

**TITLE V. BUILDING AND CONSTRUCTION**

**CHAPTER 500: BUILDING CODES AND REGULATIONS**

**ARTICLE I. ADOPTION AND ENFORCEMENT OF COUNTY CODES**

**SECTION 500.010: ADOPTION OF COUNTY CODES**

St. Louis County

1. Building;
2. Electrical;
3. Existing Building;
4. Explosions;
5. Mechanical;
6. Plumbing;
7. Property Maintenance; and
8. Residential

Codes as amended by the County of St. Louis through date of last amendatory ordinances for each of such codes as follows:

1. July 21, 2010 as amended by St. Louis County Ordinance 24,444;
2. July 14, 2010 as amended by St. Louis County Ordinance 24,439;
3. July 21, 2010 as amended by St. Louis County Ordinance 24,444;
4. November 12, 1997 as amended by St. Louis County Ordinance 18,693;
5. July 14, 2010 as amended by St. Louis County Ordinance 24,438;
6. July 14, 2010 as amended by St. Louis County Ordinance 24,441;
7. July 14, 2010 as amended by St. Louis County Ordinance 24,440; and
8. July 13, 2010 as amended by St. Louis County Ordinance 24,427

respectively are hereby adopted as the:

1. Building;
2. Electrical;
3. Existing Building;
4. Explosions;
5. Mechanical;
6. Plumbing;
7. Property Maintenance; and
8. Residential

Codes of the Town of Grantwood Village, Missouri, as if fully set out herein (hereinafter referred to as "the Codes"). A copy of such Codes shall be kept on file by the Village Clerk and shall be available for inspection by any interested person. (Vil. Ord. No. 573-03, 11-18-03) (Vil. Ord. No. 609-07, 7-17-07) (Vil. Ord. No. 649.10, 8-17-10)

**SECTION 500.020: ENFORCEMENT OF COUNTY CODES**

A contract agreement with St. Louis County, Missouri for enforcement of the Village Building, Electrical, Explosives, Mechanical, Plumbing, and Property Maintenance Codes is hereby approved and on file in the Village offices. (Vil. Ord. No. 573-03, 11-18-03) (Vil. Ord. No. 609-07, 7-17-07)

**ARTICLE II. BUILDING PERMITS**

**SECTION 500.030: BUILDING PERMITS, ZONING APPROVALS AND TERM EXTENSIONS**

- A. Every application requesting a Village building permit, zoning approval or term extension shall be submitted, together with a fee of twenty-five dollars (\$25.00), to the Building Commissioner. The \$25.00 application fee is non-refundable. With respect to Building Permits, the Building Commissioner shall have 14 days to approve or disapprove any permit application. If the Building Commissioner requests more information, the 14 day approval period is suspended until the requested information is received. The building permit application must include plans and drawings of the proposed project. In addition, the applicant must submit signed estimates or a signed contract stating the cost of construction. The building permit application shall be submitted using the attached application form. Upon approval of the building permit application, additions fees shall be collected by the Village in accordance with the schedule attached hereto. In the event of any project with construction costs of \$20,000.00 or more, the Building Commissioner and one other Trustee must sign the building permit. (Vil. Ord. No. 697-15; 9-15-15)
- B. Every building permit, municipal zoning approval or term-extension for Village permits issued by the Building and Street Commissioner shall terminate automatically one (1) year from the date of issuance of said permit.
- C. The Building and Street Commissioner may at his/her discretion extend the building permit or municipal zoning approval for Village permit for any additional period not to exceed one (1) year; provided however, that applicant must request such an extension in writing at least thirty (30) days prior to the expiration of the original permit or approval and state all reasons as to why an extension is requested.
- D. Violation of this Section shall be punishable by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment for a term not to exceed ninety (90) days. (Vil. Ord. No. 544.02; 4-16-02)

**ARTICLE III. MISCELLANEOUS REGULATIONS**

**SECTION 500.040: CARPORTS, PARKING SHELTERS, DRIVEWAY OVERHANGS AND OUT BUILDINGS PROHIBITED**

It shall be unlawful to construct or place a carport, parking shelter, driveway overhang, shed or outbuilding of any nature on any lot in the Village, except as otherwise permitted by this Code. (Vil. Ord. No. 544-02; 4-16-02)

**SECTION 500.045: SOLAR PANELS**

Solar Panels are structures and are subject to the Villages' permitting and regulatory requirements. In addition to being subject to all requirements imposed on the construction of structures, the placement and location of a Solar Panel shall be limited to the roof of the residence. Construction of a Solar Panel anywhere other than on the roof of a residence is prohibited. This section only applies to the residential areas of the Village. (Vil. Ord. No. 693-15; 6-16-15)

**ARTICLE IV. PENALTY**

**SECTION 500.050: PENALTY**

Any person violating any of the provisions of this Chapter or any of the Codes adopted in this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned in the Village or County Jail for a period of not exceeding ninety (90) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

## **CHAPTER 505: DANGEROUS BUILDINGS**

### **SECTION 505.010: PURPOSE AND SCOPE**

It is the purpose of this Chapter to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this Chapter shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the Town of Grantwood Village, Missouri.

### **SECTION 505.020: DANGEROUS BUILDINGS DEFINED**

All buildings or structures that are detrimental to the health, safety or welfare of the residents of the Village and that have any or all of the following defects shall be deemed “*dangerous buildings*”:

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members, or fifty percent (50%) damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the Village.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other adequate means of evacuation.
8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
9. Those that because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Village.

### **SECTION 505.030: DANGEROUS BUILDINGS DECLARED NUISANCE**

All dangerous buildings or structures, as defined by Section 505.020 of this Chapter are hereby declared

to be public nuisances, and shall be repaired, vacated or demolished as provided herein.  
§ 505.040

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#### **SECTION 505.040: STANDARDS FOR REPAIR, VACATION OR DEMOLITION**

The following standards shall be followed in substance by the Building and Street Commissioner, in ordering repair, vacation or demolition of any dangerous building.

1. If the dangerous building can reasonably be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this Chapter, it shall be demolished.
4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Chapter or any ordinance of this Village or Statute of the State of Missouri, it shall be repaired or demolished.

#### **SECTION 505.050: DUTIES OF BUILDING AND STREET COMMISSIONER – PROCEDURE AND NOTICE**

- A. The Building and Street Commissioner, in order to fulfill his obligations under the Dangerous Building and Nuisance Ordinances, is hereby authorized to contract with St. Louis County, with another municipality or with a reputable qualified independent contractor to provide professional inspectors who will undertake the building inspections required under the Dangerous Building and Nuisance Ordinances.
- B. The Building and Street Commissioner shall have the duty under this Chapter to:
  1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such place to be a dangerous building when he/she has reasonable grounds to believe that any such building is dangerous.
  2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter, and the Commissioner determines that there are reasonable grounds to believe that such building is dangerous.
  3. Inspect any building, wall or structure reported by the Fire or Police Departments of this Village as probably existing in violation of this Chapter.
  4. Notify the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in the building or structure, as shown by the land records of the Recorder of Deeds of St. Louis County, of any building or structure found by him/her to be a dangerous building or structure within the standards set forth in Section 505.020. Such notice shall be in writing and shall be given either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) consecutive weeks.

The notice required shall state that:

- a. The owner must vacate, vacate and repair or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this Chapter.
  - b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession.
  - c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County may, at his/her own risk, repair, vacate or demolish the building and clean up the property or have such work done; provided, that any person notified under this Subsection to repair, vacate or demolish any building or clean up the property, shall be given such reasonable time not exceeding thirty (30) days, to commence the required work.
5. The notice provided for in this Section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building, a statement indicating that as a dangerous building, said building or structure constitutes a nuisance and an order requiring the designated work to be commenced within the time provided for in the above Subsection.
  6. Report in writing to the Chairman of the Board of Trustees the non-compliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay.
  7. Appear at all hearings conducted by the Board Chairman and testify as to the condition of dangerous buildings.
  8. Immediately report to the Board Chairman concerning any building found by him/her to be inherently dangerous and that he/she determined to be a nuisance per se. The Board Chairman may direct that such building be marked or posted with a written notice reading substantially as follows:

“This building has been found to be a dangerous building by the Building and Street Commissioner. This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property is cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County. It is unlawful to remove this notice until such notice is complied with.”

Provided however, that the order by the Board Chairman and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this Chapter to the notice and hearing prescribed herein. (Vil. Ord. No. 545; 4-16-02)

**SECTION 505.060: DUTIES OF THE CHAIRMAN OF THE BOARD OF TRUSTEES**

The Chairman of the Board of Trustees shall have the power pursuant to this Chapter to:

1. Supervise all inspections required by this Chapter, and cause the Building and Street Commissioner to make inspections and perform all the duties required of him/her by this Chapter. Upon receiving a complaint or report from any source, that a dangerous building exists in the Village, the Building and Street Commissioner shall cause an inspection to be made forthwith. If the Commissioner deems it necessary to the performance of his/her duties and responsibilities imposed herein, the Commissioner may request an inspection and report be made by any other Village Department or Trustee, or retain services of an expert whenever the Board Chairman deems such service necessary.
2. Upon receipt of a report from the Building and Street Commissioner indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this Chapter or upon failure to proceed continuously with work without unnecessary delay, the Board Chairman shall hold a hearing giving the affected parties full and adequate hearing on the matter.
3. Written notice of said hearing shall be given, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of those modes of service then, by publication in a newspaper qualified to publish legal notices, at least ten (10) days in advance of the hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County, to appear before the Board Chairman on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building and Street Commissioner's notice as provided herein.
4. Any party may be represented by counsel and all parties shall have an opportunity to be heard.
5. Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 505.020 of this Chapter.
6. If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, and a nuisance and detrimental to the health, safety or welfare of the residents of the Village, the Board Chairman shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the Recorder of Deeds of St. Louis County to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this Village or the owner or any person having an interest in said building as shown by the land records of the Recorder of Deeds St. Louis County, may vacate and demolish said dangerous building at his/her own risk to prevent the acquiring by the Village of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, or a nuisance or detrimental to the health, safety or welfare of the residents of the Village, no order shall be issued.

7. If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the Board Chairman shall cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant. If the Board Chairman or other designated officer or officers issue an order whereby the building or structure is demolished, secured, or repaired, or the property is cleaned up, the cost of performance shall be certified to the Village Clerk or Officer in charge of finance, who shall cause a special tax bill or assessment therefor against the property to be prepared and collected by the Village Treasurer or other official collecting taxes, unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the Village and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in the Missouri Revised Statutes (RSMo.). Except as provided in Section 505.070, at the request of the taxpayer the tax bill may be paid in installments over a period of not more than ten (10) years, said assessment shall bear interest at the rate of eight percent (8%) per annum until paid. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall be a lien on the property until paid. Said tax bill or assessment shall bear interest at a rate of eight percent (8%) per annum until paid.

#### **SECTION 505.070: INSURANCE PROCEEDS – HOW HANDLED**

- A. As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to twenty-five percent (25%) of the insurance proceeds, as set forth in Subdivisions 1 and 2 of this Subsection. This Subsection shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:
  1. The insurer shall withhold from the covered claim payment up to twenty-five percent (25%) of the covered claim payment, and shall pay such monies to the Village to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this Chapter.
  2. The Village shall release the proceeds and any interest that has accrued on such proceeds received under Subdivision 1 of this Subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance monies, unless the Village has instituted legal proceedings under the provisions of Subsection 7 of Section 505.060. If the Village has proceeded under the provisions of Subsection 7 of Section 505.060, all monies in excess of that necessary to comply with the provisions of Subsection 7 of Section 505.060 for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.
- B. If there are no proceeds of any insurance policy as set forth in Subsection (A) of this Section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.



