-use, and the city shall not issue a building permit until such time has expired.

- e. The willful and knowing failure of an applicant to agree to co-use or to negotiate in good faith with potential co-users may be cause for either the denial of a pending application, the revocation of an existing conditional use permit, and/or the withholding of future similar permits to the applicant.

(10)*Site selection.*

- a. Sites in the city's non-residential districts are preferred. Sites in any residential district in the city, other than on property owned by the city, are prohibited absent a determination of necessity by the board of aldermen pursuant to subsection (e)(5)(c). Within any zoning district, existing antenna support structures and buildings are preferred, as are locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.
- b. Antennas and antenna support structures should be architecturally and visually (color, bulk, size) compatible with surrounding existing buildings, structures, vegetation and/or uses in the area or those likely to exist under the regulations of the underlying zoning district.
- c. Antennas and antenna support structures should be located to minimize any adverse effect they may have on neighboring property values.
- d. Antennas and antenna support structures should be located to avoid a dominant silhouette on ridge lines, and preservation of view corridors of surrounding residential developments should be considered.

(11)*Building mounted antennas.*

- a. Antennas mounted on buildings should be made to appear as unobtrusive as possible. Such antennas should be located as far away as feasible from the edge of the building and should be painted a neutral color consistent with the natural or built environment of the site.
- b. Such antennas generally should not protrude more than twenty (20) feet from the top of the structure absent either:
 - 1. If the zoning district's height requirements are not violated in accordance with subsection (d)(1)(b), a finding by the city engineer that the proposed antenna poses no detrimental effect; or
 - 2. If the zoning district's height requirements are violated in accordance with subsection (d)(2)(c), a determination by the board of aldermen as provided in subsections (e)(5)(b) or (c) hereof.

City of Bellefontaine Neighbors -- QuickCode

(12) *Miscellaneous.*

- a. Ground anchors of all guyed towers shall be located on the same parcel as the tower and such anchors shall meet the setbacks prescribed in subsection (c)(7) hereof.
- b. Vehicle or outdoor storage on the site of any antenna support structure is prohibited.
- c. On-site parking for periodic maintenance and service shall be provided at all locations of antenna support structures.
- d. Prior to the issuance of any conditional use permit the applicant shall demonstrate how the proposed site fits into the applicant's overall telecommunications network within a six (6) mile radius of the city of Bellefontaine Neighbors. The city also recognizes that radio engineering maps and operational data such as the location of future tower sites is proprietary information of the applicant and may be eligible for protection as a trade secret. Accordingly, the information required by this provision shall, to the extent reasonably possible, be treated by the city as a closed record in accord with the provisions of section 610.021(15), RSMo.; provided, however, that the city shall not in any way be liable to the applicant or any other party or entity by reason of disclosure of any of the information provided by the applicant in the course of seeking permission to place facilities under this section.
- e. Any antenna support structure no longer used for its original communications purpose shall be removed at the owner's expense. The owner and applicable co-users shall provide the city with a copy of any notice to the FCC of intent to cease operations and shall have ninety (90) days from the date of ceasing operations to remove the antenna support structure and any related facilities. In the case of co-use, this provision shall not become effective until all users cease operations. Any antenna support structure not in use for a period of one (1) year shall be deemed a public nuisance and may be removed by the city at the owner's expense.

(d) *Administrative permit.*

- (1) *Permitted uses.* Upon receipt of an appropriate building permit and an administrative permit as provided herein, the following are allowed without the issuance of a conditional use permit:
 - a. The attachment of additional antennas to any antenna support structure existing on the effective date of this section (April 1, 1999) or subsequently approved in accordance herewith, provided that the existing antenna support structure is not

City of Bellefontaine Neighbors -- QuickCode

modified, to extend the height thereof or to expand the screened and landscaped area surrounding the existing shelter.