- C. Subsection A of this Section shall apply to fire, explosion or other casualty loss claims arising on all buildings and structures.
- D. Subsection A of this Section does not make the Village a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
- E. The Board Chairman may certify in lieu of payment of all or part of the covered claim under Subsection A that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the Board Chairman shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to Subsection A of this Section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided for in this Subsection.(Vil. Ord. No. 545; 4-16-02)

#### **SECTION 505.080: APPEAL**

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the Recorder of Deeds of St. Louis County, may appeal such decision to the Circuit Court of St. Louis County, as provided for in Missouri Revised Statutes (RSMo.), if a proper record as defined in RSMo., is maintained of the hearing provided for in Section 505.060 hereof. Otherwise, the appeal shall be made pursuant to the procedures provided for in RSMo.(Vil. Ord. No. 545; 4-16-02)

#### **SECTION 505.090: EMERGENCIES**

In cases where it reasonably appears that there is immediate danger to the health, life, safety or welfare of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the Building and Street Commissioner shall report such facts to the Chairman of the Board of Trustees and the Chairman may cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Sections 505.060 and 505.070.(Vil. Ord. No. 545; 4-16-02)

#### **SECTION 505.100: VIOLATIONS – DISREGARDING NOTICES OR ORDERS**

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the Chairman of the Board of Trustees or who shall fail to proceed continuously without unnecessary delay; and any person removing any notices provided for in this Chapter; and any person violating any other provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00). Each day that a person fails to comply with an order of the Chairman may be deemed a separate offense.(Vil. Ord. No. 545; 4-16-02)

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## CHAPTER 510: SWIMMING POOLS

### SECTION 510.010: COMPLIANCE REQUIRED

It shall be unlawful to construct, maintain, install or enlarge any swimming pool in the Village except in compliance with the provisions of this Chapter.

### SECTION 510.020: DEFINITION

As used in this Chapter, the following terms shall have the prescribed meaning:

*SWIMMING POOL*: Includes private, semi-private and public units and is hereby defined as a receptacle for water, or an artificial pool of water either:

1. Having a capacity of more than fifteen thousand (15,000) gallons of water; or
2. Having a maximum depth of two (2) feet or more intended for the purpose of immersion or partial immersion therein of human beings, and including all appurtenant equipment.

*APPURTENANCE*: A building for the purpose of housing pool pumps, filters, heaters and other pool related mechanical equipment; having a maximum area of twenty-five (25) square feet and constructed in compliance with the provisions of the Village Zoning regulations. (Vil. Ord. No. 542-02;4-16-02)

### SECTION 510.030: LOCATION

No portion of a swimming pool outside a building shall be located at a distance less than eight (8) feet from any side or rear property line, or building line. Pumps, filters and pool water disinfection equipment installations shall be located at a distance not less than eight (8) feet from any side property line.

### SECTION 510.040: PERMIT REQUIRED

- A. It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any private, residential swimming pool and appurtenances within the Village unless permits therefor shall have first been obtained from the Building and Street Commissioner.
- B. Every application requesting a permit shall be submitted, together with a fee of twenty five dollars (\$25.00), to the Building and Street Commissioner. (Vil. Ord. No. 542-02;4-16-02)

### SECTION 510.050: DRAWINGS, PLANS AND PERMITS

- A. All drawings and plans for the construction, installation, enlargement and alteration of any swimming pool and appurtenances shall first be presented to the Building Commissioner for examination and approval as to proper location and construction.
- B. All plans and drawings shall be drawn to a scale of not less than one-eighth (  $\frac{1}{8}$  ) of an inch to the foot, on paper or cloth, in ink, or by some process that will not fade or obliterate. All distances and dimensions shall be accurately figured and drawings made explicit and complete, showing the lot line,

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and including information pertaining to the pool, walk, and fence construction, water supply system, drainage and water disposal systems, and all appurtenances pertaining to the swimming pool. Detail plans and vertical elevations shall also be provided in accordance with the Building Code.

- C. All swimming pools, appurtenances, water supply and drainage systems shall be constructed in conformity with the building plans and the provisions of this Chapter.

#### **SECTION 510.060: RECIRCULATION POOLS**

All swimming pools shall be of the recirculation type in which circulation of the water is maintained through the pool by pumps; the water drawn from the pool being clarified and disinfected before being returned to the pool.

#### **SECTION 510.070: MATERIALS**

Swimming pool walls and floors shall be constructed of any impervious material which will provide a tight tank with white or light colored finish and easily cleaned surfaces. The floor or bottom surface of the pool shall have a non-slip finish as smooth as possible. The side and end walls of a pool shall present a smooth finish and shall be vertical to a depth of at least six (6) feet or shall have a slope or curvature meeting one of the following conditions:

1. The pool wall may be vertical for thirty (30) inches from the water level, below which the wall may be curved to the bottom with a radius at any point equal to the difference between the depth at that point, and thirty (30) inches.
2. To a depth of six (6) feet, except as in Subsection (1) above, the wall's slope shall not be less than one (1) foot horizontal in six (6) feet vertical.

#### **SECTION 510.080: STRUCTURAL DESIGN**

Swimming pools shall be designed to withstand the water pressure from within and to resist the pressure of the earth when the pool is empty, to a pressure of fifteen hundred (1500) pounds per square foot. The slope of the bottom of any part of a pool in which the water is less than five (5) feet in depth shall not be more than one (1) foot in each ten (10) feet. The maximum slope where water is five (5) feet or more in depth shall not exceed one (1) in two (2) feet.

#### **SECTION 510.090: WALK AREAS**

Unobstructed walk areas not less than thirty-six (36) inches wide shall be provided to extend entirely around the pool. The walk area shall be constructed of impervious material, and the surfaces shall be of such as to be smooth and easily cleaned and of non-slip construction. The slope of the walks shall have a pitch of at least one-fourth ( $\frac{1}{4}$ ) inch to the foot, designed so as to prevent back drainage from entering the pool.

**SECTION 510.100: FENCES**

All outdoor swimming pools shall be completely enclosed by a fence of a wrought iron style constructed of galvanized steel/iron or galvanized steel/iron, or aluminum. All fence openings or points of entry into pool area enclosure shall be equipped with lockable gates. The fence and gates shall be up to seventy two inches in height, but no less than forty eight inches in height, and up to ten feet from the water's edge, or up to ten feet from the edge of any hard surface connected with the pool, provided that the fence is within the setback lines, and no less than four feet from the edge of the pool. The fence shall be constructed with pickets that are no more than four inches apart. The fence shall be designed such that at least 70% of the fence is open. (Vil. Ord. No. 680.14, 9-16-14)

**SECTION 510.110: STEPS OR LADDERS**

Two (2) or more means of egress in the form of steps or ladders shall be provided for all swimming pools. At least one (1) such means of egress shall be located on a side of the pool at both the deep end and shallow end of the pool. Treads of steps and ladders shall be constructed of non-slip material and at least three (3) inches wide for their full length. Steps and ladders shall have handrails on both sides.

**SECTION 510.120: SKIMMERS**

In every swimming pool, at least two (2) skimming devices shall be provided for each eight hundred (800) square feet of surface area or fraction thereof. Skimmers shall be located at least twenty (20) feet apart. Handholds shall be provided and consist of a bull-nosed coping not over two and one-half (2½) inches thick for the outer two (2) inches or an equivalent approved handhold. The handhold must be no more than nine (9) inches above the normal water line. Skimming devices shall be built into the pool wall, shall adequately remove floated oils and waste and shall meet the following general specifications:

1. Each skimmer shall be designed for a flow-through rate of at least thirty (30) gallons per minute and a total capacity of all skimmers on any pool shall be at least fifty percent (50%) of the required filter flow of the recirculation system.
2. They shall be automatically adjustable to variations in water level over a range of at least three (3) inches.
3. An easily removable and cleanable basket or screen through which all overflow water must pass shall be provided to trap large solids.
4. The skimmer shall be provided with a device to prevent airlock in the suction line. If an equalizer pipe is used, it shall provide an adequate amount of make-up water for pump suction should the water of the pool drop below the water level. This pipe shall be at least two (2) inches in diameter and shall be located at least one (1) foot below the lowest overflow level of the skimmer.
5. An equalizer line shall be provided with a valve that will remain tightly closed under normal operating conditions, but will automatically open at a differential of no more than four (4) inches between the pool level and the level of the overflow tank.
6. The overflow weir shall be of sufficient length to maintain a rate of flow of at least twenty (20) gallons per minute per linear foot of weir lip.

**SECTION 510.130: WATER SUPPLY**

No source of water other than that secured from the town waterworks distribution system shall be used in swimming pools.

**SECTION 510.140: INLETS**

- A. Swimming pool water recirculation system inlet shall be located so as to produce so far as possible uniform circulation of water throughout the pool without the existence of dead spots and to carry pool bottom deposits to the outlets, and shall discharge at a minimum depth of ten (10) inches below the pool overflow level. A minimum of one (1) recirculation system inlet shall be provided for every six hundred fifteen (615) square feet of surface area of the pool.
- B. Pools shall be equipped with suitable facilities for adding make-up water as needed. There shall be no physical connection between the water supply line and the pool system. If the make-up water supply line discharges to a surge or balancing tank, the point of discharge shall be at least six (6) inches above the rim of the tank. If a hose connection from a sill cock or other plumbing fixture is to be used for supplying make-up water, then an approved vacuum breaker shall be installed between the sill cock or control valve at the fixture and the hose connection. The vacuum breaker shall be installed at a height not less than seven (7) feet six (6) inches above the floor, platform or ground upon which a person would stand when operating the sill cock or control valve. Maximum size of the fill pipe to be two (2) inches.
- C. The system supplying recirculated water and make-up water to the pool shall be constructed in conformance with the ordinances regulating plumbing.

**SECTION 510.150: OUTLETS**

- A. In swimming pools, thirty (30) feet width or less, water circulation system outlets shall be located so as to provide at least one (1) outlet at the deepest point in the pool. If the pool width is more than thirty (30) feet, multiple outlets shall be provided and spaced not more than thirty (30) feet apart, nor closer than four (4) feet to any wall. All pool drain outlets shall be equipped with gratings having an area of openings not less than four (4) times the cross-sectional area of the outlet pipe. The gratings shall be of such design so they cannot be readily removable by bathers and will not injure bathers' fingers. One (1) outlet shall be provided for each eight hundred (800) square feet of surface area.
- B. Pools shall be equipped with facilities for completely emptying the pool and the discharge of the pool water to the sewer shall be at a rate not exceeding two hundred (200) gallons per minute. Direct connection shall be made to the sewer but only after the person wishing the discharge has received prior permit approval from the Metropolitan Sewer District.
- C. Water drained from the pool shall not be discharged to the sewer system during periods of rain or storms. At no time shall the rate of drain water discharge exceed a flow of two hundred (200) gallons per minute.

**SECTION 510.160: RECIRCULATION, DISINFECTION SYSTEMS AND APPURTENANCES**

- A. The swimming pools' recirculation systems shall consist of plumbing equipment, hair and lint catcher, filters, together with the necessary pipe connections to the pool inlets and outlets, facilities and pipe

connections necessary for backwashing filters and facilities and equipment for disinfecting the pool water.

- B. Every swimming pool shall have a recirculating system with an hourly capacity equal to the pool volume divided by eight (8).
- C. The recirculation system pump shall have sufficient capacity to discharge the volume of water required for an eight (8) hour turnover of the pool against the maximum head in the recirculating system.
- D. The pump used for backwashing filters shall have sufficient capacity to provide a filter backwash rate of at least twelve (12) gallons per minute per square foot of filter area.
- E. A hair and lint catcher or strainer shall be installed on the suction side of the circulation pump to prevent hair, lint and other extraneous matter from reaching the pump and filters. Hair and lint catchers shall be so designed that they can be easily dismantled for the cleaning and inspection and shall be so located as to be easily accessible for cleaning. The design features shall be as follows: Water passes through the strainer from the outside; the strainer is made of non-corrosive material; the width or diameter of strainer is not more than one-eighth (  $\frac{1}{8}$  ) inch; the area of the strainer openings shall be at least five (5) times the cross-sectional area of the inlet pipe to the strainer.
- F. Recirculating systems shall contain rapid pressure filters. Sufficient filter area shall be provided to filter the entire contents of the pool in eighteen (18) hours at the rate of not more than three (3) gallons per square foot of filter area per minute. The filter backwashing facilities shall be sufficient to backwash at a rate of twelve (12) gallons per minute per square foot of filter area. All backwash water and effluents shall be discharged to the sewer through an indirect connection. Pressure filters shall be equipped with readily accessible air relief valve, loss of head or pressure gauges on the inlet and outlet pipes, and an access head or hold large enough to permit inspection, maintenance and repair work. Sight glasses that can be easily removed for cleaning shall be provided in the effluent line from the filter units.
- G. Equipment shall be provided for the disinfection of all pool water. Any disinfection method using materials other than chlorine compounds shall be subject to the approval of the Building Commissioner. Disinfection equipment installed for the use of chlorine compounds shall have sufficient capacity to maintain a minimum free chlorine residual of 0.5 parts per million. The disinfectant shall be introduced into the recirculation system ahead of the filters.
- H. Gaseous chlorination systems shall not be made use of as a disinfection method for pool water.

#### **SECTION 510.170: SWIMMING POOL MAINTENANCE**

All swimming pools shall be maintained in a clean and sanitary condition, and in good repair. (Wil. Ord. No. 612-07, 8-21-07)

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## **CHAPTER 515: FENCES**

### **SECTION 515.010: REQUIREMENTS**

No fence shall be erected or constructed on any lot within the residential zoning districts (A-E) of the Town of Grantwood Village unless such fence meets the following requirements: (Vil. Ord. No. 680.14, 9-16-14)

1. All new fences are to be of wrought iron style constructed of galvanized steel/iron or galvanized steel/iron, or aluminum, and
2. Fences shall be painted black, and
3. Fences shall be no taller than four (4) feet in height,
4. The fence shall be constructed with pickets that are no more than four inches apart; and
5. The fence shall be designed such that at least 70% of the fence is open.

### **SECTION 515.020: PERMIT REQUIRED**

- A. It shall be unlawful to proceed with the construction, installation, enlargement or alteration of a fence within the Village unless permits therefor shall have been obtained from the Building and Street Commissioner.
- B. Every application requesting a permit shall be submitted, together with a fee of twenty-five dollars (\$25.00) to the Building and Street Commissioner. (Vil. Ord. No. 541-02; 4-16-02)

### **SECTION 515.030: APPEALS**

There shall be no appeal from a decision of the Building Commissioner pertaining to fences under this Chapter or Chapter 510 as it pertains to fences under the provisions of Section 400.260, Section 400.270, Section 400.280 and Section 530.110. Any appeals from a decision of the Building Commissioner shall be heard by the Board of Trustees who may grant exceptions from the strict application of Chapter 515 and the fence provisions of Chapter 510 when unforeseen damage or destruction to a fence occurs, or there is a need to replace the fence or portion thereof, due to damage caused by any person, firm or entity other than the fence owner or a member of the fence owner's family. (Vil. Ord. No. 691-15; 5-18-15)

### **SECTION 515.040: FRONT YARDS**

Any fence erected or constructed under the provisions of this Chapter may not extend beyond the front building line on the lot on which same is constructed or erected.

### **SECTION 515.050: EXTERIOR STREETS AND ZONING BOUNDARIES**

Notwithstanding any other ordinance or regulation governing fencing within the Town of Grantwood Village it is hereby declared to be permissible to erect a fence that does not exceed six (6) feet in height

that is placed behind the front building line, on any lot in the Village that borders on Gravois Road, Laclede Station Road, Rock Hill Road, and Grant Road or within five (5) feet of a border between commercially and residentially zoned properties. Said fence shall be erected only on that part of the lot that borders on the foregoing named streets and shall be erected within twenty (20) feet of the lot line; such fence need not meet any requirements as to percentage of open space in its surface. A permit from the Village will be required. (Vil. Ord. No. 575-04; 05-18-04)

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## CHAPTER 520: EXCAVATIONS

### SECTION 520.010: EXCAVATION, PERMIT REQUIRED

- A. 1. It shall be unlawful for any person to excavate, tear up, mutilate or dig in any street or public place in the Village without first obtaining a written permit from the Building and Street Commissioner to do so, except public work done under authority of the Board of Trustees, or in case of emergency where the public safety or health is endangered, but in case of such an emergency the work may proceed immediately and the permit shall be applied for as soon as practicable after the work is commenced.  
  
2. This Chapter 520 shall not apply to all persons desiring to perform "Facilities Work," as defined in and permitted by the provisions of Chapter 521: REGULATION OF PUBLIC RIGHTS-OF-WAY.
- B. Every application requesting a Village excavation permit shall be submitted in writing to the Building and Street Commissioner setting out the location and size of the proposed excavation and approximately when the same will be commenced and completed.
- C. Every application requesting a permit shall be submitted with a fee of twenty-five dollars (\$25.00), which will be reimbursed to the applicant if the requested permit is denied. Fees are applicable to all persons, firms and corporations.
- D. The Building and Street Commissioner shall satisfy himself that such excavation is necessary, and that applicant has complied with all laws and ordinances of the Village. (Vil. Ord. No. 548-02; 4-16-02)

### SECTION 520.020: EXCAVATION PERMITS, REQUIREMENTS

- A. The Building and Street Commissioner is hereby authorized and directed to issue excavation permits and he/she shall not issue such permits to any person to excavate, tear up, mutilate or dig in any street, or public place in the Village, until such applicant has furnished a performance bond executed by him/her as principal and by a surety company as surety, or an escrow deposit, and said performance bond or escrow deposit to be approved by the Commissioner. Said bond or deposit to be in an amount of at least one thousand dollars (\$1,000.00), the exact amount to be determined by the Commissioner. The amount to be sufficient to guarantee the replacement of any rock, earth or other material in the excavation and to replace it to its original condition prior to the excavation and to maintain such replacement in good condition for a period of two (2) years thereafter. If any person fails to restore an excavation to its original condition within a period of three (3) months after the excavation is made, the bond or escrow deposit shall become forfeited to the Village and the Commissioner shall have the excavation filled and restored and maintained in its original condition, and the Commissioner shall determine where, upon any public street such excavation shall be made, and any failure on the part of the person making such excavation to comply with any and all parts of this Chapter shall cause a forfeiture of the bond or escrow deposit and the proceeds therefrom shall go to the general revenue of the Village.
- B. Where excavations are made for the purpose of connecting any service or utility to a private residence or business establishment and the excavation is to be made in the street easement, but no part of the improved service of the street proper is to be disturbed, the Village Clerk shall collect fees as provided in Section 520.010 of this Chapter before a permit is issued therefor, such sums to be paid into the general revenue of the Village. Any person, making excavations for the purpose of connecting any service or utility to a private residence or business establishment, shall at all times keep on deposit with

the Village the performance bond or escrow deposit set out in paragraph A. of this Section, to be used by the Village in the event such person shall fail to properly fill and restore such excavation.

- C. Any person, group or corporate entity having occasion to excavate in the public road easement for other than connecting any service or utility to a private residence or business establishment shall first obtain a permit therefor and shall make application as provided in Section 520.010 and shall keep on deposit with the Village the performance bond or escrow deposit set out in paragraph A of this Section for each excavation, which bond or deposit shall be held by the Village Treasurer as security for the performance of all the provisions of this Chapter 520.
- D. In the event any person shall apply for an excavation permit under Section 520.010 for the purpose of connecting any service or utility to a private residence or business establishment and it becomes necessary to excavate into the improved surface of any street within the Village or in the event the Commissioner shall determine that the excavation shall be so close to the edge of the improved portion of any street so that such improved edge may be damaged by such excavation or equipment used in the excavation, then such person shall be required to post a bond or escrow deposit as provided in paragraph A. of this Section. (Vil. Ord. No. 548-02; 4-16-02)

#### **SECTION 520.030: EXCAVATION AND OBSTRUCTION SAFEGUARDS**

- A. It shall be unlawful for any person making or causing to be made any excavation, to occupy or cause to be occupied any portion of any public street or public place with building material, construction equipment, or any other obstruction of any character whatsoever, to fail to cause one (1) flashing red or yellow light to be securely and conspicuously placed on or near such excavation, building material, or construction equipment or construction, providing such excavation or obstruction does not extend more than ten (10) feet in length or width; for any excavation or obstruction extending more than ten (10) feet in length or width, to fail to place two (2) flashing red or yellow lights, one (1) at each end, or one (1) flashing red or yellow light for each additional twenty-five (25) feet or part thereof, or fail to keep any of the lights burning from sunset to sunrise.
- B. Every excavation, by whomsoever made, in any street or public place, shall be surrounded by a fence or railing at least three (3) feet high and protected by flashing red or yellow lights as provided in paragraph A. of this Section, and every excavation in excess of three (3) feet in depth shall be securely and completely covered with one (1) inch plywood or its structural equivalent.

#### **SECTION 520.040: BACKFILLING; RESTORATION OF SURFACE**

- A. It shall be the duty of any person making excavation in a street, street easement or other public place in the Village to properly backfill such excavations and properly restore the surface in it proper condition. In the event excavations are made in the improved portion of a street, the surface of the street shall be excavated at least nine (9) inches larger around all sides of the excavation to a depth of nine (9) inches. Upon resurfacing of the area, such area shall be filled with one (1) inch, or smaller, rock to within three (3) inches of the finished surface, the remaining three (3) inches to be finished with blacktop. If the previous surfacing was concrete construction, such resurfacing shall be done completely with concrete.
- B. Before any restoration is made the Building and Street Commissioner shall be notified and shall make inspection of such excavation before, during and after such restoration. In the event such restoration shall not be properly done the Commissioner, after five (5) days' notice to the person responsible thereof, shall cause such restoration to be completed and shall keep an accurate account of the cost

therefor, which expense shall be paid by the responsible parties and such cost may be taken from the performance bond or escrow deposit provided for in Section 520.020 of this Chapter. Any amount above such bond or deposit shall be paid by such responsible party. The bond or deposit referred to in this section shall at all times be kept in the required amount, and in the event it becomes reduced in amount or depleted, no new permit shall be issued to such person unless and until additional bond or deposit is made to bring the same to the specified amount.(Vil. Ord. No. 548-02; 4-16-02)

**SECTION 520.050: REMOVAL OF BARRIERS OR LIGHTS FROM EXCAVATION SITE**

No person shall remove, destroy or render insecure any fence, barricade or guard erected about or around any excavation, or extinguish, destroy or remove any light or lamp placed at said excavation or aid, assist, or encourage the removal of any such fence, barricade or guard or the extinction of any such warning lights as hereinbefore provided.(Vil. Ord. No. 548-02; 4-16-02).

**SECTION 520.060: RECORDING OF PERMITS ISSUED**

It shall be the duty of the Building and Street Commissioner to keep a full and complete account in a book provided for that purpose, of all permits issued pursuant to this Chapter showing the date, party to whom issued, location and money collected on account thereof, which money shall be turned over to the Village treasure when and as received and become a part of the Village's general revenue funds.(Vil. Ord. No. 548-02; 4-16-02)

**SECTION 520.070: VIOLATIONS, PENALTY**

Any person violating any of the provisions of this Chapter by doing any of the acts therein declared to be unlawful, or failing to comply with any provisions stated therein, shall be punishable by a fine of not more than five hundred dollars (\$500.00).(Vil. Ord. No. 548-02; 4-16-02)

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## CHAPTER 521: PUBLIC RIGHT OF WAY USE REGULATIONS

**WHEREAS**, the 94th General Assembly enacted SB284, codified as Sections 67.2675 through 67.2714 R.S.Mo. and known as the "2007 Video Services Providers Act," which contemplates the preemption or expiration of the historical authority of local governments to franchise cable television operators and establishes a state-wide franchise scheme for all video service providers, including cable television operators; and

**WHEREAS**, within this context the Act reserves to local governments certain regulatory authority over video service providers, including the imposition of fees on gross revenues attributable to the provision of video services, the establishment of uniform customer service standards, and the regulation of the location and appearance of video service facilities in municipal rights of way and on private property, among other things; and

**WHEREAS**, the Act supplements, in some respects, Senate Bill 369, enacted in 2001 and codified as Sections 67.1830 through 67.1848 R.S.Mo. (the Public Rights Of Way Law), which revised and limited the traditional authority of local governments over public rights of way; and

**WHEREAS**, the Town of Grantwood Village (the "Village") desires to retain and implement such authority as remains to local governments under the Act and the Public Rights Of Way Law by enacting this Ordinance; and

**WHEREAS**, the Village held a public hearing to consider the merits of this Ordinance, after satisfying all publication and notice requirements established by law, and all persons present at such hearings were given an opportunity to be heard and were heard;

### **SECTION 521.010: PUBLIC RIGHT OF WAY USE REGULATIONS**

A. Definitions. The following terms shall have the following meanings unless otherwise defined by context:

"Village Facilities," any Facilities located within the Public Rights of way and owned by the Village.