- b. The mounting of antennas on any existing building or standard outdoor advertising structure, provided that the antennas and antenna support structure, combined, do not exceed the height limit established by the applicable zoning district regulations by more than ten (10) feet, and provided further that each such antenna is concealed by architectural elements or camouflaged by painting a color matching the surface to which they are attached.
 - c. The installation of antennas or the construction of an antenna support structure on buildings or land owned by the city of Bellefontaine Neighbors in conjunction with the approval of a lease agreement by the board of aldermen.
 - d. The placement of dual polar panel antennas on wooden or steel utility poles not to exceed forty (40) feet in height provided that all related equipment is contained in a cabinet.
 - e. The installation or mounting of antennas on any existing high voltage utility towers in excess of forty (40) feet in height.
 - f. The one-time replacement of any antenna support structure existing on the effective date of this section (April 1, 1999) or subsequently approved in accordance with these regulations.
 - g. The construction of any antenna support structure or the mounting of any antenna on a building on any site previously approved by the city as an accepted location for such facilities.
- (2) *Non-permitted uses.* The following uses are not permitted uses and require the issuance of a conditional use permit:
- a. The construction of any antenna support structure, or the alteration or modification of any antenna support structure, except as otherwise permitted under this section.
 - b. The attachment of additional antennas to any antenna support structure existing on the effective date of this section (April 1, 1999) or subsequently approved in accordance with these regulations which requires a height extension of the existing structure beyond the limits provided herein.
 - c. The mounting of antennas on any building when said mounting would exceed the height limit of the applicable zoning district.
- (3) *Application procedures.* Applications for administrative permits shall conform to the following:

City of Bellefontaine Neighbors -- QuickCode

- a. Applications shall be made on the appropriate forms to the city engineer and as provided herein and shall be accompanied by payment of the established fee. Applications shall be deemed received by the city engineer upon completion, as determined by the city engineer.
 - b. An application shall include a detailed site plan based on a closed boundary survey of the host parcel, indicating all existing and proposed improvements, including buildings, drives, walkway, parking areas and other structures, and also indicating public rights-of-way, the zoning categories of the host parcel and adjoining properties, the location buffer and landscape areas, hydrologic features, and the coordinates and height of the proposed structure.
 - c. The application shall be reviewed by the city engineer to determine compliance with all applicable standards established in this section. The city engineer may:
 1. Request additional information from the applicant consistent with said standards, and
 2. Transmit the application for review and comment by other departments and public agencies which may be affected by the proposed facility,and in either case the application shall not be deemed to be complete until such information is received.
 - d. The city engineer shall issue a decision on the permit within thirty (30) days of the date on the application is deemed complete and received by the city engineer or the application shall be deemed approved. The city engineer may deny the application or approve the application as submitted or with such modifications as are, in his or her judgment reasonably necessary to protect the safety or general welfare of the citizens of the city. A decision to deny an application shall be made in writing and shall state the specific reasons for the denial.
 - e. Appeals from the decision of the city engineer shall be taken to the board of adjustment as provided in article XVIII, section 29-106(c) of this chapter.
- (e) *Conditional use permit.*
- (1) *Generally.* Applications for conditional use permits shall be filed, processed, reviewed and decided in the manner and time frame established for all other conditional use permits under this article except as may be supplemented by this section.
 - (2) *Applications.* In addition to all other filing requirements, the application shall include such information as is required or may otherwise be responsive to the criteria and preferences established in subsection (c) of this section.

- (3) *Public hearing.* The public hearing required by section 29-95(3)(b) of this article for consideration of a conditional use permit application shall be recorded, and all documentary evidence of any kind submitted in support of or against the application shall be identified and labeled by the city clerk and made a part of the public record. The board of aldermen may exercise its discretion to continue the public hearing for the purpose of accepting additional oral or documentary evidence into the record for consideration.
- (4) *Findings required.* In addition to any other considerations required by this section, before issuing a conditional use permit for any antenna support structure the board of aldermen shall consider and determine the following based upon the evidence submitted:
- a. Whether existing antenna support structures or buildings are located within the geographic network area necessary to meet the applicant's system engineering requirements.
 - b. Whether such existing antenna support structures or buildings are of sufficient height to meet system engineering requirements.
 - c. Whether such existing antenna support structures or buildings have sufficient structural strength to support the applicant's proposed antenna(s).
 - d. Whether such existing antenna support structures or buildings could be altered or modified to meet system engineering requirements or to support the applicant's proposed antenna(s).
 - e. Whether the proposed antennas would experience or cause signal interference with antennas on existing antenna support structures or buildings.
 - f. Whether the fees, costs, or other contractual terms required by an owner to lease, modify or otherwise provide for co-use on an existing and suitable antenna support structure or building are reasonable. Costs exceeding that of a new antenna support structure are presumed unreasonable.
 - g. Whether there are other limiting conditions that render existing antenna support structures or buildings within the applicant's required geographic area unsuitable.
- (5) *Determination.*
- a. If the board of aldermen determines that, in light of the considerations noted in subsection (e)(4), above, an application meets the criteria and preferences established in this section and otherwise is in accordance with this article, the board shall grant a conditional use permit.
 - b. The board of aldermen may determine that although an application does not meet