"Village Clerk," the manager or administrator of the Village or such other person designated by the Village to hear appeals as provided in Section 3.E. hereof.

"Director," the Village's Building & Street Commissioner or such other person designated to administer and enforce this Ordinance.

"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 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 Village 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) Village Facilities or the Village's property other than ROW, such as village-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 Village for the transmission of one or more Services. No reference herein to "Rights of way" shall be deemed to be a representation or guarantee by the Village 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 Village 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 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 storm water sewerage or any similar or related service, to one or more Persons located within or outside of the Village by use of Facilities located within the rights of way.

"Within" means in, along, under, over, or across rights of way.

## B. ROW Permits.

### 1. Application Requirements.

- (a) 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 Village 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 Village.
- (b) 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 Ordinance and to accomplish the purposes of this Ordinance. Each Application shall, at a 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 Village may notify or contact at any time (i.e., 24 hours per day 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;
  - (v) Copies of any required certificates of insurance or performance and maintenance bonds.
- (c) 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.
- (d) Each such Application shall be accompanied by the following payments:
- (i) An application fee of three hundred dollars (\$300.00) to cover the cost of processing the Application;
  - (ii) Any other amounts due to the Village from the Applicant, including but not limited to prior delinquent fees, costs, and any loss, damage, or expense suffered by the Village because of the Applicant's prior work in the Rights of way or for any emergency actions taken by the Village, but the Director may modify this requirement to the extent the Director determines any such fees to be in good-faith dispute.
- (e) 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 Village 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 Village for the best, most efficient, least intrusive, most aesthetic, and least obtrusive use of the Rights of way.
- (f) 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.

2. Application Review and Determination.

- (a) 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 Ordinance and all other Village ordinances. The Director may establish procedures for bulk processing of Applications and periodic payment of fees to avoid excessive processing and accounting costs.
- (b) It is the intention of the Village that interference with, damage to, excavation or disruption of, or the placement of Facilities within, the Village's Rights of way should be minimized and limited in scope to the extent allowed by law to achieve the purposes of this Ordinance. When reasonable and necessary to accomplish such purposes, the Director may require as alternatives to the 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 nondiscriminatory. The Director shall justify to the Applicant that the required alternative is reasonable and necessary.
- (c) 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 Ordinance 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 Ordinance, 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.
- (d) 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;

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- (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 proposed work;
  - (v) An acknowledgement and representation by the Applicant to comply with the terms and conditions of the ROW Permit and this Ordinance; 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.
- (e) 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 Ordinance;
  - (iii) The Applicant being in violation of the provisions of this Ordinance or other pertinent and applicable Village 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 nondiscriminatory basis.

### 3. Permit Revocation and Ordinance Violations.

- (a) 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 Ordinance. 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

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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 Ordinance;
  - (ii) An evasion or attempt to evade any material provision of the ROW Permit or this Ordinance, or the perpetration or attempt to perpetrate any fraud or deceit upon the Village 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 Ordinance or any other applicable ordinances, provided that Village standards are no more stringent than those of a national safety ordinance.
- (b) Any breach of the terms and conditions of a ROW permit shall also be deemed a violation of this Ordinance, and in lieu of revocation the Director may initiate prosecution of the ROW User for such violation.

C. Work in the ROW.

1. Jurisdiction, Inspection and Stop Work Orders.

- (a) All Facilities and ROW Work shall be subject to inspection by the Village 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.
- (b) 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 7 of this Section C. 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 Village in enforcing such orders, including reasonable attorney's fees, in addition to any and all penalties established in this Ordinance.

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2. Underground Facilities.

- (a) In conjunction with the Village'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 Village, unless the Village'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 infeasible, as determined by the Village, and when in the Village's judgment the above-ground construction has minimal aesthetic impact on the area where the construction is proposed.

- (b) 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.
- (c) 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 Village, 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.

3. Above-Ground Facilities.

- (a) 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.
- (b) 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 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.
- (c) 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 Village or state or federal law.

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- (d) 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 3.B.2(b) and the Village shall not be required to incur any financial cost or to acquire new locations for the Applicant.

4. Relocation of Equipment and Facilities.

- (a) 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 Village 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 Village for such action or for restoration or repair. The Village 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 Village shall notify the Person Having Facilities within the ROW as soon as practicable.
- (b) At the Village'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).
- (c) At the Village'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.
- (d) 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.
- (e) Rather than relocate Facilities as requested or directed, a ROW User may abandon the facilities if approved by the Village as provided in subsection 6 of this Section.
- (f) 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.

5. Property Repair and Alterations.

- (a) During any ROW Work, the Person doing the work shall protect from damage any and all existing structures and property belonging to the Village 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.
- (b) Any alteration to the existing water mains, sewerage or drainage system or to any city, town or village, state or other public structures or facilities in the Rights of way required on account

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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.

6. Removal, Abandonment, Transfer, and Relocation of Facilities.

- (a) If a Person Having Facilities within the ROW (i) installs the Facilities within the ROW without having complied with the requirements of this Ordinance or (ii) abandons the Facilities, the Village 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.
- (b) If the Village requires removal of the Facilities, the Person shall obtain a ROW Permit and shall abide by all requirements of this Ordinance. 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 Ordinance.
- (c) If the Person fails to remove the Facilities after having been directed to do so, the Village may, to the extent permitted by law, have the removal done at the Person's expense. Alternatively, the Village 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.
- (d) If the Person fails to remove the Facilities after having been directed to do so, the Village may, to the extent permitted by law, decide that the ownership of the Facilities should be transferred to the Village, or to such Person as directed by the Village. In either case the owner of the Facilities shall submit a written instrument, satisfactory in form to Village, transferring to the Village, or to such Person as directed by the Village, ownership of the Facilities. The Village may sell, assign, or transfer all or part of the Facilities so transferred.
- (e) The Village 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 Village's intent to so act. The Director may choose not to act on good cause shown by the Person Having Facilities within the ROW.

7. Standards for ROW Work.

- (a) Except for Emergency ROW Work as provided in Section 3.B.1(a), 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.
- (b) 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 Ordinance.
- (c) 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.

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- (d) 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.



- (e) 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.
- (f) The ROW User shall notify the Village 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 Village.
- (g) 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, state or local law).
- (h) All Facilities shall be installed and located to cause minimum interference with the rights and convenience of property owners, other ROW Users and the Village. 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 Village or public improvements.
- (i) All Facilities shall be of good and durable quality.
- (j) 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 Village, or unnecessarily hinder or obstruct pedestrian or vehicular traffic.
- (k) 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.
- (l) 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 Ordinance. 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.

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- (m) 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 Village 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.

- (n) Unless otherwise approved in writing by the Village, a ROW User shall not remove, cut, or damage any trees, or their roots, within the ROW.
- (o) Street crossings will be bored at the direction of the Director.

8. Restoring and Maintaining the Rights of Way.

- (a) 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.
- (b) 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 Village'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 day minimum strength, four thousand five hundred (4,500) p.s.i. 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-inch thick, twenty-eight-day minimum strength, four thousand five hundred (4,500) p.s.i. concrete mix under a three-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-inch compacted rock base and be a minimum of six (6) inches thick in residential ROW and eight (8) inches thick in commercial ROW.

- (c) 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 Village may perform its own restoration. The Village 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 Village performs the restoration the ROW User shall be responsible for reimbursing the Village's reasonable actual restoration costs within thirty (30) days of invoice.
  - (d) 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 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 Village may perform the work and the ROW User shall be responsible for reimbursing the Village's reasonable actual restoration costs within thirty days of invoice. The Director may extend the cure period on good cause shown.
  - (e) 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 Ordinance.
9. Any Person performing ROW Work shall provide written notice to all property owners within one hundred and eighty-five (185) feet of the site at least 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.

D. Bonds; Insurance; Surety; Indemnification; Penalties.

1. Performance and Maintenance Bonds.

- (a) Prior to any ROW Work a ROW User shall establish in the Village'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 at least twenty-five million dollars (\$25,000,000.00) in net assets and does not have a history of noncompliance with state and local regulations.
- (b) 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 Village 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 Village 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.

- (c) 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 Village shall release the bond.
- (d) The bond shall be issued by a surety with an "A" or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the Village's attorney and shall contain the following endorsement:

"This bond may not be cancelled, or allowed to lapse, until sixty (60) days after receipt by the Village, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

- (e) In lieu of the bond required herein, the ROW User may establish in the Village'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).

## 2. Insurance.

- (a) 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: worker's 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 Village, in the minimum amounts of:
  - (i) \$2,000,000.00 for property damage resulting from any one accident;
  - (ii) \$5,000,000.00 for personal bodily injury or death resulting from any one accident; and
  - (iii) \$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 Village or to waive any sovereign immunity.

- (b) 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 Village.
- (c) All insurance policies shall be available for review by the Village, and a ROW User having Facilities within the Rights of way shall keep on file with the Village current certificates of insurance.
- (d) All general liability insurance policies shall name the Village, 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 Ordinance.
- (e) 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 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 Ordinance. 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 noncompliance with applicable regulatory law.

### 3. Indemnification.

- (a) 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 Village, 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 of 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 Ordinance.
- (b) The foregoing indemnity provisions include, but are not limited to, the Village's reasonable attorneys' fees incurred in defending against any such claim, suit, or proceeding prior to the Person assuming such defense. The Village 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 Village may at its option continue to participate in the defense at its own expense.
- (c) Notwithstanding anything to the contrary contained in this Ordinance, the Village shall not be so indemnified or reimbursed in relation to any amounts attributable to (i) the Village's own negligence, willful misconduct, intentional or criminal acts, or (ii) the Village acting in a proprietary capacity to deliver Service(s) within the Village.
- (d) Recovery by the Village of any amounts under insurance, a performance bond, or otherwise does not limit a Person's duty to indemnify the Village in any way; nor shall such recovery relieve a Person of amounts owed to the Village, or in any respect prevent the Village from exercising any other right or remedy it may have.

### 4. Penalties.

Any Person violating any provision of this Ordinance shall, upon conviction by the Village'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.

## E. Dispute Resolutions, Appeals and Arbitration.

1. 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 Ordinance. 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 Ordinance, 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.

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2. Any Person aggrieved by a final determination of the Director may appeal in writing to the Village Clerk within ten business (10) days thereof. The appeal shall assert specific grounds for review, and the Village Clerk shall render a decision on the appeal within fifteen (15) business days of receipt affirming, reversing, or modifying the determination of the Director. The Village Clerk 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.
3. Any Person aggrieved by the final determination of the Village Clerk 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 Village Clerk's final determination.
4. Arbitration and Mediation.
  - (a) On agreement of the parties and in addition to any other remedies, any final decision of the Village Clerk may be submitted to mediation or binding arbitration.
  - (b) In the event of mediation, the Village Clerk 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.
  - (c) In the event of arbitration, the Village Clerk 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-person arbitration panel consisting of one arbitrator selected by the Village Clerk, one arbitrator selected by the Applicant or ROW User, and one person selected by the other two 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.

F. Miscellaneous.

1. After the completion of ROW Work the ROW User shall provide to the Village as-built drawings, maps or other comparable records as determined by the Director, drawn to scale and certified to the Village 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 Village Systems, as determined by the Director, or in hard copy otherwise.
2. Upon failure of a ROW User to commence, pursue or complete any ROW Work required by law or by the provisions of this Ordinance to be done in any street, within the time prescribed and to the reasonable satisfaction of the Village, the Village may, at its option, after thirty (30) days notice, cause such work to be done and the ROW User shall pay to the Village the cost thereof in the itemized amounts reported by the Village to the ROW User within thirty (30) days after receipt of such itemized report.
3. Upon ten (10) days' written notice and with the supervision of the Village, or as otherwise provided by law, a ROW User shall have the authority to trim trees that overhang Rights of way of the Village 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 Village. Nothing in this paragraph shall



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authorize the trimming of trees on private property without permission of the property owner. All cut materials shall be properly disposed.

4. During ROW Work by a ROW User the Village 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.
5. Nothing in this Ordinance shall be in preference or hindrance to the right of the Village and any board, authority, commission or public service corporation of the Village to use or occupy the Rights of way or to perform or carry on any public works or public improvements of any description.

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Any person found guilty of violating any provision of this Ordinance shall be punished by a fine not to exceed \$1,000.00, or by imprisonment not to exceed 90 days, or by both such fine and imprisonment, and each day the violation continues shall constitute a separate offense.

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It is hereby declared to be the intention of the Board of Trustees that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Trustees intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect. (Vil. Ord. No. 616-07, 9-18-07)

## **CHAPTER 525: MAINTENANCE OF PUBLIC AND PRIVATE PROPERTY**

### **SECTION 525.010: PROHIBITED DISPOSITION OF REFUSE**

It shall be unlawful for any person to throw away or place any garbage, refuse or trash of any sort in or upon the streets, sidewalks or public places, or upon vacant lots or premises not his/her own within the Village. (Vil. Ord. No. 543-02; 4-16-02)

### **SECTION 525.020: DRAINAGE OF UNCLEAN LIQUIDS FROM PREMISES**

It shall be unlawful for any person to conduct into any street or other public place, or upon any vacant lot, from any kitchen, house or other structure or premises, any filth or unclean water or other liquid, or suffer such filth or unclean water or other liquid to escape into any public place or upon any vacant lot. (Vil. Ord. No. 543-02; 4-16-02)

### **SECTION 525.030: DUTY OF OWNERS, MANAGERS AND OCCUPANTS GENERALLY— NUISANCE**

No person who owns, manages or occupies any premises situated within the Village shall suffer to exist in or upon such premises any stagnant water, animal or vegetable matter, or other substance or liquid liable to become putrid, offensive or injurious to the health of any citizen or inhabitant of this Village; and it shall be the duty of each such person to keep such premises free of any such stagnant water, animal and vegetable matter and other such substances and liquids and to keep such premises reasonably free of other refuse as in this Chapter provided, and to keep all underbrush cut and to suffer none to bloom or go to seed. Any condition found on any premises in violation of this or any other Section of this Chapter shall be deemed to be a nuisance.

**SECTION 525.040:** Deleted (Vil. Ord. No. 709-16; 5-17-16)

**SECTION 525.050:** Deleted (Vil. Ord. No. 709-16; 5-17-16)

**SECTION 525.060:** Deleted (Vil. Ord. No. 709-16; 5-17-16)

### **SECTION 525.070: PURPOSE, INTENT AND DEFINITIONS**

For the purpose of this Ordinance the following terms, phrases, words and any derivations shall have the meaning given herein.

Comprehensive Tree Plan: shall mean a written document that guides the work of the Tree Board.

Diameter (DBH): the diameter of a tree at breast height, which shall be measured at 4 feet above ground.

Large Trees: are herein defined as those trees attaining a height of forty-five (45) feet or more with a mature spread of forty (40) feet or more.

Maintenance: any measure considered vital or beneficial to the proper care and cultivation of any tree, shrub, or other plant material, or considered necessary to abate nuisances. This includes pruning, irrigating, fertilizing, spraying or otherwise applying pesticides, staking, bracing, guying, cabling, wrapping, mulching, and insect and disease control, and any other horticultural practices performed as seen necessary to promote the general health of plant material.

Medium Trees: are herein defined as those trees attaining a height of thirty (30) to forty-five (45) feet with a mature spread of thirty (30) feet or more.

Mulch: nonliving organic materials customarily used in landscaping designed to retain moisture, stabilize soil temperatures, control weed growth, and retard erosion. Rubber mulch and rock are not an acceptable mulching material.

Park Trees: are herein defined as trees, shrubs, bushes, and all other woody vegetation in all areas owned by the Village and to which the public has free access as a park.

Shrubs: are herein defined as a self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten (10) feet in height at its maturity.

Small Trees: are herein defined as those trees attaining a height of twenty (20) to thirty (30) feet with a mature spread of twenty (20) feet or more.

Species: A unit or group of individual plants which bear a close resemblance to one another, - so much that this particular group will not be mistaken for another group combined with it in the same genus.

Street Trees: are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the Village.

Urban Forest: shall mean the collection of shrubs, trees, vegetation and associated natural features that make up the Village tree canopy and its growing zone. (Vil. Ord. No. 706-16; 4-19-16)

**SECTION 525.080: ESTABLISHMENT OF A VILLAGE TREE BOARD**

- A. There is hereby created and established a Village Tree Board for the Town of Grantwood Village, Missouri which shall consist of five members, citizens and residents of this Village, who shall be appointed by the Chairman of the Board of Trustees with the approval of the Board.
- B. The term of the five persons to be appointed by the Chairman shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed in the same manner as described in Subsection A. for the unexpired portion of the term.
- C. Members of the Village Tree Board shall serve without compensation.

- D. The Public Works Commissioner shall serve as the liaison to the Tree Board. (Vil. Ord. No. 706-16; 4-19-16)

**SECTION 525.090: DUTIES, RESPONSIBILITIES AND AUTHORITY OF THE TREE BOARD**

- A. It shall be the responsibility of the Tree Board to study, investigate, council and develop and/or update annually a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The plan shall also include, but not be limited to, the goals and mission of the Tree Board; an inventory of resources, needed work, associated cost and time scheduled for work. A map or maps shall be included as needed. Such plan will be presented annually to the Board of Trustees and upon their acceptance and approval shall constitute the official Comprehensive Tree Plan for the Town of Grantwood Village, Missouri. The Tree Board, when requested by the Board of Trustees, shall consider, investigate, make finding, report and recommend upon any special matter of question coming with the scope of its work.
- B. It shall be the responsibility of the Tree Board to establish educational and informational programs whereby the public may be notified of any matters pertaining to the Grantwood Village Tree Ordinance.
- C. It shall be the responsibility of the Tree Board to plan and conduct an annual Arbor Day Observance.
- D. It shall be the responsibility of the Tree Board to develop an Approved Tree List. This list is to be part of the Comprehensive Tree Plan. No other species outside those included in said list may be planted as street tree or ornamental trees on public property without the written consent of the Tree Board. In all cases, native tree species are to be preferred. In no case shall invasive trees or shrubs be allowed. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.095: OPERATIONS OF THE TREE BOARD**

- A. Within a reasonable amount of time after the appointment of the Tree Board, the Board shall meet and organize by the election of a chairman, vice-chairman, and standing committee chairs as needed.
- B. A majority of members shall constitute a quorum for the transaction of business.
- C. The Tree Board shall provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Board shall deem advisable and necessary in order to perform the duties set forth. A journal of proceedings and activities is to be kept. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.100: SPACING AND DISTANCE FROM CURBS AND UTILITIES**

- A. The spacing of Street Trees shall be in accordance with the three species size classes listed in the Definitions of this ordinance, and no trees may be planted closer together than the following: Small Trees, 30 feet on center; Medium Trees, 40 feet on center; and Large Trees, 50 feet on center; except by written permission of the Tree Board. (Vil. Ord. No. 706-16: 4-19-16)
- B. The distance trees may be planted from curbs or curb lines will be in accordance with the three species size classes listed in the Definitions of this ordinance, and no trees may be planted closer to any curb or curb line than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.
- C. No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No Street Tree shall be planted closer than 10 feet of any fireplug.
- D. No Street Trees other than those species listed as Small Trees in the Definitions of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.110: PUBLIC TREE CARE**

- A. The Town of Grantwood Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- B. The Tree Board may remove or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with the regulations of this ordinance. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.120: TREE TOPPING**

It shall be unlawful as a normal practice for any person, or firm to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Other names for topping include "heading", "tipping", "hat-racking", and "rounding-over". Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Tree Board. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.130: PRUNING, CORNER CLEARANCE**

Every owner of any tree overhanging any street or right-of-way with the Village shall prune the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic control device or sign. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.140: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY**

The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Village. The Tree Board shall notify the Board of Trustees who will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Village shall have authority to remove such trees and charge the cost of removal to the owner. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.150: TREES AND SHRUBS ON PRIVATE PROPERTY**

- A. Every owner and tenant of property located within the Village abutting on a street, highway, public way or easement for a street shall:
1. Keep all grass and lawns in such easements neatly cut and trimmed.
  2. Keep all vegetation, shrubs, trees and bushes on such property or on any such easement trimmed and cut so that no part or branch thereof shall extend above any part of the paved portion of any street to a height of less than nine (9) feet, and part of which shall be a source of danger to persons or vehicles using such streets, highways, public ways and easements.
- B. Every owner and tenant of property which abuts intersecting streets in the Village shall keep all bushes, trees, shrubs and other vegetation trimmed to such a height that vehicles approaching such intersections shall have a clear sight vision of vehicles approaching at a right angle and for a reasonable safe distance, taking into account speed limits, the street conditions, the topography of the streets, the traffic controls and the contour of the adjacent lots.
- C. The St. Louis County Police Department is hereby charged with the enforcement of this Section. If, in the opinion of a Police Officer, any property owner or tenant shall be in violation of the terms of this Section, such property owner or tenant shall first be given written notice to correct such violation within (10) days and in the event such violation is not corrected within ten (10) days such property owner or tenant shall be issued a summons for violations of this Section. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.160:** Deleted (Vil. Ord. No. 716-17: 1-20-17)

**SECTION 525.170: REMOVAL OF STUMPS**

All stumps of Street and Park Trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.180: ABUSE AND PROTECTION OF PUBLIC TREES AND SHRUBS**

- A. No person shall intentionally damage, cut, transplant, carve or remove any tree or shrub; attach any wire, rope, advertisements, nails, posters or other apparatus to any tree or shrub; allow any gaseous, liquid or solid substance which is deemed harmful to trees or shrubs to come into contact with them; or set fire or to permit any fire to burn when such fire or the heat thereof will injure any portion of the tree or shrub.
- B. All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work, shall be guarded with an appropriately substantial fence, frame or box. The Tree Protection Zone shall not be less than for (4) feet high and eight(8) feet square, or at a distance in feet from the tree trunk equal to the diameter of the trunk at breast height (DBH) in inches, whichever being the greater. All building materials, dirt or other debris shall be kept outside the Tree Protection Zone.
- C. No person shall change natural drainage or attempt to excavate any ditches, tunnels, tranches or lay any drive within a radius of ten (10) feet from any public tree without first obtaining written permission from the Tree Board.
- D. No public utility company using any public street or other public property shall cut, remove, trim or burn or in any way interfere with any trees or shrubs on any public property without first obtaining written permission from the Village Tree Board for such work.
- E. No person shall use tree spurs or climbing spikes on trees located on Village owned property except with the specific written permission of the Tree Board. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.190: INTERFERENCE WITH THE TREE BOARD**

It shall be unlawful for any person to prevent, delay, or interfere with the Village Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any Street Trees, Park Trees or trees on private grounds, as authorized in this ordinance. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.200: ARBORISTS LICENSE AND BOND**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing Street or Park Trees within the Village without first applying for and procuring a Business License. In addition to the Business License requirements of Chapter 605 Business Licenses, of this Code, before any license shall be issued, each applicant shall first file evidence of possession of liability



insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.210: REVIEW BY THE VILLAGE BOARD OF TRUSTEES**

The Board of Trustees shall have the right to review the conduct, acts and decisions of the Village Tree Board. Any person may appeal from any ruling or order of the Village Tree Board to the Board of Trustees who may hear the matter and make a final decision. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.220:** Deleted (Vil. Ord. No. 716-17: 1-20-17)

**SECTION 525.230: CONFLICTS**

In the event any section clause or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid. Also, the terms of Ordinance shall supersede any provisions in the Municipal Code to the contrary. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.240: SEVERABILITY**

Should any section, subsection, sentence, clause, provision or part of this Chapter be held invalid for any reason, the remainder of this Chapter shall not be affected thereby, but shall remain in force and effect. (Vil. Ord. No. 706-16: 4-19-16)

**SECTION 525.241: THE MANAGEMENT OF VALUED TREES ON PRIVATE PROPERTY**

**Sections:**

- 525.241(a) Intent and Purpose.
- 525.241(b) Definitions.
- 525.241(c) Tree Protection and Preservation.
- 525.241(d) Violations.
- 525.241(e) Valued Tree Prune/Removal--Permit.
- 525.241(f) Reforestation.
- 525.241(g) Remedies.
- 525.241(h) Applicability.
- 525.241(i) Notification.
- 525.241(j) Appeal.
- 525.214(k) Sections Repealed.