City of Bellefontaine Neighbors -- QuickCode

the strict requirements of the criteria and preferences established in this section, the general purpose and intent of said criteria and preferences are not offended because of the particular circumstances presented. If such a determination is made, the board of aldermen may vary the application of the criteria and preferences and grant a conditional use permit, subject to whatever conditions the board of aldermen deems appropriate.

- c. The board of aldermen may determine that the city's prescribed criteria and preferences effectively would preclude the applicant's reception and/or transmission of signals and that the applicant's proposed location and height are a matter of absolute engineering and economic necessity in order to ensure the completion of the applicant's network. If such a determination is made, the board of aldermen may grant a conditional use permit, subject to whatever conditions the board deems appropriate.
 - d. Any decision by the board of aldermen to deny a conditional use permit shall be in writing, based upon the evidence adduced, and shall make specific findings of fact consistent with the criteria, preferences and considerations established herein.
- (6) *Appeal.* Appeals from the board's denial of a conditional use permit shall be taken to the circuit court of St. Louis County within thirty (30) days as provided in chapter 536, RSMo., or to any court or agency allowed by federal law, specifically the Telecommunications Act of 1996. (Ord. No. 396 Art XVI, 4-29-60; Ord. No. 1811 §2, 4-1-99)

Secs. 29-98—29-100. Reserved.

ARTICLE XVII. NONCONFORMING USES

Sec. 29-101. Nonconforming uses.

(a) The lawful use of open land for storage purposes or for advertising signs and bulletin boards which does not conform to the provisions of this chapter shall be discontinued within two (2) years from the date of approval of this chapter, and the use of land for storage purposes or for signs and bulletin boards which becomes nonconforming by reason of a subsequent change in this chapter shall also be discontinued within two (2) years of the date of the change.

(b) The lawful use of a building existing at the time of the effective date of this chapter may be continued although such use does not conform to the provisions thereof. A nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such

City of Bellefontaine Neighbors -- QuickCode

use shall not thereafter be changed to a less restricted use.

(c) Whenever the use of a building becomes nonconforming through a change in the zoning ordinance or district boundaries, such use may be continued and if no structural alterations are made it may be changed to another nonconforming use of the same or of a more restricted classification.

(d) In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of two (2) years, the use of the same shall thereafter conform to the use permitted in the district in which it is located.

(e) No existing building or premises devoted to a use not permitted by this chapter in the district in which such building or premises is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located.

(f) When a building, the use of which does not conform to the provisions of this chapter, is damaged by fire, explosion, act of God, or the public enemy, to the extent of more than sixty percent (60%) of its fair market value, it shall not be restored except in conformity with the district regulations of the district in which the building is situated, provided, however, that such building may be restored if the board of adjustment finds some compelling public necessity requiring the continuance of the nonconforming use. (Ord. No. 396 Art. XVII, 4-29-60)

Secs. 29-102—29-105. Reserved.

ARTICLE XVIII. BOARD OF ADJUSTMENT

Sec. 29-106. Board of adjustment.

(a) *Establishment and organization.*

(1) A board of adjustment is hereby established. The word "*Board*" when used in this article, shall be construed to mean the board of adjustment. The board shall consist of five (5) members, all of whom shall be residents of the city of Bellefontaine Neighbors appointed by the mayor of the city of Bellefontaine Neighbors and approved by the board of aldermen. The term of office of the members of the board shall be for five (5) years and shall be so established that the terms of office of one (1) member shall expire each year. Vacancies shall be filled for the unexpired term only. Three (3) alternative members may be appointed to serve in the absence of or disqualification of the regular members. Alternative members shall also be appointed by the mayor with the approval of the board of aldermen. Members and alternates shall be removed for cause by the board of aldermen upon written charges and after

City of Bellefontaine Neighbors -- QuickCode

public hearing. The board of adjustment as now existing under ordinance no. 396 amended by this ordinance no. 1540 shall be continued under this section.