**525.241(a) INTENT AND PURPOSE.**

This ordinance is adopted because, when the Town of Grantwood Village was incorporated it was located in a

wooded and historic forest of native Missouri trees including oaks, hickories, cedars, walnuts, American elms, maples, and other species of trees. Early drawings of the land in 1858, when it was occupied by Ulysses S. Grant, the 18<sup>th</sup> President of the United States, show numerous mature trees, the size of which indicates that they were already 90-100 years old.

The development of an extensive forestry management plan indicates that invasive diseases, unprofessional management and a lack of understanding of the value of these trees have caused the bounty of mature native trees in the Town to be greatly diminished during the last decade. Clear cutting in neighboring developments has made the Town acutely aware of the possible future devastation of these healthy and valuable trees.

State and federal agencies believe that it is imperative that the remaining trees within the boundaries of the Town be protected and preserved; and, it is clearly evident that reforestation is necessary to preserve this national history and to provide for the health and welfare of the citizens of this Town by maintaining the scenic beauty, health and property values by preventing erosion of topsoil; minimizing airborne pollutants ; maintaining the climatic balance and lowering the future public costs of installing and maintaining storm water drainage systems.

To this end it is reasonable to expect all property owners to maintain their trees in a satisfactory condition to maintain the Town of Grantwood Village as an exceptionally desirable place to live.

It is further found and declared that it is the intent of this ordinance to respect and recognize individual rights to develop, maintain, and enjoy private property to the fullest possible extent, consistent with the public interest, convenience, and necessity; and that it is necessary for the benefit of the entire village to enact this ordinance and regulate the unnecessary removal of valued trees in the village on private property.

Designation of a valued tree does not give or intend to give the public access to, or use or enjoyment of, privately owned property.

It is the intent of this chapter to establish regulations for the protection, removal and preservation of valued trees within the Town in order to retain as many trees as possible consistent with the purpose hereof and the reasonable economic enjoyment of private property.

### **525.241(b) DEFINITIONS.**

Terms used in this chapter shall be defined as follows:

(1) **Diameter at Breast Height (DBH).** The diameter of the tree measured at forty-eight (48) inches above the natural grade.

(2) **Caliper measurement.** Diameter of the tree measured at six (6) inches above the ground or soil surface in the container.

(3) **Valued tree is any of the following:**

(a) Any species of oak, hickory, walnut, hard maple, American Elm or cottonwood tree that has a DBH of ten (10) inches or more;

(b) Any tree or stand of trees designated by resolution of the Board of Trustees to be of special historical value or of significant community benefit;

- (c) A stand of trees, the nature of which makes each dependent on the others for survival;
- (d) Any other tree with a DBH of sixteen (16) inches or more. Excludes species defined as undesirable by the Tree Board or Village Arborist.

**(4) Remove.** Cutting to the ground, complete extraction, or killing by spraying, girdling, burning, or any other means of a valued tree.

**(5) Prune.** Removal of more than one-fifth of the crown or existing foliage of the valued tree, or more than one quarter of the root system.

**(6) Valued Tree Pruning & Removal Permit.** States conditions for pruning to ensure that removal of existing foliage of the valued or protected tree complies with the Village Arboricultural Standards so that pruning enhances rather than impedes the future growth and sustainability of the tree. If pruning actually done is not in conformance with said conditions or without permit, it shall be deemed in violation of this ordinance. All regulated pruning and removal of protected or valued trees shall be supervised by a Licensed Professional or Certified Arborist. Homeowners can perform the pruning or removal when they agree to review and follow the Village Arboricultural Standards as part of the permit application process pursuant to Section 524.241(d).

**(7) Tree Board.** A board of citizens duly appointed by the Grantwood Village Board of Trustees in accordance with Section 525.080 of this Code.

**(8) Damage.** Damage to a valued tree shall mean: the removal of bark greater than 3” across, the breaking or splitting of the main trunk; obstructing the roots or trunk by covering with a heavy layer of mulch, debris or dirt in a manner that no longer allows the tree to gather oxygen or water properly; obstruction or redirection of an appropriate source of moisture; or the dislocation of the main trunk; or, any act compromising its health or structural integrity according to Village Arboricultural Standards, or to otherwise cause damage that is severely detrimental to its overall health and aesthetics.

**(9) Replacement Value.** Replacement Value for the purposes of this chapter shall be determined utilizing the most recent edition of the International Society of Arboriculture's Guide for Plant Appraisal.

**(10) Development Project.** Any exterior construction work associated with or requiring a building permit for any repair, remodeling, new building, building addition, building demolition, installation, site grading, excavation or site paving.

**(11) Tree Protection Plan.** A Tree Protection Plan is a written plan that is in compliance with Sections 525.241(c)(1) through 525.241(c)(5) and is designed to protect trees during construction or landscaping.

**(12) Mitigation Plan.** A written plan delineating what tree(s) is being proposed to replace the valued tree(s) that is to be removed; showing the exact location of the new planting and posting a deposit equal to half of the cost of the reforesting tree(s). Such a plan must be approved by the Village Arborist.

**(13) Village Arboricultural Standards:** A manual available to all property owners within the Village approved by the Board of Trustees containing standards for the planting, maintenance and removal of trees, shrubs and other plant material on public and private lands within Grantwood Village.

**(14) Certified Arborist.** An arborist certified by the International Society of Arboriculture.

**(15) Village Arborist.** The Village Arborist is any certified arborist designated by the Tree Board.

**(16) Licensed Professional:** an individual trained in the art and science of planting, caring for, and maintaining individual trees, which stays current on the latest techniques and information through membership in local arborist associations and other professional organizations such as the International

Society of Arboriculture (ISA), the Tree Care Industry Association (TCIA), or the American Society of Consulting Arborists (ASCA). A Licensed Professional is either a certified arborist or performs under the direction of a certified arborist, and represents a company that has obtained a business license from the Town of Grantwood Village.

**(17) Topping:** It shall be unlawful as a normal practice for any person, or firm to top any Street Tree, Park Tree, or other tree on public and private property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Other names for topping include "heading", "tipping", "hat-racking", and "rounding-over". Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Building Commissioner.

**(18) De-Rooting:** Removing more than one quarter of the root system.

### **525:241(c) TREE PROTECTION AND PRESERVATION.**

#### **(1) Construction, Landscaping and Utility Improvement Projects:**

Any person who owns, controls, has custody or possession of any real property within the village shall use reasonable efforts to maintain and preserve all valued and protected trees located thereon in a state of good health, pursuant to the provisions of this Chapter.

(a) Any application for discretionary development approval for real property or for any other Development Project shall be accompanied by a signed statement by the property owner or authorized agent which discloses whether any valued trees exist on the property and describes on the plans associated with the application the location of each such tree, its species, trunk size and drip line area. In addition, the location of any tree within thirty (30) feet of the area proposed for construction that is within the public right-of-way shall be shown on the plans and identified by species.

(b) With regard to any tree required to be identified under section (a) above, (hereafter "valued tree"), any exterior construction work associated with any Development Project performed within a radius measured from the trunk center equal to ten times the diameter of the tree trunk measured at 4' above grade shall require the preparation and submittal of a Tree Protection Plan for review and approval by the Village Arborist prior to the issuance of any permit for a Development Project. The Tree Protection Plan shall be prepared by a certified arborist.

#### **(2) A Tree Protection Plan shall at a minimum include the following requirements:**

(a) Prior to the commencement of any Development Project, a suitable protective barrier shall be installed at the drip line of any protected tree which will be affected by the construction and shall prohibit the storage of any construction materials, equipment or other materials inside the fence. The drip line shall not be altered in any way so as to increase the encroachment of the construction.

(b) Prohibit excavation, grading, soil deposit, drainage and leveling within the drip line unless approved by the Village Arborist.

(c) Prohibit disposal or depositing of oil, gasoline, chemicals, paints, solvents or other materials within the drip line or in drainage channels, swales or areas that may lead to the drip line.

(d) Prohibit the attachment of wires, signs, nails, screws or ropes to any protected tree.

(e) Utility service and irrigation lines shall be located outside the drip line when feasible.

(f) Include provision for the retention of the services of a certified arborist for periodic

monitoring of the project site and the health of protected trees. The arborist shall be present a timeline of construction activities which will pose a potential threat to the health of the protected trees, whenever any work needs to be done within the drip line of such tree, and monitoring, consultation, and treatment during the post-construction recovery period.

(g) Includes other provisions as deemed necessary by the Village Arborist to preserve the protected tree and insure compliance with those provisions.

(h) Require the Village Tree Board be notified whenever any damage or injury occurs to a protected tree during construction so that proper treatment may be administered.

(i) Contain the signature of the property owner and building permit applicant.

**(3) Tree Protection Plan Review:** The Tree Protection Plan described in Section 525:241(c) shall be reviewed by the Village Arborist. If the plan is sufficient to prevent harm to protected trees from reasonably foreseeable construction activities, it shall be approved and related building permits otherwise complete shall issue. If the Village Arborist is unavailable to approve the request, the Chairman of the Board of Trustees may do so in absence of the Village Arborist.

**(4) Pruning and Removal of Protected Trees Requires a Permit:** The pruning of any protected tree in excess of one fifth of the tree's crown, or the total removal of a protected tree, shall require a permit as defined in Section 525.241(e).

**(5) Topping/De-rooting not allowed:** It shall be unlawful as a normal practice for any person, or firm to top or de-root any Street Tree, Park Tree, or other tree on public or private property. The practice includes the drastic removal of foliage or roots, or cutting back of large branches or roots in mature trees leaving large, open wounds which subjects the tree to disease and decay. Topping and de-rooting causes immediate injury to the tree and ultimately results in early failure or death of the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Building Commissioner.

**(6) Application.** This applies to: any owner, possessor or manager of property who removes or allows or instructs another top tree and to any other person, tree removal company or other entity that actually tops or participates in the topping of a valued tree. Any Licensed Professional found in violation of any provision of this ordinance, shall be issued a summons to appear in Municipal Court for a license revocation hearing.

#### **525:241(d) VIOLATIONS AND EXCEPTIONS.**

**(1) Permit Necessary.** It is unlawful for any person or entity to prune or remove, or cause to be removed any valued or protected tree from any property in the village without obtaining a permit to do so. This applies to any owner, possessor or manager of property who prunes or removes, or allows or instructs another to prune or remove a valued or protected tree and to any other person, tree removal company or other entity that actually prunes or removes, or participates in the pruning or removal of the valued or protected tree.

**(2) Certified Arborist Required if Homeowner not Approved.** It is unlawful for any person or entity to prune or remove, or cause to be removed any valued or protected tree from any property in the village that is not a Licensed Professional or Certified Arborist, or supervised by a License Professional or Certified Arborist, or any homeowner that has been not approved to perform the pruning or removal through the permitting process by the Building Inspector.

**(3) Penalty to Business for not Having Permit.** Any firm without a valid business license issued by Grantwood Village that engages in pruning or removal of valued trees without an approved permit shall be issued a citation by the Village Police or Building Commissioner and shall be subject to license revocation by the Village Clerk.

**(4) Emergency Exception.** In case of emergency when a tree is hazardous or dangerous to life or property it may be pruned or removed by order of any member of the police or fire departments.

(a) Provided further, that any franchised public utility or representative of the village may remove or prune trees which interfere with the safe and efficient operation of the public service for which they are responsible, but only to the extent made necessary by such interference.

(b) Subject to the provisions of Section 525.241(b)(3), trees not covered by this Chapter may be removed without permit.

**(5) Penalty.** It is unlawful for any person or entity to cause damage to a protected tree compromising its health or structural integrity according to the Village Arboricultural Standards or to cause damage that is severely detrimental to its overall aesthetics or to remove fencing or other protective barrier surrounding a protected tree that was required as a condition of development on the property or to violate the terms of any Tree Protection Plan.

**(6) False Disclosure Unlawful.** Any violation of the terms of this Chapter or any permit issued under this Chapter is unlawful. Knowingly or negligently providing false or misleading information in response to any disclosure requirements of this Chapter or in application for any permit issued under this Chapter, shall constitute a violation of this Chapter and is unlawful

#### **525:241(e) VALUED TREE PRUNE/REMOVAL -- PERMIT.**

**(1) Permit required for each Tree.** Any person or entity desiring to remove or prune one or more valued trees shall apply to the Building Inspector for a permit for each tree. The application for a permit shall be made on forms provided for this purpose and shall state, among other things, the location of the tree to be removed or pruned by type and the reason for removal or pruning.

(a) The request for such a permit may only be made by the owner or owners of the property on which the trees are located or for pruning by an adjacent property owner of valued tree limbs extending onto that adjacent property, after notice of the application to the property owner where the valued tree is located.

(b) Valued tree permits shall carry a \$50 fee, payable upon application, and are valid for six months from date of issue. Extensions may be authorized by the Board of Trustees. No fee shall be assessed if it is determined by the Building Commissioner that such tree is dead, dying or in such a state that the health of the tree cannot be improved by normal methods. The Building Commissioner may consult with the Village Arborist in deciding upon the condition of the tree.

(c) The applicant may submit an arborist's report with the permit application to show cause for removal or pruning. Pruning permit applications shall include pruning specifications prepared by a certified arborist. All regulated pruning and removal of protected or valued trees shall be supervised by a Licensed Professional or Certified Arborist. Homeowners can perform the pruning or removal when they agree to review and follow the Village Arboricultural Standards as part of the permit application process. A list of licensed tree firms is available from the Village.

**(2) Village Arborist-Duties.** The Village Arborist, at the request of the Building Commissioner if needed, shall review each application and shall consider and determine the following in rendering a decision:

(a) The condition of the tree with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services;

(b) The necessity to remove the tree in order to construct any proposed improvements to allow reasonable economic enjoyment of the property.

(c) The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters.

(d) The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and property value.

(e) The number of trees the particular parcel can adequately support according to good arboricultural practices.

**(3) Access.** In reviewing applications, the Village Arborist, Building Commissioner or Tree Board shall be provided access to visually inspect the trees and shall give priority to those based on hazard or danger of disease. The applicant will be contacted within two weeks regarding the review and approval of the permit application.

#### **525:241(f) REFORESTATION.**

**(1) Permits Required.** Permits for valued tree removal, removals without permits and causing major damage to valued trees shall require replanting conditions in accordance with the following guidelines:

**(2) Conforming with Replacement Conditions.** Trees removed under jurisdiction of a planning approval pursuant to 525:241(e) shall conform with the replacement conditions specified in the planning approval.

**(3) Valued Tree Replacement Standards.** Valued trees shall be replaced in accordance with the direction of the Board of Trustees or Village Arborist. Replacement direction shall include direction on the location and species of the replacement tree.

(a) All replacement plantings shall be performed according to the Village Arboricultural Standards.

(b) Replacement trees shall be of the desired species selected by the Board of Trustees or Village Arborist. Tree replacement shall be of the same species when possible, but shall, in all cases be of comparable strength and structure, i.e. hardwoods shall be replaced with hardwoods. The use and maintenance of native tree species shall be prioritized. In order to protect the city's existing trees from disease, to ensure that the species and varieties of trees which are planted will grow and be healthy, will be resistant to storms, and do not present other undesirable effects, the Board of Trustees or Village Arborist will designate undesirable species that shall not be planted. The Board of Trustees or Village Arborist may, from time to time, modify, delete or add to these lists.

**(4) Penalty.** Level of Replacement shall be within the discretion of the Building Commissioner, but shall not exceed the actual tree loss as determined by the Replacement Value and, in no case, shall exceed a civil penalty \$20,000 per tree.

**(5) Trees removed with a valid tree removal permit.** Tree replacement shall occur in such amounts so that the total caliper measurement of all replacement trees must equal one-half the total DBH measurement of removed Valued Trees.

**(6) Trees removed without a valid tree removal permit.** Tree replacement shall occur in such amounts so that the total caliper measurement of all replacement trees must equal the total DBH measurement of removed Valued Trees.

**(7) Permit Required.** In addition to the mitigation requirements of this subsection, penalties under Section 525.241(g) or other sanctions allowed by law may be imposed for removal of valued trees without a permit.

**(8) Exceptions Permitted.** Where the Building Commissioner determines that replanting is not feasible and/or appropriate, e.g., sufficient trees exist on site, the Board of Trustees may:

(a) require that replacement tree(s) be provided for planting on Village property, or

(b) require that a payment of equal value to the cost of the purchase and installation of the replacement tree(s) be made to the village tree planting fund, or

(c) place other conditions on the permit which are of equal value to the cost of the purchase and installation of the replacement tree(s).

**(9) Preservation of Damaged Trees.** Any person causing damage to a valued tree shall be required to take such steps as may be required by the Board of Trustees to assure the future vitality of the tree, including costs of treatment and/or construction of protective barriers, or if the Board of Trustees determines that the damage is so great that the tree is no longer reasonably sustainable, replacement of the damaged tree per subsection (3b), above.

**(10) Restored Trees Must be Healthy.** A tree planted as part of a reforestation settlement must remain healthy and viable for a period of three years following its planting; or, it must be replaced by a comparable tree upon notice from the Building Commissioner.

#### **525.241(g) REMEDIES.**

**(1) Penalties for Willful Violation.** In addition to the Reforestation requirements described in Section 525:241(f), if the Board of Trustees finds that any person has violated this Chapter by participating in any willful act constituting a violation under any Section of 525.241, the Municipal Court may impose a fine of up to \$5,000 per participant, per tree for such illegal act.

**(2) Remedies.** In addition to all other remedies set forth in this code or otherwise provided by law, the following remedies shall be available to the village for violation of this chapter:

(a) Any person or entity violating the provisions of this Chapter may be directed by the Building Commissioner to stop work and to prepare a mitigation plan to correct the violation and mitigate the damage inflicted.

(b) Once the violation is corrected and mitigation implemented, the Building Commissioner shall allow construction to resume.

(c) The mitigation plan shall be filed and approved by the Village Arborist, agreed to in writing by the property owner(s), and either implemented or guaranteed by the posting of adequate bond or other security.



(d) A mitigation plan shall include measures for protection of any remaining valued trees on the property and shall provide for replacement of each tree removed or damaged on the property or at locations approved by the Building Commissioner. The replacement ratio shall be determined by the Building Commissioner according to the provisions of this Chapter.

(e) If a violation occurs prior to development, or while an application for a building permit or discretionary development approval for the lot upon which the tree is located is pending, the Building Commissioner may condition the issuance of any building permit or approval upon the completion of a study, to be conducted by the village or consultant designated by the village, but in either case at the expense of the property owner, for the purpose of providing the village an opportunity to consider and determine appropriate mitigation measures for the tree removal and to insure measures are incorporated into any future development approvals for the property for the protection of any remaining valued trees in the area.

(3) **Administrative Citations may be issued** under Chapter 400.200.

#### **525.241(h) APPLICABILITY.**

(1) **Persons Affected.** The provisions of this chapter shall apply to all persons or entities, including The Town of Grantwood Village, or as specifically regulated under other provisions of the Grantwood Village Municipal Code.

(2) **Site Development Permit Required-When.** A person or entity who has received approval of a planning application which is also subject to the landscape regulations contained in Chapter 525 need only obtain a site development permit pursuant to Section 525.241(e) from the Building Commissioner for the removal and/or pruning of valued trees on the property proposed for development.

#### **525:241(i) NOTIFICATION.**

(1) **Building Commissioner Issues Permit.** A decision by the Building Commissioner shall be rendered for each permit application described in this Code.

(2) **Written Notice of Building Commissioner.** If a permit is approved, it will include conditions for the tree removal in accordance with Section 525:241(e). The Building Commissioner shall give written notification of the decision to the applicant and include therein a copy of Section 525:241(e).

(3) **Notice to Occupant.** If such real property is occupied by other than the owner, a like copy shall also be left with the occupant. The failure of any property owner to receive the notice shall not affect the validity of any proceedings taken pursuant to the notice.

#### **525:241(j) APPEAL.**

(1) **Permit Application Appeals.** Any person may request the Board of Trustees to reconsider the decision of the Building Commissioner on a permit application made under this Chapter. Such a request shall be in writing, signed by the person making the request, state the reasons the request is made and be filed with the Board of Trustees not later than 5 p.m. of the tenth calendar day after the decision. The Board of Trustees shall review the request and render a decision.

(2) **Appeal Process.** Any person may appeal the reconsidered decision of the Board of Trustees by filing a de novo action with the Circuit Court of St. Louis County, Missouri.

(3) **Limitations of Penalties.** Notwithstanding the limitations set forth in that section regarding Civil

Penalties, Civil Penalties under this Chapter shall be limited to the amounts allowed under law.

**525:241(k) SECTIONS REPEALED.**

Sections 525.160 and 525.220 of the Town Code are hereby repealed by the enactment and approval of this ordinance.

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## CHAPTER 530: BUILDING MAINTENANCE AND ANTI-BLIGHT

### SECTION 530.010: DEFINITIONS

The following definitions shall apply to the interpretation and enforcement of this Chapter:

*ACCESSORY BUILDING:* A portion of the main building or detached subordinate building located on the same lot, the use of which is customarily incidental to that of the main building or to the use of the land. Where a substantial part of the wall of an accessory building is a part of the main building or where an accessory building is attached to the main building in a substantial manner by a roof, such an accessory building shall be counted as part of the main building.

*BLIGHT:* A state of physical exterior deterioration of premises which is conducive to ill health, transmission of disease and/or degradation of neighborhood property values.

*DETERIORATION:* The condition or appearance of a building and surrounding yard or part thereof characterized by evidence of external physical decay, neglect or lack of maintenance, such as excessive paint peeling, loose bricks, masonry or siding, missing shingles, broken windows or screens, large cracks or breaks in exterior walls or foundation.

*DWELLING UNIT:* Any building, or portion thereof, which is designed to be used exclusively for residential purposes.

*ENFORCEMENT OFFICIAL:* The Building and Street Commissioner of the Village or his/her authorized designated agent.

*NON-DWELLING STRUCTURE:* Any structure except a dwelling, used or intended to be used for the shelter of any animal.

*OCCUPANT:* Any person living, sleeping, cooking or eating in, or having possession of, a dwelling unit.

*OWNER:* Any person, firm or corporation that, alone, jointly or separately with others, shall be in actual possession of, or have charge, care or control of any dwelling or dwelling unit within the Village. When the owner is represented by an employee, agent, trustee or guardian of the estate or person of the title holder, such person shall be bound to comply with the provisions of this Chapter to the same extent as the owner.

*PARTS:* When the terms “dwelling,” “dwelling units,” “non-dwelling structure” and “premises” are used in this Chapter, they should be construed as though they were followed by the words “or any part thereof.”

*PREMISES:* A lot, plot or parcel of land or any part thereof, including the buildings or structures thereon.

*REPAIR:* To restore to a sound and acceptable state of appearance as required by this Chapter. Repair shall be expected to last approximately as long as would the replacement by new items.

*RESIDENTIAL:* A unit which provides living accommodations for a single family.