- (2) The board shall elect its own chairman and vice-chairman, who shall serve for one (1) year. The board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter.

(b) *Meetings.* Meetings of this board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be made public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the board for the purpose.

(c) *Appeals.*

- (1) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the city of Bellefontaine Neighbors affected by any decision of the city engineer. Such appeal shall be taken within thirty (30) days of such decision as shall be prescribed by the board by general rule, by filing with the city engineer and with the board a notice of appeal specifying the grounds thereof. The city engineer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from is taken.
- (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the city engineer certifies to the board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate of stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the city engineer on good cause shown.
- (3) The board shall fix a reasonable time for the hearing of the appeal, give not less than fifteen (15) days public notice thereof in a newspaper of general circulation in the city of Bellefontaine Neighbors, 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.
- (4) A fee of one hundred twenty dollars (\$120.00) shall be paid to the city clerk at the time the notice of appeal is filed, which the city clerk shall forthwith pay over to the city treasurer to the credit of the general revenue fund of the city of Bellefontaine Neighbors.
- (5) Appeals shall be submitted upon forms available in the office of the city engineer and

City of Bellefontaine Neighbors -- QuickCode

shall show the minimum information as prescribed on said forms. It shall be the responsibility of the appellant to furnish such maps, data and information as may be prescribed for that purpose by the board of adjustment so as to assure the fullest practicable presentation of facts for the permanent record.

(d) *Powers and duties.* The board of adjustment shall have the following powers and it shall be its duty:

- (1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the city engineer in the enforcement of this chapter.
- (2) To permit the extension of a district where the boundary line of a district divides a lot held in a single ownership at the time of the passage of this chapter.
- (3) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.
- (4) To permit the erection and use of a building or the use of premises for public utility purposes.
- (5) To permit a temporary building for use incidental to residential construction in a subdivision where many buildings are erected by one (1) developer, subject to adequate conditions and requirements for protecting the public safety, health and general welfare, such permit to be limited to a period of six (6) months subject to renewal after re-application.
- (6) To permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God or the public enemy, to the extent of more than sixty percent (60%) of its fair market value, where the board finds some compelling public necessity requiring a continuance of the nonconforming use.
- (7) To permit a variation in the yard requirements of any district where there are unusual practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare.
- (8) To authorize upon appeal, whenever a property owner can show that a strict application of the terms of this chapter relating to the construction or alteration of buildings or structures or the use of land will impose upon him practical difficulties or particular hardship, such variations of the strict applications of the terms of this chapter as are in harmony with its general intent and purpose, but only when the board is satisfied that a granting of such variation will not merely serve as a convenience to

City of Bellefontaine Neighbors -- QuickCode

the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the comprehensive plan as established by this chapter, and at the same time the surrounding property will be properly protected.

- (9) To vary the parking regulations of this chapter whenever the character or use of the building is such as to make unnecessary the full provisions of parking facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

(e) In exercising the above powers, the board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the city engineer from whom the appeal is taken. Every variation granted or denied by the board shall be accompanied by a written finding of fact based on testimony and evidence and specifying the reason for granting or denying the variation.

(f) Any person or persons jointly or severally aggrieved by any decisions of the board of adjustment or of any officer, department, board or bureau of the city of Bellefontaine Neighbors may present to the circuit court having jurisdiction in St. Louis County, a petition duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board.

Upon presentation of such petition, the court may allow a writ of certiorari directed to the board for review of the data and records acted upon or it may appoint a referee to take additional evidence in the case. The court may reverse or affirm or may modify the decision brought up for review. (Ord. No. 396 Art. XVIII, 4-29-60; Ord. No. 1527 §1, 11-19-92; Ord. No. 1540 §1, 2-4-93; Ord. No. 1575 §2, 10-7-93; Ord. No. 1628 §1, 10-20-94; Ord. No. 1938 §1, 2-6-03)

Secs. 29-107—29-111. Reserved.

ARTICLE XIX. ZONING CHANGES AND AMENDMENTS

Sec. 29-112. Zoning changes and amendments.

(a) The board of aldermen may from time to time, on its own motion or petition, amend, supplement, change, modify or repeal by ordinance the boundaries of districts or regulations, or restrictions herein established. Any proposed amendment, supplement, change, modification or repeal other than administrative matters pertaining to the administration and enforcement shall first be submitted to the planning and zoning commission for its recommendations and report. Upon the filing of the recommendations and report by the commission with respect to any proposed amendment, supplement, change, modification or repeal, the board of aldermen shall proceed to hold a public hearing

City of Bellefontaine Neighbors -- QuickCode

in relation thereto, giving at least fifteen (15) days' notice of the time and place of such hearing, which notice shall first be published in a newspaper having general circulation in the city of Bellefontaine Neighbors. No ordinance or part thereof requiring a public hearing shall become effective until after such public hearing held on such notice, at which parties in interest and citizens shall have an opportunity to be heard.

(b) If a protest against such proposed amendment, supplement, change, modification or repeal shall be presented in writing to the city clerk, duly signed and acknowledged by the owners of thirty percent (30%) or more, either of the areas of the land (exclusive of streets and alleys) included within such proposed amendment, supplement, change, modification or repeal, or within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundaries of the district proposed to be changed, such amendment, supplement, change, modification or repeal shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the board of aldermen.

(c) Before any action shall be taken on petition as provided in this article, the party or parties proposing or recommending a change in the district regulations or district boundaries shall pay to the city treasurer an initial filing fee of two hundred dollars (\$200.00) to reimburse the city for expenses incurred in processing the application, including, but not limited to, costs of legal and engineering review, cost of traffic and planning consultants employed by the city, publication expenses, expenses of notification to adjoining property owners, expenses of hearings including rental of a hall, if necessary, court reporter, if requested by either the city or the applicant, and other investigations deemed necessary by the city. In the event the filing fee is estimated to be insufficient to pay all anticipated expenses to be incurred by the city as described above, the board of aldermen may hold a hearing, having first given notice to the applicant, at which testimony on the anticipated costs for processing the application shall be presented. The board of aldermen shall make a written finding of fact and notify all parties of any additional fees to be deposited. Processing and all other actions related to the application shall not proceed following such written findings until such additional sums are paid in full. Any and all unused portions of any additional sums, but not the initial fee, required under this section shall be refunded in full to the applicant.

(d) Petitions shall be submitted upon forms available in the office of the city engineer, or shall show the minimum information as prescribed on said forms. It shall be the responsibility of the petitioner to furnish such maps, data and information as may be prescribed for that purpose by the planning and zoning commission so as to assure the fullest practicable presentation of facts for the permanent record. (Ord. No. 396 Art. XIX, 4-29-60; Ord. No. 1412 §1, 5-4-89; Ord. No. 1453 §1, 3-1-90; Ord. No. 1947 §1, 8-7-03; Ord. No. 2203 §3, 12-1-11)

Secs. 29-113—29-117. Reserved.

ARTICLE XX. ENFORCEMENT, VIOLATIONS AND PENALTIES

Sec. 29-118. Enforcement, violations and penalties.

City of Bellefontaine Neighbors -- QuickCode

(a) It shall be the duty of the city engineer, with the aid of the city Marshal, to enforce this chapter in accordance with the administrative provisions of the building code and of this chapter.

(b) *Building permits.*

- (1) No building or structure shall hereafter be erected, reconstructed or structurally altered, nor shall any work be started upon same until a building permit for same has been issued by the city engineer of the city of Bellefontaine Neighbors. The permit shall state that the proposed building structure complies with all the provisions of this chapter and will remain in effect for a period of one (1) year.
- (2) *Filing of plans.* All applications for building permits shall be accompanied by plans in triplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the buildings and accessory buildings existing, and the lines within which the buildings or structure shall be erected or altered, the existing and intended use of each building or part of building, the number of families the building is designed to accommodate, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter. One (1) copy of such plans shall be returned to the owner when such plans shall have been approved by the city engineer.