*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, backstops for tennis courts, radio towers, memorials and ornamental structures. “Structure” includes the word “building” in addition to the foregoing.

**YARD:** An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward. (Vil. Ord. No. 546-02; 4-16-02)

**SECTION 530.020: PROSECUTION OF VIOLATIONS**

- A. In case any violation of this Chapter is not remedied within the prescribed time period designated by the Enforcement Official, he/she shall request the legal representative of the Village to institute an appropriate action or proceeding at law against the person responsible for the failure to comply with this Chapter.
- B. Every day that a violation of this Chapter continues, after due notice has been served in accordance with the provisions hereof, shall be deemed a separate offense.

**SECTION 530.030: PURPOSES**

- A. *General.* The general purposes of this Chapter are:
  - 1. To protect the public health, safety and the general welfare of the people of the Village.
  - 2. To protect the character and the stability of the Village.
  - 3. To establish consistent and uniform guidelines governing the condition and maintenance of the exterior of residential dwelling structures and non-dwelling structures within the Village.
  - 4. To retard the spread of exterior residential blight and deterioration.
- B. *Responsibility.* This Chapter is also established for the purpose of fixing the mutual responsibility of owners, occupants and Village Officials regarding administration and enforcement.

**SECTION 530.040: APPLICABILITY OF REGULATIONS**

Every dwelling and its premises (including accessory structures) shall conform to the requirements of this Chapter, and irrespective of the zoning classification of such building and irrespective of when such building may have been constructed, altered or repaired, except as herein provided.

**SECTION 530.050: SCOPE**

This Chapter establishes minimum exterior standards for dwellings, dwelling units and necessary buildings, and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings except such as are in conflict with the provisions hereof. In any case where a provision of this Chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the Village the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail.

**SECTION 530.060: INSPECTION OF STRUCTURES AND PREMISES**

- A. *Authority.* The Enforcement Official is authorized and directed to make inspections for the purpose of administering the provisions of this Chapter. Such inspections are restricted exclusively to the exterior of the dwelling unit or accessory structure. The owner or occupant of every dwelling, dwelling unit, accessory structure and premises shall allow the Enforcement Official access to those portions of the property required to enforce adequately the provisions of this Chapter. Such access shall be only after reasonable notice has been given as to the intent of the inspection.
1. For the purpose of making such inspections, the Enforcement Official is authorized to examine and survey at reasonable times all dwellings, dwelling units, accessory structures and premises. The owner or occupant of every dwelling, dwelling unit, accessory structure and premises shall give the Enforcement Official access at reasonable times for the purpose of such inspection, examination and survey.
  2. If any owner, occupant or other person in charge of a structure subject to any provision of this Chapter refuses, impedes, inhibits, interferes with, restricts or obstructs free access to the premises for inspection as authorized by this Chapter, then the Enforcement Official may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist from such interference. Such access shall be only to the property, grounds and yard, and not to the interior of the dwelling, non-dwelling or accessory structures.
- B. *Inspections.* Inspection shall be initiated under the following conditions: When on the basis of a complaint or his/her personal observation, the Enforcement Official reasonably suspects that a dwelling unit has Code violations and, as such, constitutes a health or safety hazard or against the general welfare.
- C. *Access By Owner Or Operator.* Every occupant of a structure or premises shall give the owner or his/her agent or employee access to any part of such premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with provisions of this Chapter.
- D. *Notification Of Violations.* An owner shall be notified in writing of the nature of the alleged violations, with the warning that said violations shall be corrected at such time as specified in the notice of violation. Said time limit shall not exceed ninety (90) days from the date of notification unless such a specific written extension is granted by the Enforcement Official. Such notice shall be in writing and shall include a statement of each of the provisions of this Chapter being violated, together with a statement of the corrective actions required to cure such violations. Such notice will specify the period of time within which such corrective action shall be taken, which time shall be a reasonable period of time under all of the circumstances. Appeal procedures available shall be specified. Such notice shall be served by delivering a copy to the owner or his/her agent or the occupant, as the case may require, or, if such person cannot be found, by sending a copy of the notice by registered or certified mail with return receipt requested, or if same cannot be delivered, by posting a copy of such notice in a conspicuous place in or about the building affected by the notice. The notice shall be deemed served on the day served or received or ten (10) days after posting as herein provided, at the discretion of the enforcement agent. If, in the event the property is in the process of being sold or to be sold in the near future, then it shall be the duty of the owner or occupant to notify the purchaser of said violations of this Chapter.

**SECTION 530.070: STANDARDS**

All dwellings, dwelling units or non-dwelling structures in the Village must comply with the following requirements:

1. *Walls.* Every exterior wall shall be free of holes, breaks, loose or rotting boards, timbers or other deteriorated conditions. All exterior surface material shall be kept in sound repair in accordance with acceptable standards of public health and safety.
2. *Foundations.* Every foundation shall be reasonably watertight and rodent proof and shall be kept in good repair. The foundation elements shall adequately support the building at all points.
3. *Roofs.* The roof and gutters and downspouts shall be generally sound so as to meet reasonable standards of public health and safety. All exterior surface materials shall be kept in sound repair in accordance with acceptable standards of public health and safety.
4. *Stairs, porches, railings.* Every stairway, porch and handrail shall be kept in safe condition and sound repair. Every rail and balustrade shall be permanently fastened and maintained in good condition. No porch shall have rotting, loose or deteriorating supports. All stairs, porches and handrails shall be constructed in accordance with applicable Building Code standards of construction and shall be maintained in such a manner as to be capable of supporting the load for which it is intended.
5. *Windows, doors.* Every window and exterior door shall be substantially tight and shall be kept in sound condition and repair. Every window shall be fully supplied with panes or a rigid translucent substitute which is free of cracks or holes. Such panes shall fit reasonably tight within the frames and shall be kept in sound repair.
6. *Grading, drainage.* Grading and drainage shall be so maintained as to provide that water shall not cause drainage towards any dwelling unit.
7. *Hardware, fixtures.* All exterior hardware fixtures shall be maintained in sound condition and repair.
8. *Driveways, yards.* Driveways shall be maintained in such manner as to remain reasonably free of safety hazards. All hard-surfaced areas, including but not limited to concrete, asphalt, brick or stone driveways and sidewalks, shall be free of large cracks, potholes and depressions. Dead trees and shrubs shall be promptly removed. All sidewalks shall be properly maintained.
9. *Accessory buildings.* All accessory buildings shall be subject to all requirements of this Chapter, except accessory buildings located on farmland, which land is in excess of two (2) acres.

**SECTION 530.080: RESPONSIBILITIES OF OWNERS AND OCCUPANTS**

- A. Every occupant and/or owner of a dwelling unit or of a non-dwelling unit shall keep its exterior clean and in a sanitary condition including the surrounding yard.
- B. Every occupant of a dwelling or non-dwelling structure shall be responsible for the extermination of any insects, rodents or other pest infestations therein or on the premises. Whenever infestation is caused by failure of the owner to maintain said structure in rat-proof or substantially insect-proof condition, extermination shall be the responsibility of the owner.

- C. Every occupant of a dwelling or non-dwelling unit shall dispose of all rubbish and all organic waste, which might provide food for rodents, in a clean and sanitary manner.

**SECTION 530.090: VACATED BUILDINGS TO BE MADE SECURE**

- A. The owner of every building or dwelling unit which has become vacant shall make the building safe and secure so that it shall not be dangerous to human life and shall not constitute a fire hazard or a public nuisance. Any such vacant dwelling open at doors or windows, if unguarded, shall be dangerous to human life as a fire hazard and shall be a public nuisance within the meaning of this provision.
- B. The presence of boarded-up buildings, particularly those where the boarding is unpainted or applied in an insecure, careless or unpresentable fashion, invites vandalism and creates a blighting influence which adversely affects the general welfare of the people of the Village. It is hereby required that all boarding up of exterior openings be accomplished in a neat, workmanlike manner with not less than one-half (½) inch thick, weather resistant plywood cut to fit within the openings, fastened in place as securely as possible and suitably coated with an appropriate neutral color, blending with or harmonizing with the exterior colors of the building as inconspicuously as possible. It shall be the duty of the Enforcement Official to notify the owner or agents of any boarded-up dwellings not complying with the above requirements, of the necessity of immediate compliance and ordering the owner or agent to replace the broken glass or repair or replace or paint the boarding. The notice shall be given in the manner required by this Chapter.

**SECTION 530.100: RE-INSPECTIONS**

At the time the defects have allegedly been brought into compliance the Enforcement Official shall make a re-inspection of the premises. At this time he/she shall make a complete inspection, taking particular notice that the violations previously noted have been brought into compliance and no new violations have come into existence.

**SECTION 530.110: APPEALS**

- A. *Board Of Adjustment.* The Board of Trustees has, heretofore, provided by ordinance for the establishment of a Board of Adjustment in conformance with the Statutes of this State, and such Board being now in existence is hereby authorized to interpret the regulations and restrictions herein provided for in harmony with their general purpose and intent, in accordance with the general or specific rules contained in the Zoning and Subdivision Regulations of the Village (Chapter 400 of this Code).
- B. *Procedure.*
1. Any person advised of a violation which must be abated or any person affected by any other notice which has been issued in connection with enforcement of any provision of this Chapter, or of any rule or regulation adopted pursuant hereto, may demand and shall, upon such demand, be granted a hearing on the matter before the Board of Adjustment; provided however, that such persons shall file, within ten (10) days after the date the notice was served, along with a filing fee of twenty-five dollars (\$25.00), a written petition seeking such hearing and setting forth a brief statement of the grounds therefor. Upon receipt of such request, the Enforcement Official shall set a time and place of such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and show cause why such notice should be modified or withdrawn and may be represented by counsel if the party so desires. The hearing shall be



commenced not later than ten (10) days after the day on which the petition was filed, provided further, that upon application by the petitioner, the Enforcement Official may continue the date of the hearing for a reasonable time beyond such ten (10) days, if, in his/her judgment, the petitioner submitted a good and sufficient reason for postponement. If, after the hearing, the evidence supports a finding that the building or structure is a nuisance or detrimental to the health, safety or general welfare of the residents of the Village, the Board of Adjustment shall issue an order making specific findings of fact, based on competent and substantial evidence, which shows the building or structure to be a nuisance and detrimental to the health, safety or general welfare of the residents of the Village and ordering the building or structure to be demolished and removed or repaired. If the evidence does not support a finding that the building or structure is a nuisance or is detrimental to the health, safety or general welfare of the residents of the Village, no order shall be issued, and the filing fee of twenty-five dollars (\$25.00) shall be returned.

2. Any person aggrieved by the decision of the Board of Adjustment shall have the right to appeal its decision to a court of competent jurisdiction as may be provided by law, providing that such appeal is filed within thirty (30) days of said decision.

C. *Special Tax Bill.*

1. If the order or post-hearing order of the Enforcement Official is not obeyed within thirty (30) days after its issuance, and if an appeal of any post-order hearing is not made to the Circuit Court as provided for in this Chapter within thirty (30) days after issuance of any such order, the Enforcement Official may cause such building or structure to be repaired, vacated or demolished and shall certify the cost for such repair, vacation or demolition to the Village Clerk who shall cause a special tax bill therefor against the property to be prepared, filed and collected by the Village Clerk.
2. At the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. Said assessment shall bear interest at the maximum rate that the law will allow until paid. The tax bill shall be a lien on the property until paid.

- D. *Indigent Persons.* In the event an owner or occupant is unable to make the necessary repairs to a dwelling unit or non-dwelling unit to be in compliance with this Chapter due to lack of financial ability, then such person or occupant or owner may appeal to the Enforcement Official with proof of his/her inability to make said repairs. The Enforcement Official may certify the costs for such repair, vacation or demolition to the Village Clerk who shall cause a special tax bill therefor to be prepared against the property and arrangement made of the costs to be made in installments and collected by the Village Clerk/Collector over a period not to exceed ten (10) years. Said tax bill shall be a lien on the property until paid plus the maximum interest rate that the law will allow until paid. (Vil. Ord. No. 546-02; 4-16-02)

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