All dimensions shown on those plans relating to the location and size of the lot to be built upon shall be based on an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(c) *Certificate of occupancy.*

- (1) Subsequent to the effective date of this chapter, no change in the use or occupancy of land, nor any change in the use or occupancy of an existing building, other than for single-family dwelling purposes, shall be made nor shall any new building be occupied for any purpose until an application shall have been made to the city engineer by the owner of the premises or by the tenant and until a certificate of occupancy shall have been issued therefor by the city engineer. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this chapter and no occupancy permit shall be issued to make a change unless such change is in conformity with the provisions of this chapter.
- (2) Certificate of occupancy shall be applied for coincidentally with the application for construction permit, and shall be issued within ten (10) days after the lawful erection, reconstruction, or alteration of the building is completed with the necessary accessory plumbing and compliance with sanitary requirements.
- (3) It shall be the duty of the city engineer to cause an inspection to be made of the premises to determine that any new use or occupancy complies with all provisions of this chapter. The fee for a certificate of occupancy shall be thirty dollars (\$30.00) payable at the time application is made therefor. Said fee shall be paid to the city clerk who shall forthwith pay it over to the city treasurer to the credit of the general revenue fund of the city of Bellefontaine Neighbors.

City of Bellefontaine Neighbors -- QuickCode

- (4) A record of all certificates of occupancy shall be kept on file in the office of the city engineer, and copies shall be furnished by the city engineer on request to any person having a proprietary or tenancy interest in land or a building affected by such certificate of occupancy. The cost of such copy shall be borne by the person requesting the copy.

(d) In case any building or structure is erected, constructed, reconstructed, altered, converted, or any building or structure or land is used in violation of this chapter or other regulations or resolutions of the board of aldermen made under authority conferred hereby, the city engineer or the city of Bellefontaine Neighbors, as a corporation, or any interested person, 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 said building or land, or to prevent any illegal act, conduct, business, or use in and to any of such premises.

(e) *Penalties.*

- (1) *Persons responsible.* Any person, firm, association or corporation, and any employee, assistant, agent or any other person who shall own, lease or be in charge of any property as to which a violation of the requirements of this chapter shall exist, and any other person, firm association or corporation or employee or agent thereof who shall participate or take part in, join or aid in the violation of the requirements of this chapter shall be jointly and severally responsible for any such violation.

- (2) *Penalty.* Any person violating any requirements of this chapter may be prosecuted as provided by law for violations of ordinances of the city of Bellefontaine Neighbors and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment. Each day that a violation exists shall constitute a separate offense. (Ord. No. 396 Art. XX, 4-29-60; Ord. No. 567 §1, 2-20-63; Ord. No. 1514 §1, 5-7-92; Ord. No. 2123 §1, 2-18-10)

Sec. 29-119. Zoning and police power regulations--concerning video service providers and rights-of-way usage.

(a) *Definitions.* The following terms shall have the following meanings unless otherwise defined by context:

Director: The city's Public Works Director or such other person designated to administer and enforce Chapter 15, Section 15-366 to 15-372 and Chapter 9, Sections 9-8 to 9-13.

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

Facilities permit: A permit granted by the city for placement of facilities on private property.

City of Bellefontaine Neighbors -- QuickCode

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

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

(b) *Facilities permits.*

- (1) Any person desiring to place facilities on private property must first apply for and obtain a facilities permit, in addition to any other building permit, license, easement, franchise or authorization required by law. The director may design and make available standard forms for such applications, requiring such information as allowed by law and as the director determines in his or her discretion to be necessary and consistent with the provisions of this section and to accomplish the purposes of this section. Each application shall at minimum contain the following information, unless otherwise waived by the director:
 - (a) The name of the person on whose behalf the facilities are to be installed and the name, address and telephone number of a representative whom the city may notify or contact at any time (i.e., twenty-four (24) hours per day, seven (7) days per week) concerning the facilities;
 - (b) A description of the proposed work, including a site plan and such plans or technical drawings or depictions showing the nature, dimensions and description of the facilities, their location and their proximity to other facilities that may be affected by their installation.
- (2) Each such application shall be accompanied by an application fee approved by the city to cover the cost of processing the application.
- (3) *Application review and determination.*
 - (a) The director shall promptly review each application and shall grant or deny the application within thirty-one (31) days. Unless the application is denied pursuant to subparagraph (d) hereof, the director shall issue a facilities permit upon determining that the applicant:
 - (i) Has submitted all necessary information,
 - (ii) Has paid the appropriate fees, and
 - (iii) Is in full compliance with this section and all other city ordinances. The director may establish procedures for bulk processing of applications and periodic payment of fees to avoid excessive processing and accounting costs.

City of Bellefontaine Neighbors -- QuickCode

- (b) It is the intention of the city that proposed facilities will not impair public safety, harm property values or significant sight lines or degrade the aesthetics of the adjoining properties or neighborhood and that the placement and appearance of facilities on private property should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this section. To accomplish such purposes the director may impose conditions on facilities permits, including alternative landscaping, designs or locations, provided that such conditions are reasonable and necessary, shall not result in a decline of service quality and are competitively neutral and non-discriminatory.
- (c) An applicant receiving a facilities permit shall promptly notify the director of any material changes in the information submitted in the application or included in the permit. The director may issue a revised facilities permit or require that the applicant reapply for a facilities permit.
- (d) The director may deny an application, if denial is deemed to be in the public interest, for the following reasons:
 - (i) Delinquent fees, costs or expenses owed by the applicant;
 - (ii) Failure to provide required information;
 - (iii) The applicant being in violation of the provisions of this section or other city ordinances;
 - (iv) For reasons of environmental, historic or cultural sensitivity, as defined by applicable federal, state or local law;
 - (v) For the applicant's refusal to comply with reasonable conditions required by the director; and
 - (vi) For any other reason to protect the public health, safety and welfare, provided that such denial does not fall within the exclusive authority of the Missouri Public Service Commission and is imposed on a competitively neutral and non-discriminatory basis.
- (4) *Permit revocation and ordinance violations.*
 - (a) The director may revoke a facilities permit without fee refund after notice and an opportunity to cure, but only in the event of a substantial breach of the terms and conditions of the permit or this section. Prior to revocation the director shall provide written notice to the responsible person identifying any substantial breach and allowing a reasonable period of time not longer than thirty (30) days to cure the problem, which cure period may be immediate if certain activities must be stopped to protect the public safety. The cure period shall be extended by the director on good cause shown. A substantial breach includes, but is not limited to, the following:
 - (i) A material violation of the facilities permit or this section;

City of Bellefontaine Neighbors -- QuickCode

- (ii) An evasion or attempt to evade any material provision of the permit or this Section or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its residents;
 - (iii) A material misrepresentation of fact in the permit application;
 - (iv) A failure to complete facilities installation by the date specified in the permit, unless an extension is obtained or unless the failure to complete the work is due to reasons beyond the applicant's control; and
 - (v) A failure to correct, upon reasonable notice and opportunity to cure as specified by the director, work that does not conform to applicable national safety ordinances, industry construction standards or the city's pertinent and applicable ordinances including, but not limited to, this section, provided that city standards are no more stringent than those of a national safety ordinance.
- (b) Any breach of the terms and conditions of a facilities permit shall also be deemed a violation of this section and in lieu of revocation the director may initiate prosecution of the applicant or the facilities owner for such violation.
- (5) *Appeals and alternative dispute resolution.*
- (a) Any person aggrieved by a final determination of the director may appeal in writing to the mayor within five (5) business days thereof. The appeal shall assert specific grounds for review and the mayor shall render a decision on the appeal within fifteen (15) business days of its receipt affirming, reversing or modifying the determination of the director. The mayor may extend this time period for the purpose of any investigation or hearing deemed necessary. A decision affirming the director's determination shall be in writing and supported by findings establishing the reasonableness of the decision. Any person aggrieved by the final determination of the mayor may file a petition for review pursuant to Chapter 536, RSMo., as amended, in the Circuit Court of the County of St. Louis. Such petition shall be filed within thirty (30) days after the mayor's final determination.
 - (b) On agreement of the parties and in addition to any other remedies, any final decision of the mayor may be submitted to mediation or binding arbitration.
 - (i) In the event of mediation, the mayor and the applicant shall agree to a mediator. The costs and fees of the mediator shall be borne equally by the parties and each party shall pay its own costs, disbursements and attorney fees.
 - (ii) In the event of arbitration, the mayor and the applicant shall agree to a single arbitrator. The costs and fees of the arbitrator shall be borne equally by the parties. If the parties cannot agree on an arbitrator, the matter shall be resolved by a three (3) person arbitration panel consisting of one (1) arbitrator selected by the mayor, one (1) arbitrator selected by the applicant or facilities owner and one (1) person selected by the other two (2) arbitrators, in which case each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third (3rd) arbitrator and of the

City of Bellefontaine Neighbors -- QuickCode
arbitration. Each party shall also pay its own costs, disbursements and attorney fees.

(c) *Facilities regulations.*

(1) The following general regulations apply to the placement and appearance of facilities:

- (a) Facilities shall be placed underground, except when other similar facilities exist above ground or when conditions are such that underground construction is impossible, impractical or economically unfeasible, as determined by the city, and when in the city's judgment the above ground construction has minimal aesthetic impact on the area where the construction is proposed. Facilities shall not be located so as to interfere or be likely to interfere with any public facilities or use of public property.
- (b) Facilities shall be located in such a manner as to reduce or eliminate their visibility. Non-residential zoning districts are preferred to residential zoning districts. Preferred locations in order of priority in both type districts are:
 - (i) Thoroughfare landscape easements,
 - (ii) Rear yards, and
 - (iii) Street side yards on a corner lot behind the front yard setback. Placements within side yards not bordered by a street or within front yards are discouraged.
- (c) Facilities shall be a neutral color and shall not be bright, reflective or metallic. Black, gray and tan shall be considered neutral colors, as shall any color that blends with the surrounding dominant color and helps to camouflage the facilities; sightproof screening, landscape or otherwise, may be required for facilities taller than three (3) feet in height or covering in excess of four (4) square feet in size. Such screening shall be sufficient to reasonably conceal the facility. A landscape plan identifying the size and species of landscaping materials shall be approved by the director prior to installation of any facility requiring landscape screening. The person responsible for the facilities shall be responsible for the installation, repair or replacement of screening materials. Alternative concealment may be approved by the director to the extent it meets or exceeds the purposes of these requirements.
- (d) Facilities shall be constructed and maintained in a safe manner and so as to not emit any unnecessary or intrusive noise and in accordance with all applicable provisions of the Occupational Safety and Health Act of 1970, the National Electrical Safety Code and all other applicable federal, state or local laws and regulations.
- (e) No person shall place or cause to be placed any sort of signs, advertisements or other extraneous markings on the facilities, except such necessary minimal markings approved by the city as necessary to identify the facilities for service, repair, maintenance or emergency purposes or as may be otherwise required to be affixed by applicable law or regulation.
- (f) If the application of this Subsection excludes locations for facilities to the extent that

City of Bellefontaine Neighbors -- QuickCode

the exclusion conflicts with the reasonable requirements of the applicant, the director shall cooperate in good faith with the applicant to attempt to find suitable alternatives, but the city shall not be required to incur any financial cost or to acquire new locations for the applicant.

- (2) Any person installing, repairing, maintaining, removing or operating facilities, and the person on whose behalf the work is being done, shall protect from damage any and all existing structures and property belonging to the city and any other person. Any and all rights-of-way, public property or private property disturbed or damaged during the work shall be repaired or replaced and the responsible person shall immediately notify the owner of the fact of the damaged property. Such repair or replacement shall be completed within a reasonable time specified by the director and to the director's satisfaction.
- (3) The applicant shall provide written notice to all property owners within one hundred eighty-five (185) feet of the site at least forty-eight (48) hours prior to any installation, replacement or expansion of its facilities. Notice shall include a reasonably detailed description of work to be done, the location of work and the time and duration of the work.
- (4) At the city's direction, a person owning or controlling facilities shall protect, support, disconnect, relocate or remove facilities, at its own cost and expense, when necessary to accommodate the construction, improvement, expansion, relocation or maintenance of streets or other public works or to protect the ROW or the public health, safety or welfare.
- (5) If a person installs facilities without having complied with the requirements of this section or abandons the facilities, said person shall remove the facilities and if the person fails to remove the facilities within a reasonable period of time, the city may, to the extent permitted by law, have the removal done at the person's expense.
- (6) Facilities shall be subject to all other applicable regulations and standards as established as part of the city code including, but not limited to, building codes, zoning requirements and rights-of-way management regulations in addition to the regulations provided herein.

(Ord. No. 2069 §4, 10-4-07)

Secs. 29-120—29-123. Reserved.

ARTICLE XXI. WHEN EFFECTIVE

Sec. 29-124. When effective.

This chapter shall take effect and be in force from and after its passage and approval (April 29, 1960) by the mayor, as provided by law. (Ord. No. 396 Art. XXI, 4-29-60)

City of Bellefontaine Neighbors -- QuickCode